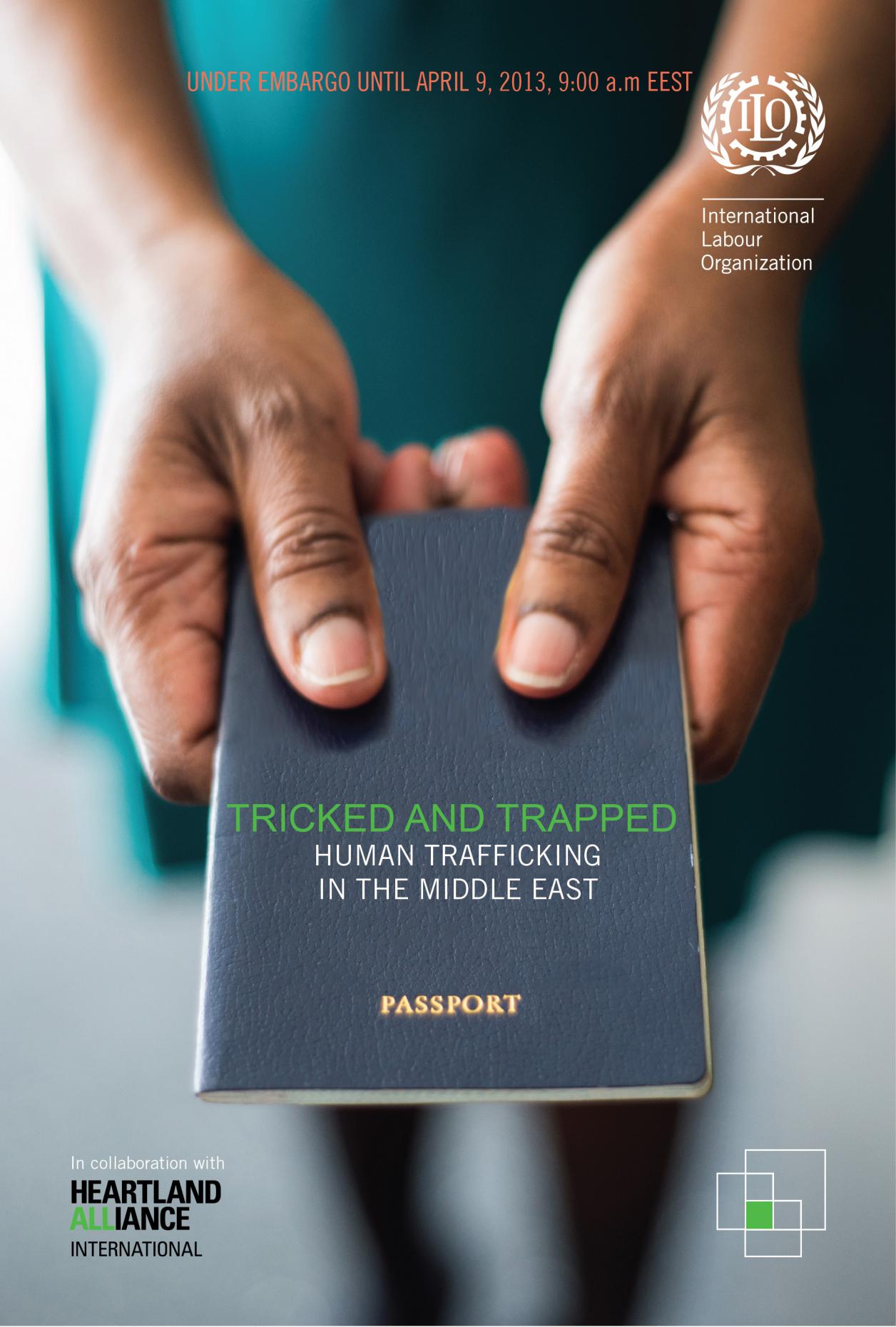


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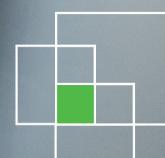
A close-up photograph of two hands, likely belonging to a person of African descent, holding a dark blue passport. The hands are positioned as if presenting the document. The background is a solid teal color.

TRICKED AND TRAPPED HUMAN TRAFFICKING IN THE MIDDLE EAST

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TRICKED AND TRAPPED HUMAN TRAFFICKING IN THE MIDDLE EAST

Hélène Harroff-Tavel and Alix Nasri

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PREFACE

In 1998, the International Labour Conference adopted the ILO Declaration on Fundamental Principles and Rights at Work, which requires all ILO member States to respect and promote core labour standards, including the elimination of all forms of forced or compulsory labour. In 2001, the Special Action Programme to Combat Forced Labour (SAP-FL) was established to spearhead activities against forced labour and human trafficking, to contribute to the global knowledge base, and to reinforce the capacity of ILO constituents and other stakeholders in this regard.

Since then, the ILO has provided technical support to governments, workers' and employers' organizations, non-governmental organizations, national justice systems and others in efforts to build their capacity to prevent forced labour and human trafficking and to prosecute perpetrators. The ILO also initiated the "Global Alliance against Forced Labour" with the International Trade Union Confederation and the International Organisation of Employers to build the strength of the social partners to effectively address forced labour challenges.

In the context of the Middle East, the occurrence of forced labour and human trafficking is often linked to ineffective labour migration governance, which leaves migrant workers particularly vulnerable to exploitation. The ILO's International Migration Branch (MIGRANT) promotes a rights-based approach to labour migration and tripartite participation in the development of labour migration policy, in accordance with ILO Conventions – specifically those relating to labour migration, i.e. the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) – and the Multilateral Framework on Labour Migration.

In order to deepen understanding of human trafficking in the Middle East, the ILO recently launched an ambitious regional research project. This initiative strives to discern patterns at the regional level and to complement the existing literature on human trafficking. Through qualitative research, the project maps the key processes of human trafficking for labour and sexual exploitation, and provides regional policy-makers with technical advice to help them effectively counter the phenomenon. Over 650 individuals, including government officials, worker and employer representatives, migrant community leaders, non-governmental organization (NGO) officials and migrant workers were interviewed. Jordan, Kuwait, Lebanon and the United Arab Emirates were selected for primary research. The diversity of the stakeholders interviewed lent depth to the analysis of the data, which focused on the domestic, entertainment, construction, manufacturing, seafaring and agricultural industries.

This study aims to provide policy-makers and service providers with deeper insight into the nature of forced labour and trafficking in this region. Armed with this knowledge, action to combat trafficking in the region will become more effective, finally bringing an end to this unacceptable form of human exploitation.

Nada Al-Nashif
Regional Director
Office for the Arab States
International Labour Organization

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LIST OF ABBREVIATIONS

ABA	American Bar Association
AED	UAE dirham
ASEZA	Aqaba Special Economic Zone Authority (Jordan)
BHD	Bahraini dinar
BWI	Building and Wood Workers' International
CEACR	ILO Committee of Experts on the Application of Conventions and Recommendations
CGTL	General Confederation of Lebanese Workers
CTWG	Counter-Trafficking Working Group (Lebanon)
FOC	Flag of Convenience
GCC	Gulf Cooperation Council
GDGS	General Directorate of General Security (Lebanon)
GFJTU	General Federation of Jordanian Trade Unions
GTUWT	General Trade Union of Workers in Textile, Garment and Clothing Industries (Jordan)
ICMPD	International Centre for Migration Policy Development
IISL	Intensive Inspection Surveillance List (Jordan)
ILO	International Labour Organization
INTERPOL	International Criminal Police Organization
IOE	International Organisation of Employers
IOM	International Organization for Migration
ISF	Internal Security Forces (Lebanon)
ITF	International Transport Workers' Federation
ITUC	International Trade Union Confederation
KTUF	Kuwaiti Trade Union Federation
JOD	Jordanian dinar
KABE	Kuwait Association of the Basic Evaluators for Human Rights
KWD	Kuwaiti dinar
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoL	Ministry of Labour
MWPS	Migrant Workers Protection Society (Bahrain)
MoSAL	Ministry of Social Affairs and Labour (Kuwait)
NCCHT	National Committee to Combat Human Trafficking (United Arab Emirates)
NCT	National Committee for Combating Trafficking in Human Beings (Jordan)
NGO	Non-governmental organization
NHRC	National Human Rights Committee (Qatar)
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSH	Occupational safety and health
PEA	Private employment agency
PSD	Public Security Directorate (Jordan)

QAR	Qatari rial
QIZ	Qualified Industrial Zone (Jordan)
UAE	United Arab Emirates
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UPR	Universal Periodic Review
WPS	Wage Protection System

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EXECUTIVE SUMMARY

This study sheds light on the situation of trafficked adult workers in the Middle East, both women and men. It analyses the complex processes by which vulnerable migrant workers are tricked and trapped into forced labour in various types of work in the region, and the constraints that prevent them from leaving.¹ It also examines the responses to human trafficking put in place by national governments, employers' and workers' organizations, and other key stakeholders, and makes tentative suggestions as to how the effectiveness of their actions might be enhanced in the future. These recommendations will be subject to discussion during an ILO regional tripartite conference on human trafficking in April 2013.

The ILO estimated in 2012 that 20.9 million people across the world are victims of forced labour at any given point in time. Of these, 68 per cent are victims of forced labour exploitation in the private economy, 22 per cent are victims of forced sexual exploitation and the remaining 10 per cent are forced to work by the state. In the Middle East, the ILO calculated that there are some 600,000 forced labour victims and that 3.4 in every 1,000 of the region's inhabitants are compelled to work against their free choice. Despite a lack of hard data on the precise scale and nature of the problem, increasing numbers of governments, social partners and civil society actors in the region have become engaged in tackling forced labour and human trafficking in recent years, whether from a legal, policy or service delivery standpoint.

In an effort to fill gaps in understanding of human trafficking in the Middle East, the ILO embarked on a qualitative research project from June 2011 to December 2012, in order to map the processes of human trafficking for labour and sexual exploitation, and to document national efforts to combat it. In total, 653 individuals (372 men and 281 women) were interviewed for the study, of whom 354 were migrant workers and 299 were key informants. Of the workers interviewed, 266 were assessed to be in a situation of trafficking and forced labour, on the basis of specific indicators, namely recruitment by deception, work and life under duress, and inability to leave the employer. While this proportion cannot be extrapolated at the regional level (as the survey sample was not selected randomly), it serves to demonstrate that migrant workers in the region are at risk of trafficking and forced labour. The various processes documented in the study are based on a careful analysis of the data collected, mainly in four destination countries: Jordan, Kuwait, Lebanon and the UAE. Testimonies from migrant workers and national stakeholders serve to illustrate the harsh realities often faced by unprotected workers.

Low-skilled migrant workers are the most vulnerable to human trafficking and forced labour in the Middle East. Their precise motivations for migrating may vary, yet all share a desire to better provide for themselves and their families at home, by securing work and

¹ This study uses the term "migrant worker" in accordance with international standards. It is nonetheless important to note that the Gulf Cooperation Council countries prefer to use the term "temporary contract labour".

incomes that simply do not exist in their countries of origin. Victims of trafficking usually have limited financial resources, incur debt and are poorly educated. At the same time, many are resilient and courageous women and men, who are aware of the possible risks of exploitation but, impelled by the lack of viable job opportunities at home and the pressing needs of their families, have nevertheless made their individual decisions to travel abroad in search of work.

Although not all the trafficking processes described in the study are found in all the countries examined, striking similarities exist. The reliance on the *kafala* (sponsorship) system is inherently problematic, as it creates an unequal power dynamic between the employer and the worker. Deficits in labour law coverage reinforce the underlying vulnerabilities of migrant workers in domestic servitude, in the entertainment industry and in the agricultural sector. Significant gaps in national legislation restrict the ability of migrant workers to organize, to terminate their employment contracts and to change employer. Even where access to legal redress is provided under national law, and human trafficking is criminalized and punishable, there have been few prosecutions and convictions. The lack of strategic litigation against employers and private employment agents who violate the laws means there is little to deter others from confining migrant workers in exploitative situations against their will.

The characteristics of the three processes of human trafficking for domestic work identified and described in this study are closely related to the specificities of this occupational group. The isolation of domestic workers in private homes, which are not inspected by labour inspectors or social workers, and their very limited opportunities to move outside the household, heighten their vulnerability to exploitation. Employers justify the retention of passports and confinement in the home on the basis of the *kafala* system, which gives them legal responsibility for the residency and employment of their domestic workers. Their sense of entitlement over the worker is heightened by the significant cash outlay they have made to recruit him or her from another country. In the countries of the Middle East, some of which lack affordable public provision for the care of children and the elderly, even families with very limited financial means are left with little choice but to hire external help. The consequence for the unsuspecting migrant domestic worker can be exploitation at the hands of the employer household.

In the entertainment industry, four processes of human trafficking for commercial sexual exploitation were identified, with variations between countries depending on the type of entertainment industry and the work permit systems applicable. As commercial sex work is illegal in the region, workers in the entertainment industry who are coerced into sexual relationships with clients face the real possibility of being detained and deported. The very notion of coercion in this industry was a controversial issue among key informants. Nonetheless, there are striking similarities in the mechanisms reportedly used to coerce identified victims, including physical confinement, non-payment for services, withholding of wages and manipulation of debt. Owners and managers of entertainment establishments, and sex brokers (pimps), do not hesitate to use threats of denunciation to the authorities and family repudiation, and actual psychological, physical and sexual violence, to

intimidate their victims. The impossibility of leaving the exploiter is entrenched by the fact that women known to have engaged in sex work have limited opportunities to secure income by other means.

Other processes of human trafficking for labour exploitation were uncovered in various occupational sectors, including construction, manufacturing, seafaring and agriculture. These sectors rely heavily on a predominantly male migrant workforce, thus illustrating the particular vulnerabilities faced by men which are often overlooked when the focus is exclusively on trafficking of women and girls. The recruitment process differs, depending on the nationality of the workers involved. Syrians, for instance, have easier access to the labour markets in the Mashreq compared to Asian and African migrants who are subject to the *kafala* system. There are differences between economic sectors, too. For instance, interviews with workers in the maritime industry revealed deceptive practices related to living and working conditions. Some of those hired as seafarers are paid either late or not at all, have to work forced overtime and endure poor living conditions. There have also been cases of animal herders, sent by their employers out into the scorching desert heat, who are deceived not just about their working and living conditions, but about the job itself; many believed they were being recruited as drivers and gardeners, only to find that was not at all their employers' real intention. These migrant workers cannot leave their employers, due to the *kafala* system, which severely constrains the mobility of workers. Employers also prevent their employees from leaving by requiring them to pay high fees for their release, withholding their wages as well as personal travel documents.

Small and medium-sized companies and individual employers in the construction and agricultural sectors tend to hire workers who are already in the country but with irregular migration status, so as to avoid paying the costs of recruitment and travel from countries of origin. Migrant workers often find themselves in this "informal" labour market through no fault of their own. There is a prevailing practice of *kafeels* ("sponsors") recruiting foreign workers for non-existent jobs. Such fraudulent sponsors generate sizeable profits by auctioning off the visas of these workers to the highest bidder, while the workers themselves are stranded in the destination country, often in debt, with no job, and forced to look for irregular work. Private employment agencies also profit by illegally charging fees to both workers and employers. Ultimately, these workers are left in very precarious working and living situations, and have limited recourse to support mechanisms and justice. They too are constrained by the *kafala* system, and have difficulty escaping exploitative situations.

Governments, social partners and other key stakeholders in the region have shown a commitment to respond to the multiple forms and processes of human trafficking. Most countries in the Middle East have passed specific anti-trafficking legislation, thereby providing for the prosecution of perpetrators of the crime. Several countries have established institutions that foster inter-ministerial coordination to combat the phenomenon. Recent training programmes on the identification of trafficking victims have contributed to greater awareness of the problem and how to detect and respond to it in practice. Bilateral agreements concluded between workers' organizations in countries of origin and destination commit them to work together towards the protection of migrant workers. Civil society

actors have mobilized to provide direct relief and legal support services to those in distress.

There is thus a clear and growing momentum in the fight against the crime of human trafficking in the Middle East. At the same time, it is important to broaden the prism through which human trafficking is seen, recognizing the close relationship between human trafficking and labour migration, and the role that failures in current labour migration governance systems play in allowing human trafficking to persist in the region. The ILO's Decent Work agenda can provide an effective and comprehensive framework through which to address human trafficking, encompassing job creation and sustainable livelihoods; guarantees of fundamental rights at work, including freedom of association for all workers; the extension of social protection; and the promotion of social dialogue. On this foundation, it will be possible for all regional stakeholders to work together to build a more just and stable social and economic system, to the benefit of both nationals and migrant workers.

CHAPTER 1: FRAMING THE ISSUE

1.1. DEFINITION OF HUMAN TRAFFICKING

Human trafficking appeared on the global agenda in 1815 at the Congress of Vienna, where an international commitment to end forced labour was made in the form of a pledge to eradicate the slave trade – which coincidentally was also the first human rights subject dealt with at the international level.¹ The slave trade was addressed again by the League of Nations after the First World War, leading to the adoption in 1926 of the Slavery Convention,² and in 1930 of the Forced Labour Convention (No. 29) of the International Labour Organization (ILO).³

By the late 1990s, the issue of trafficking had been relocated from the international human rights system to the drugs and crime arena, a process reflected in the adoption of the United Nations (UN) Convention against Transnational Organized Crime and the supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons (henceforth referred to as the Palermo Protocol).⁴ The Palermo Protocol sets out a definition of human trafficking that involves three constituent elements – an act, a means and a purpose (box 1.1).

¹ For further reading, see the Declaration Relative to the Universal Abolition of the Slave Trade, 8 Feb. 1815, in C. Parry (ed.): *Consolidated Treaty Series 1648–1919* (Oxford, Oxford University Press, 1969), Vol. 63, No. 473; also G. Rogers et al.: *The International Labour Organization and the quest for social justice, 1919–2009* (Geneva, ILO, 2009), p. 62.

² League of Nations, Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention, 1926. The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1957, art. 1(1), defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”.

³ In parallel, the abolition movement took up the fight against “white slavery” (a term coined to describe the practice of sending European women to colonies for exploitation), which resulted in the adoption of the International Agreement for the Suppression of the “White Slave Traffic”, 1904. There were several other additional international legal treaties on trafficking, including the International Convention for the Suppression of the Traffic of Women of Full Age, 1933; the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949; and the UN Convention on the Elimination of All Forms of Discrimination Against Women, 1979. For further reading, see D. Haynes: “Used, abused, arrested and deported: Extending immigration benefits to protect the victims of trafficking and to secure the prosecution of traffickers”, in *Human Rights Quarterly* (2004, Vol. 26, No. 2, May), p. 228.

⁴ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 15 Nov. 2000 (Palermo Protocol).

Box 1.1: Definition of the crime of trafficking in the Palermo Protocol

Article 3: Use of terms

For the purposes of this Protocol:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) “Child” shall mean any person under eighteen years of age.

For children aged less than 18 years old, there is no need to prove the means of deception and coercion used in the process. The mere fact of recruiting a child into sexual or forced labour exploitation constitutes a trafficking offence. Child trafficking is also considered one of the worst forms of child labour under the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

People trafficked for any of the exploitative purposes defined by the Palermo Protocol may remain in their home areas, or travel across international borders or within their own country. In general, the Palermo Protocol applies to the offences of trafficking in persons “where those offences are transnational in nature and involve an organized criminal group”.⁵ However, the transnational nature of trafficking and the involvement of a criminal group are not required to establish trafficking as an offence under the domestic law of any particular country.

The Palermo Protocol is clearly linked to the ILO Forced Labour Convention, 1930 (No. 29), which defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself

⁵ UN Palermo Protocol, art. 4.

voluntarily'.⁶ As the ILO Committee of Experts on the Application of Conventions and Recommendations⁷ clarified in its General Survey in 2007:

A crucial element of the definition of trafficking is its purpose, namely, exploitation, which is specifically defined to include forced labour or services, slavery or similar practices, servitude and several forms of sexual exploitation. The notion of exploitation of labour inherent in this definition allows for a link to be established between the Palermo Protocol and Convention No. 29, and makes clear that trafficking in persons for the purpose of exploitation is encompassed by the definition of forced or compulsory labour provided under Article 2, paragraph 1, of the Convention. This conjecture facilitates the task of implementing both instruments at the national level.⁸

Human trafficking can thus also be regarded as forced labour, and so Convention No. 29 captures virtually the full spectrum of human trafficking. The only exceptions to this are cases of trafficking for organ removal, forced marriage or adoption, unless the latter practices result in forced labour.⁹

The General Survey further underscored the link between human trafficking for labour and sexual exploitation by stating that:

While a certain distinction has been drawn in the above definition between trafficking for forced labour or services and trafficking for sexual exploitation, this should not lead to a conclusion that coercive sexual exploitation does not amount to forced labour or services, particularly in the context of human trafficking. It seems clear that *coercive* sexual exploitation and *forced prostitution* do come within the scope of the definition of forced or compulsory labour in Article 2, paragraph 1, of the Convention.¹⁰

It should also be noted that the ILO recognizes that all workers deserve legal protection from abuse and exploitation, regardless of the legality of the work they perform under the law of the state where it is performed, whether it takes place in the formal or informal economy, or whether the worker has an established right to work in the country concerned.

⁶ ILO, Forced Labour Convention, 1930 (No. 29), art. 2(1). The Convention provides for certain exceptions, in particular with regard to military service for work of a purely military character, normal civic obligations, work as a consequence of a conviction in a court of law and carried out under the control of a public authority, work in emergency situations such as wars or other calamities, and minor communal services (art. 2(2)).

⁷ The Committee of Experts was set up in 1926 to examine the growing number of government reports on ratified Conventions. Today it is composed of 20 eminent jurists appointed by the Governing Body for three-year terms. The Experts come from different geographical regions, legal systems and cultures. The committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

⁸ ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR): *Eradication of forced labour: General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)* (Geneva, 2007), p. 41.

⁹ ILO: *Questions and answers on forced labour*, http://www.ilo.org/global/about-the-ilo/newsroom/comment-analysis/WCMS_181922/lang--en/index.htm.

¹⁰ ILO CEACR: *Eradication of forced labour*, p. 42.

1.2. GLOBAL DEBATES ON HUMAN TRAFFICKING

The adoption of the Palermo Protocol galvanized many people into action, and sparked many debates at the international level.¹¹ One debate, involving government authorities, international agencies, donor representatives, human rights activists and legal practitioners, centres on the interpretation of the definition of human trafficking. Two issues have been at the core of the controversy: first, whether movement of the victim either within or across national borders is a necessary condition for trafficking; and second, whether the involvement of an intermediary or other third party is required.¹² While neither of these criteria has to be present in order to prosecute a case of human trafficking, national policy-makers may nonetheless decide to distinguish between “trafficked” and “non-trafficked” (or other forms of) forced labour. This may help them to devise differentiated policy responses that are best adapted to the national context and specific target groups.¹³

The discussions on trafficking have also drawn attention to questions about whether to recognize prostitution as legitimate labour or as a violation of women’s human rights.¹⁴ The issue of consent has been a source of contention, with some arguing that there can be no consent for sex work and others upholding that the matter of consent is critical in respecting the agency of women to make choices and in avoiding the blurring of lines between (voluntary) sex work and forced sexual exploitation.¹⁵ These debates over sex work have led to an overemphasis on sex trafficking to the neglect or exclusion of labour trafficking.¹⁶ As the ILO global report on forced labour explained, “the responses to trafficking need to move beyond the present focus on commercial sexual exploitation of women and girls towards a more holistic approach that includes the broader labour

¹¹ For further reading on the subject, see J. Sanghera: “Unpacking the trafficking discourse”, in K. Kempadoo, J. Sanghera and B. Pattanaik (eds): *Trafficking and prostitution reconsidered: New perspectives on migration, sex work and human rights* (London, Paradigm, 2012), pp. 3–24; A. Murray: “Debt-bondage and trafficking: Don’t believe the hype”, in K. Kempadoo and J. Doezeema (eds): *Global sex workers: Rights, resistance and redefinition* (New York, Taylor & Francis, 1998) pp. 51–64. The Lebanese Emigration Research Center at Notre Dame University-Louaizé in Lebanon facilitated access to and use of these articles.

¹² For further reading on the subject, see J. Hathaway: “The human rights quagmire of human trafficking”, in *Virginia Journal of International Law* (2008, Vol. 49, No. 1), p. 5.; J. Chuang: “Beyond a snapshot: Preventing human trafficking in the global economy”, in *Indiana Journal of Global Legal Studies* (2006, Vol. 13, No. 1, Winter), p. 152; A.T. Gallagher: “Human rights and human trafficking: Quagmire or firm ground? A response to James Hathaway”, in *Virginia Journal of International Law* (2009, Vol. 49, No. 4), p. 812.

¹³ ILO: *Hard to see, harder to count: Survey guidelines to estimate forced labour of adults and children* (Geneva, June 2012), p. 19.

¹⁴ J. Doezeema, “Who gets to choose? Coercion, consent, and the UN Trafficking Protocol”, in *Gender and Development* (2002, Vol. 10, No. 1, March), p. 25.

¹⁵ Ann D. Jordan explained: “The majority of delegates who negotiated the Palermo Protocol and the Human Rights Caucus rejected the notion that voluntary, non-coerced participation by adults in sex work, factory work or any other work is trafficking. While such work can be abusive and exploitative, it is only trafficking if it amounts to the internationally recognized human rights violations of forced labor, slavery or servitude”. See A.D. Jordan: *Annotated guide to the complete UN Trafficking Protocol* (Washington, DC, Global Rights, 2002), p. 4.

¹⁶ Chuang: “Beyond a snapshot”, p. 140.

dimensions of human trafficking”¹⁷

The global report of the UN Office of Drugs and Crime (UNODC) also found that the scale of human trafficking for labour exploitation tends to be underestimated owing to several factors, including a perception widespread among both law enforcement agencies and the general public that trafficking occurs only in the context of sexual exploitation.¹⁸ To demonstrate the magnitude of the crime of forced labour, which includes human trafficking, and to raise public awareness about the issue, the ILO published its first global estimate in 2005, which was widely cited as the most authoritative estimate of forced labour.¹⁹ A second estimate, published in June 2012, showed that 20.9 million people are thought to be “victims of forced labour globally, trapped in jobs into which they were coerced or deceived and which they cannot leave”²⁰ Of the total number, an estimated 4.5 million (22 per cent) are victims of forced sexual exploitation, while the majority are victims of forced labour exploitation, in economic activities such as agriculture, construction, manufacturing and domestic work. Globally, the ILO estimates that the “opportunity cost” of forced labour, in terms of lost earnings and inflated recruitment fees paid by workers, amounts to over US\$20 billion annually.²¹

Debates in the global literature have also considered the effectiveness of counter-trafficking strategies worldwide to date. Many governments have opted to respond through a legal lens, focusing on prosecutions, rather than to develop a more comprehensive approach that addresses the social and economic factors at the root of the problem.²² Yet the prosecution of perpetrators alone will be insufficient to stop trafficking unless action is also taken to deal with the structural failures of global labour markets, the growth of the informal economy and the sub-standard working conditions found in many regions. The reform of labour migration governance structures, including the processes by which migrant workers are recruited,²³ will also be of paramount importance in a comprehensive counter-trafficking strategy. Government policy-makers and other key stakeholders should use the useful principles and guidelines on human trafficking developed by the Office of the High Commissioner for Human Rights (OHCHR) as a basis for practical, rights-based policy guidance on the prevention of trafficking and the protection of victims of trafficking.²⁴

¹⁷ ILO: *A global alliance against forced labour: Global report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (Geneva, 2005), p. 46.

¹⁸ UNODC: *Global report on trafficking in persons* (Vienna, 2009), p. 51.

¹⁹ ILO: *A global alliance against forced labour*; ILO: *Global estimate of forced labour: Results and methodology* (Geneva, 2012), p. 11.

²⁰ ILO: *Global estimate of forced labour*, p. 13.

²¹ ILO: *The cost of coercion, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, International Labour Conference, 98th Session, Geneva, 2009, p. 2.

²² W. Chapkis: “Trafficking, migration, and the law: Protecting innocents, punishing immigrants”, in *Gender and Society* (2003, Vol. 17, No. 6, Dec.), pp. 932–33.

²³ The authors have decided to use the term “migrant worker” in accordance with international standards. The term has been defined in art. 2 of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (1990) as referring “to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”. It is nonetheless important to note that the GCC countries prefer to use the term “temporary contract labour”.

²⁴ OHCHR: *Recommended principles and guidelines on human rights and human trafficking*, text presented to the Economic and Social Council as an addendum to the report of the UN High Commissioner for Human Rights (E/2002/68/Add. 1).

1.3. REVIEW OF THE LITERATURE ON THE MIDDLE EAST

The Middle East is home to millions of migrant workers. Labour migration in the region has been influenced by trade, wars, tourism and the discovery of oil. It is distinguished by its scale (in respect of both its absolute size and its exponential growth, at rates far beyond the global average) and by its ‘South–South’ nature.²⁵ The most attractive destinations are the Gulf Cooperation Council (GCC) countries, which have been going through a societal transformation in the wake of their emergence as economically prosperous nations. In these capital-rich economies, the rapid construction and development of infrastructure enabled by revenues from the dominant oil industry has relied on the use of short-term labour immigration.²⁶ A recent study on labour market characteristics and trends in the Gulf estimated there were 14 million migrant workers working in the GCC states between 1975 and 2010, which equates to 70 per cent of the total labour force.²⁷ The composition of the foreign labour force in the region appears to be increasingly mixed, with migrant workers originating mostly in Asia and Africa. According to recent data, the proportion of migrant workers in the labour force of the GCC countries ranges from 50 per cent in Saudi Arabia to 94 per cent in Qatar.²⁸ It is also estimated that there are over 2 million migrant domestic workers in the Middle East.²⁹

In order to manage this large influx of migrant workers, countries in the region rely on the *kafala* or sponsorship system, which is based on historical principles of hospitality governing the treatment and protection of foreign guests. Over time this has become formalized in the various national legal frameworks that determine the terms of residence and employment for migrant workers, and today the *kafala* system governs the lives of most migrant workers in the Mashreq and GCC countries.³⁰ Under the *kafala* system employers are *kafeels* (sponsors), who determine their demand for labour and meet it either by direct recruitment or through intermediaries, such as private employment agencies (PEAs). A migrant worker’s immigration status is thus specifically tied to an individual sponsor for their contract period.³¹ Such workers are thereby rendered more vulnerable by the lack of autonomy in relation to their employers.³²

²⁵ A. Khan and H. Harroff-Tavel: “Reforming the *kafala*: Challenges and opportunities in moving forward”, in *Asian and Pacific Migration Journal* (2011, Vol. 20, Nos. 3–4), p. 296.

²⁶ M. Baldwin-Edwards: “Labour immigration and labour markets in the GCC countries: National patterns and trends”, research paper, Kuwait Programme on Development, Governance and Globalisation in the Gulf States, London School of Economics Department of Governance, pp. 7–8. The GCC countries are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates. Yemen holds observer status at the GCC.

²⁷ Z. Tzannatos: “Youth employment in the GCC states: Is it the youth (and schools), employment (and migrants) or the Gulf (and oil)?”, research paper presented at the 2012 Gulf Research Meeting of the Gulf Research Centre, Cambridge, 11–14 July 2012.

²⁸ Baldwin-Edwards: “Labour immigration and labour markets in the GCC countries”, p. 8.

²⁹ ILO: *Global and regional estimates on domestic workers*, Domestic Work Policy Brief 4, 27 May 2011, pp. 7–8.

³⁰ N. McGeehan: “Trafficking in persons or state sanctioned exploitation? The false narrative of migrant workers in the United Arab Emirates”, in *Immigration, Asylum and Nationality Law* (2012, Vol. 26, No. 1), pp. 29–30. Following the regional classification used by the ILO, the Arab Mashreq covers Iraq, Jordan, Lebanon, the Occupied Palestinian Territory and the Syrian Arab Republic.

³¹ Migrant Forum Asia: *Policy Brief No. 2: Reform of the kafala (sponsorship system)* (Quezon City, 2012), p. 1.

³² ILO: *Giving globalization a human face: General survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008*, Report III(1B), International Labour Conference, 101st Session, Geneva, 2012, pp. 126–27.

The ILO Committee of Experts has noted that the *kafala* system in certain countries in the Middle East may be conducive to the exaction of forced labour and has requested that the governments concerned protect migrant workers from abusive practices.³³ Countries in the region are discussing the merits and constraints associated with the *kafala*, and some have sought to reform the system. The Government of Bahrain was the first to do so, when in 2009 it relaxed a critical constraint of the *kafala*, allowing migrant workers to change employers without seeking the consent of their current employer. Later, the Government stipulated in Law No. 15 of 2011 that the migrant worker must serve one year with the first employer before being legally entitled to move to another.³⁴

Concerted efforts have been made to document the types of human trafficking that take place in the Middle East. These include UN and non-governmental organization (NGO) reports, articles in scholarly journals and a number of studies issued by governments in the region, such as the reports of the National Committee to Combat Human Trafficking in the UAE. The ILO's most recent estimate puts the number of victims of forced labour in the Middle East at 600,000,³⁵ and its Committee of Experts has highlighted in particular the vulnerable situation of domestic workers and children, who work in prostitution, camel racing and forced begging. The reports of the UN Special Rapporteur on Trafficking in Persons, based on official missions to the region, have identified as vulnerable to trafficking women and girls in the sex industry and in domestic work; men and boys in the construction industry and in farm work; and children in the camel race industry.³⁶ Also, the US Government's annual Trafficking in Persons Report has documented both labour and sexual exploitation globally since 2001. Over the years, these reports have become more detailed, and have covered all the Arab countries, with a particular focus on trafficking for labour exploitation.

³³ Ibid.

³⁴ Bahrain, Ministry of Labour, Decision No. 79 regarding the mobility of foreign employees from one employer to another, 2009, art. 2: "In line with clause b of article 25 from decree No. 19 for 2006 with regards to the regulation of the Labour Market, the foreign worker has the right – without requiring the consent of the employer – to move from one employer to another without breaching the rights of the employer as per the articles of the law or the clauses of the employment contract between the two sides." Law No. 15 of 2011 amending para. (a) of art. 25 of Law No. 19, 2006, regulating the labour market.

³⁵ According to the ILO, the region with the highest prevalence of forced labour (i.e. the highest number of victims per thousand inhabitants) is Central and South Eastern Europe (non-EU) and the Commonwealth of Independent States (4.2 per 1,000 inhabitants), followed by Africa (4 per 1,000 inhabitants), Middle East (3.4 per 1,000 inhabitants), Asia and the Pacific (3.3 per 1,000 inhabitants), Latin America and the Caribbean (3.1 per 1,000 inhabitants) and developed economies and the European Union (1.5 per 1,000 inhabitants). Statistics on prevalence are highly significant since they indicate the level of risk that people face in different regions. For more information, see ILO: Global estimate of forced labour, p. 15.

³⁶ S. Huda, Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Bahrain, Oman and Qatar, A/HRC/4/23/Add. 2 (New York, UN Human Rights Council, 25 Apr. 2007), pp. 21–23; S. Huda, Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Lebanon, E/CN.4/2006/62/Add. 3 (New York, UN Human Rights Council, 20 Feb. 2006), p. 8.

The ILO Committee of Experts has drawn attention to the commitments that governments have made at the UN Human Rights Council.³⁷ During the Universal Periodic Review (UPR) sessions of the Human Rights Council, governments can recount the actions they have taken to improve human rights in their countries and fulfil their human rights obligations. All the countries in the Middle East have appeared before the Council since 2006, and have addressed the issue of human trafficking, particularly underscoring the legislative efforts made to date.³⁸ The shadow reports of civil society submitted during the UPR focused primarily on the need to reform the sponsorship system and better protect domestic workers.³⁹ All the government and civil society reports also highlighted the link between migration and trafficking, identifying migrant workers as particularly vulnerable to trafficking.

In addition, several major scholarly articles detailing the legislative action initiated by countries in the region have been published, providing analysis of anti-trafficking initiatives and indicating areas requiring policy reform.⁴⁰ There has also been interest at the regional level in investigating how Islamic legal texts can be used to combat trafficking, as Islamic law makes reference to many of the elements that constitute this crime. This Islamic jurisprudence complements the existing international anti-trafficking framework.⁴¹

Thematic studies on labour migration have mainly focused on construction and domestic work.⁴² The International Trade Union Confederation (ITUC) has also sought to expose and document exploitative practices imposed on construction and factory workers in the Gulf.⁴³ Human Rights Watch has documented abuses against domestic workers in the region.⁴⁴ Debate on the scope of trafficking has arisen in the specific context of domestic work, with scholars taking opposing views on whether domestic workers should be viewed as victims of trafficking in the Middle East.⁴⁵

³⁷ ILO: *Observation (CEACR), Kuwait, Forced Labour Convention (No. 29)*, adopted 2011, published International Labour Conference, 101st Session, Geneva, 2012.

³⁸ In 2012, Bahrain appeared before the UN Human Rights Council; in 2011, Oman and Syria; in 2010, Iraq, Kuwait, Lebanon and Qatar; and in 2009, Jordan and Saudi Arabia; and in 2008, the United Arab Emirates.

³⁹ Out of all the reports summarizing stakeholder information submitted by civil society, trafficking in persons was mentioned in the cases of Iraq, Kuwait, Lebanon, Oman, Saudi Arabia, Qatar and the United Arab Emirates (but not in the cases of Bahrain, Jordan and Syria).

⁴⁰ M. Mattar: "Human rights legislation in the Arab world: The case of human trafficking", in *Michigan Journal of International Law* (2011, Vol. 33, No. 1), p. 17.

⁴¹ UNODC: *Combating trafficking in persons in accordance with the principle of Islamic law* (Vienna, 2010), pp. 2–3.

⁴² For further reading on the subject, see S. Esim and M. Smith (eds): *Gender and migration in Arab states: The case of domestic workers* (Geneva, ILO, 2004); M. de Regt: *Mapping study on women domestic workers in Yemen* (Geneva, ILO, 2006); KAFA: *Policy paper on reforming the "sponsorship system" for migrant domestic workers: Towards an alternative governance scheme in Lebanon* (Beirut, Jan. 2012).

⁴³ For more information on the subject, see ITUC: *Hidden faces of the Gulf miracle: Behind the gleaming cities of Doha (Qatar) and Dubai (UAE), stories of migrant workers with few rights and inhuman living conditions*, No. 21 (Brussels, May 2011); Human Rights Watch: *Building towers, cheating workers: Exploitation of migrant construction workers in the United Arab Emirates*, Vol. 18, No. 8E (New York, Nov. 2006); Human Rights Watch, "The island of happiness": *Exploitation of migrant workers on Saadiyat Island, Abu Dhabi* (New York, May 2009).

By contrast, fewer publications have addressed trafficking for sexual exploitation in the region. The analysis currently available has focused mostly on the perception of and response to sex trafficking in Iraq and the Gulf countries.⁴⁶ It has further been argued in the (admittedly limited) literature that early and temporary forms of marriage in the Middle East make women vulnerable to sexual exploitation by forcing them into prostitution for economic gain.⁴⁷ As the UN Supplementary Convention on the Abolition of Slavery states, marriage can lead to sexual and labour exploitation when “the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise”.⁴⁸ Also, in temporary marriage, women have no rights to divorce, which limits the possibility of escape from an exploitative situation.

There are equally few studies addressing the issue of child trafficking in the Middle East. Literature on the region has highlighted the existence of child trafficking for domestic servitude, camel racing, street begging, sexual exploitation, forced marriage and illegal adoption.⁴⁹ The latest global estimate on child labour which included the Middle East was published in 2002.⁵⁰ In Lebanon specifically, two studies on child trafficking have been carried out at country level by international NGOs. One study identified not only trafficking for labour and sexual exploitation, but also forced involvement in criminal activities and organ trafficking.⁵¹ The other drew the attention to the vulnerability of Dom children to sexual exploitation,⁵² both inside Lebanon and in other countries in the Middle East.⁵³

⁴⁴For further reading, see Human Rights Watch: *Exported and exposed: Abuses against Sri Lankan domestic workers in Saudi Arabia, Kuwait, Lebanon and the United Arab Emirates*, Vol. 19, No. 16C (New York, Nov. 2007); Human Rights Watch et al.: *Domestic plight: How Jordanian laws, officials, employers and recruiters fail abused migrant domestic workers* (New York, Sep. 2011); Human Rights Watch: *Without protection: How the Lebanese justice system fails migrant domestic workers* (New York, Sep. 2010); Human Rights Watch: *Walls at every turn: Abuse of migrant domestic workers through Kuwait's sponsorship system* (New York, Oct. 2010); Human Rights Watch: “As if I am not human”: Abuses against Asian domestic workers in Saudi Arabia (New York, July 2008).

⁴⁵ For further reading, see A. Vlieger: “Domestic workers in Saudi Arabia and the Emirates: Trafficking victims?” in *Amsterdam Law School Research Paper*, No. 32 (University of Amsterdam, 2011), p. 1.

⁴⁶ For more reading on the subject, see Heartland Alliance: *Human trafficking in Iraq: Patterns and practices in forced labour and sexual exploitation* (Chicago, May 2007); SCEME: *Karamatuna: An investigation into the sex trafficking of Iraqi women and girls* (London, 2011); P. Mahdavi: “The “trafficking” of Persians: Labour, migration, and traffic in Dubbay”, in *Comparative Studies of South Asia, Africa and the Middle East* (2010, Vol. 30, No. 3); T. O’Neill, “‘Selling girls in Kuwait’: Domestic labour migration and trafficking discourse in Nepal”, in *Anthropologica* (2001, Vol. 43, No. 2).

⁴⁷ M. Mattar: “Trafficking in persons, especially women and children, in countries of the Middle East: The scope of the problem and the appropriate legislative responses”, in *Fordham International Law Journal* (2002, Vol. 26, No. 7), pp. 730–34.

⁴⁸ UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, art. 1.

⁴⁹ UNICEF: *Child Protection Information Sheets* (New York, May 2006), p. 27.

⁵⁰ ILO: *Every child counts: New global estimates on child labour* (Geneva, Apr. 2002), p. 4.

⁵¹ C. Lewis: *A preliminary study on child trafficking in Lebanon: Patterns, perceptions and mechanisms for prevention and protection* (Beirut, World Vision, Jan. 2011), pp. 25–26.

⁵² The Dom people are often negatively referred as “gypsies” or “Roms”.

⁵³ Terre des Hommes: *The Dom people and their children in Lebanon: A child protection assessment* (Lausanne, 2011), pp. 58–59.

CHAPTER 2: METHODOLOGY

2.1. RESEARCH DESIGN

In order to gain a better understanding of the phenomenon of human trafficking, the ILO undertook between June 2011 and December 2012 a regional research project to map the processes of trafficking for labour exploitation in the Middle East. Jordan, Kuwait, Lebanon and the UAE were selected as case studies for primary data collection, representing both the Mashreq and the Gulf. Additional information was collected from key stakeholders in the region based in Bahrain, Iraq, Qatar, Saudi Arabia and Yemen, and in several other countries, including Bangladesh, Belgium, Egypt, Ethiopia, Nepal, Sri Lanka, Switzerland and the Philippines.

Data were collected through semi-structured interviews with key stakeholders, and a questionnaire administered to adult migrant workers and victims of trafficking (both individually and within focus groups) to document their experiences and vulnerabilities.¹ Tools were developed and subsequently reviewed by members of the Advisory Group, composed of specialists from the ILO and Heartland Alliance. They were then pilot tested and adapted in September 2011 with the technical support of a senior ILO researcher. Snowball sampling was used to identify migrant workers who would be willing to be interviewed.² The ILO focused its research on adults only, as different tools and methodological approaches would have been needed to capture the processes of trafficking of children.

This research project drew on the definitions of trafficking in the Palermo Protocol and of forced labour in the ILO's Forced Labour Convention, 1930 (No. 29), and the ILO *Survey guidelines to estimate forced labour*. In order to determine which of the workers interviewed were in a situation of human trafficking for forced labour, the legal definitions were broken down into "operational indicators" that could be detected through the interviews.³ Following the guidance contained in the ILO survey guidelines, three "dimensions" of forced labour were explored in the survey: "unfree recruitment", "life and work under duress" and "impossibility of leaving" the employer.⁴ These dimensions are explained in table 2.1.

¹ The questionnaire used during interviews with migrant workers and victims of trafficking sought to document their lives prior to leaving their countries of origin, their experience travelling and working abroad, and any assistance they may have received. This questionnaire was administered only after the researchers had explained the nature of the project and emphasized the confidentiality of the process. The researchers also stressed that participation in this project was voluntary, and that the interviewee could skip questions or stop the interview altogether at any point. The development of the questionnaire led the researchers to realize that entirely different tools would be needed to interview trafficked children. It was therefore decided to keep certain age-specific questions in the questionnaire, but to administer it only to adults.

² This type of sampling technique works like chain referral. After interviewing one person, the researcher will ask for assistance from the interviewee to help identify others for interview.

³ ILO: *Hard to see, harder to count: Survey guidelines to estimate forced labour of adults and children* (Geneva, June 2012), p. 13.

⁴ Although the ILO survey guidelines were developed for the purpose of quantitative surveys to estimate forced labour and human trafficking, the concepts and indicators they contain can also be adapted for use and applied in qualitative studies such as this one.

Table 2.1. Dimensions of forced labour and their definitions

Dimension	Definition
<i>Unfree recruitment</i>	Deceptive and/or forced recruitment. “Deceptive recruitment” occurs when a person is recruited using false promises about the work. This represents involuntariness insofar as the worker would not have accepted the job had he or she been aware of the true working or other conditions. “Forced recruitment” occurs when constraints are applied to force the worker to work for a particular employer against his or her will. In both forms, some element of penalty must be present.
<i>Work and life under duress</i>	“Work under duress” may entail an excessive volume of work or tasks that are beyond what can reasonably be expected within the framework of national labour law. “Life under duress” refers to situations of coercion, degrading living conditions, limitations on freedom or excessive dependency imposed on a worker by the employer. In addition, some elements of penalty must be present.
<i>Impossibility of leaving the employer</i>	A form of limitation on freedom by the use or threat of penalty is treated as a separate dimension as it is a critical component of trafficking.

The survey instrument sought to gather information on indicators (classified as “strong” or “medium”) of involuntariness and indicators of penalty pertaining to each of these three dimensions. A dimension was considered as positive when at least one indicator of involuntariness⁵ and one indicator of penalty⁶ (or menace of penalty) relating to that dimension was present, and at least one of these indicators was strong. The indicators used for each dimension are presented in tables 2.2–2.4.

⁵ The concept of “involuntariness” is defined as referring to work for which a person has not offered him- or herself voluntarily.

⁶ The concept of “penalty” is defined as referring to work which is performed under the menace or application of a penalty or coercion, applied by an employer or a third party to the worker. The coercion may take place during the worker’s recruitment process, to force him/her to accept the job or, once the person is working, to force him/her to do tasks which were not part of what was agreed at the time of recruitment, or to prevent him/her from leaving the job.

Table 2.2. Indicators of unfree recruitment

Indicators of involuntariness	Indicators of penalty
<i>Strong indicators</i>	
Deception about the nature of the work	Denunciation to the authorities
Impossibility of leaving the employer	A form of limitation on freedom by the use or threat of penalty is treated as a separate dimension as it is a critical component of trafficking.
Coercive recruitment (abduction; confinement during the recruitment process)	Confiscation of identity papers or travel documents ¹
Recruitment linked to debt (advance or loan)	Sexual and physical violence
	Withholding of assets
	Threats
<i>Medium indicators</i>	
Deceptive recruitment regarding working conditions, content or legality of employment contract, housing and living conditions, legal status, job location, wages	Financial penalties
Deceptive recruitment through the promise of marriage	

Table 2.3. Indicators of work and life under duress

Indicators of involuntariness	Indicators of penalty
<i>Strong indicators</i>	
Forced overtime	Denunciation to authorities
Limited freedom of movement and communication	Confiscation of identity papers or travel documents
Degrading living and working conditions	Isolation/constant surveillance
	Sexual and physical violence
	Other forms of punishment (e.g. deprivation of food, water, sleep)
	Withholding of wages
<i>Medium indicators</i>	
Forced to work for employer's private business or other family members	Financial penalties

Table 2.4. Indicators of impossibility of leaving employer

Indicators of involuntariness	Indicators of penalty
<i>Strong indicators</i>	
Reduced freedom to terminate contract	Denunciation to authorities
Forced to stay longer than agreed while waiting for wages due	Confiscation of identity papers or travel documents
Forced to work for indeterminate period in order to repay outstanding debt	Imposition of worse working conditions
	Locked in work or living quarters
	Sexual and physical violence
	Other forms of punishments
	Under constant surveillance
	Withholding of wages
<i>Medium indicators</i>	
	Financial penalties

The data collected during individual interviews and focus group discussions with migrant workers were entered into the database. The data were coded using the indicators above and validated twice. Several cases proved difficult to assess. For instance, migrant workers whose employers forced them to pay a deposit in order to obtain travel documents and the right to leave their work were not considered in an “impossible to leave” situation if there was no risk of losing any rights and privileges.⁷

During data analysis, any adult worker for whom the dimension of “unfree recruitment” or “life and work under duress” or “impossibility of leaving” was positive was considered to be a victim of trafficking for forced labour.

The main information-gathering tool for the study was the questionnaire administered to migrant workers. It was used in 34 focus group discussions with migrant workers (involving 263 individuals) and 91 individual interviews in the four selected countries. The key sources are summarized by occupational sectors in table 2.5, illustrating the variety of stakeholders who helped triangulate the information in order to map the processes of human trafficking in the Middle East.

⁷ ILO: *Human trafficking and forced labour exploitation: Guidelines for legislation and law enforcement* (Geneva, 2005), pp. 19–20.

Table 2.5. Overview of sources of information

Occupational sector	Sources of information
<i>Domestic work</i>	<ul style="list-style-type: none"> • Women and men employed as domestic workers (regular and irregular status) • Detained domestic workers • Former domestic workers living in temporary shelters • Government officials (Ministries of labour, interior, justice, foreign affairs, social affairs) • Embassy officials of countries of origin • Employers of domestic workers • Workers' organizations • Employers' organizations • Migrant community leaders • Local and international NGOs (in countries of origin and destination) • International organizations • Bar associations • Private employment agencies • Academics
<i>Sex work</i>	<ul style="list-style-type: none"> • Women and men employed in the entertainment industry: hostesses, waitresses, dancers; owners, managers and security staff of night clubs • Sex brokers (pimps) • Government officials (Ministries of labour, interior, justice, foreign affairs, social affairs) • Embassy officials of countries of origin • Clients of sex workers • Workers' organizations • Migrant community leaders • Local and international NGOs (in countries of origin and destination) • International organizations • Media professionals • Academics
<i>Other economic activities (construction, manufacturing, trade, agriculture and seafarers)</i>	<ul style="list-style-type: none"> • Women and men migrant workers • Owners and managers of companies • Government officials (Ministries of labour, interior, justice, foreign affairs, social affairs) • Embassy officials of countries of origin • Workers' organizations • Chambers of commerce and industry • Migrant community leaders • Local and international NGOs (in destination countries) • International organizations • Bar associations • Media professionals • Academics

2.2. OVERVIEW OF DATA COLLECTED

In total, 653 people (372 men and 281 women) were interviewed for the study, of whom 354 were migrant workers and 299 were key informants. Similar numbers of key informants were interviewed in Kuwait, Lebanon and the UAE, slightly fewer in Jordan, as shown in table 2.6. Additional information collected was obtained from 43 key informants in other countries.⁸

Table 2.6: Overview of data sample

Category	Key informants	Migrant workers
Total number interviewed	299	354
Total number per country		
Jordan	54	66
Kuwait	66	127
Lebanon	71	100
UAE	65	61
Other countries	43	
Total male: female ratio	204 male: 95 female	168 male: 186 female
<i>Type of key informants</i>		
Government officials	115	
Social partners	50	
Other	134	

Of the 354 migrant workers interviewed, 266 were assessed to be in a situation of forced labour and trafficking – that is, over two-thirds of the total number of migrants interviewed. This proportion cannot be extrapolated to characterize the overall situation in the region, given the sampling methodology employed. The migrant workers who participated in the interviews for this study were not selected randomly: either they were living in shelters run by NGOs, embassies or the national authorities, or they had chosen to leave an exploitative situation and enter the informal labour market instead. Key informants also recommended to the research team other migrant workers who were particularly vulnerable to exploitation. In order to determine the prevalence of forced labour and trafficking across the Middle East, further quantitative research is needed.

Table 2.7 provides detail on the indicators of trafficking and forced labour that were captured in the interviews.

⁸ Phone interviews were carried out with civil society actors working in migrant worker protection based in Bahrain, Bangladesh, Belgium, Egypt, Ethiopia, Iraq, Nepal, Qatar, Sri Lanka, Switzerland and the Philippines.

Table 2.7. Overview of forced labour indicators among migrant workers interviewed¹

Dimension of forced labour	Sub-category of indicator	Number of reported instances
Unfree recruitment	Coercive recruitment	0
	Deceptive recruitment	206
Work and life under duress	Threat and/or violence	130
	Limited freedom	101
	Withholding of wages	149
	Forced overtime	196
	Forced tasks	108
	Retention of identity papers	267
Impossibility of leaving employer		168
Total no. in situation of forced labour and trafficking		266

¹ Total no. of migrant workers interviewed: 354.

Human trafficking for labour exploitation is a global problem, affecting virtually every country in the world. The latest ILO global estimate shows that the estimated number of victims of forced labour in the Middle East – at 600,000 – is lower than in other regions of the world, and that forced labour prevalence (at 3.4 per thousand) is also lower than in either Central and South-Eastern Europe or Africa. It would be wrong to assume that all migrant workers in the region suffer from exploitative situations; migrants can, and do, have positive work experiences, and many remit significant sums of money back to their families at home.

Having said that, the Middle East is of particular significance in respect of the sheer scale of labour migration and the prevailing regulatory system, which can be conducive to forced labour and trafficking. The analysis in the following chapters focuses on situations where migrant workers experience problems, often serious ones, in order to highlight where shortcomings exist in the current labour migration governance regime and thus identify where improvements could be made. The analysis is done at the regional level and therefore does not necessarily imply that all the processes arise in every country; nonetheless it does provide information about the different ways that adult migrant workers are trafficked into the Middle East and subjected to forced labour there.

⁹ The global estimate also found that the Asia and Pacific region accounts for by far the highest absolute number of forced labourers – 11.7 million or 56% of the global total. See ILO: *Global estimate of forced labour: Results and methodology* (Geneva, 2012), pp. 15–16.

CHAPTER 3: THE PROCESSES OF TRAFFICKING BY OCCUPATIONAL GROUP

3.1. DOMESTIC WORK

3.1.1. At a glance: Key findings on domestic work

The 143 domestic workers interviewed were from Bangladesh, India, Indonesia, Nepal, Sri Lanka and the Philippines in Asia, and from Burkina Faso, Cameroon, Ethiopia, Kenya, Madagascar and Senegal in Africa. They included both women and men, and their ages ranged from 19 to 55 years. They came from rural and urban areas, and most identified themselves as coming from either very poor or poor families. The majority had completed secondary school. Some of those interviewed had worked in the Middle East previously, while others had migrated for the first time. The vast majority stated that they had made the decision themselves to work abroad. At the time of the interviews, which were held in Jordan, Lebanon and Kuwait, the domestic workers were working, detained or living in temporary shelters awaiting deportation.

Data were also gathered from a variety of key informants, who shed light on different facets of the migration process for domestic workers and its pitfalls. They included government officials from ministries of labour, interior, justice, foreign affairs and social affairs, as well as government representatives from countries of origin stationed at the embassies and consulates. Information was also collected from representatives of workers' and employers' organizations, migrant associations, and local and international NGOs in countries of origin and destination. The research team also met with employers of domestic workers, owners of PEAs, lawyers, academics and representatives of international organizations.

Analysis of the data revealed three main processes of human trafficking for forced labour of domestic workers (table 3.1). The first process involves individuals who voluntarily agree to migrate abroad to do domestic work, then discover on arriving at their destination that their working and living conditions are different from what they have been led to expect, but for a variety of reasons are unable to leave the exploitative situation. The second process involves deceptive recruitment in the country of origin by agents, relatives and friends who mislead them about the nature of the job. The workers believe they will be gainfully employed in another occupation (teaching, nursing, catering etc.), only to discover on arrival that they are to engage in domestic work. The third process also involves deceptive recruitment, but this time the deception is related to the working conditions rather than the nature of the job itself. In all three processes, the domestic worker is exploited. Forced overtime, lack of rest periods and severe limits on communication and freedom of movement are all indicators of work and life under duress, while they are prevented from leaving by various forms of penalty and threats, including the retention of passports, the withholding of wages, and the use of psychological, physical and sexual violence.

All three processes of human trafficking for domestic work identified in this study are closely related to the nature of the work and the environment in which it is performed. The isolation of domestic workers in private homes, which are not inspected by labour inspectors or social workers, and their very limited ability to move outside the household, heighten their vulnerability to exploitation. Employers justify the retention of passports and confinement in the home on the basis of the *kafala* system, which gives them legal responsibility for the residency and employment of their domestic workers. Their sense of entitlement over the worker is heightened by the significant cash outlay they have made to recruit him or her from another country. Many of the families who employ domestic workers in the Middle East are of very limited means, but where public, affordable support for the care of children and elderly relatives is lacking they have little choice but to hire external help. The consequence for the unsuspecting migrant domestic worker is exploitation at the hands of the employer household.

Table 3.1: Overview of three processes of human trafficking for forced labour of domestic workers

Process	RECRUITMENT		► WORK AND LIFE IN COUNTRY OF DESTINATION	► IMPOSSIBILITY OF LEAVING EMPLOYER
1	Voluntary recruitment for domestic work facilitated by relatives/friends/agents	Upon arrival, discovers different working and living conditions, but is unable to leave	Exploitation of worker: <ul style="list-style-type: none"> Forced to work overtime Forced to work on call Limited freedom of movement and communication Degrading living conditions Lack of rest periods Threat of or actual denunciation to the authorities Confiscation of identity papers and mobile phones Isolation Confinement in workplace Constant surveillance 	<ul style="list-style-type: none"> Inability to resign due to <i>kafala</i> system
2	Unfree recruitment for domestic work (deception about the nature of the work) by agent and/or employer	Upon arrival, learns true nature of job, but is unable to refuse the terms of employment and leave	<ul style="list-style-type: none"> Forced to work for indeterminate period in order to repay debt Passport retention Withholding of wages Psychological, physical and sexual violence 	
3	Unfree recruitment for domestic work (deception about the working and living conditions) by agent and/or employer	Upon arrival, discovers different working and living conditions, but is unable to refuse the terms of employment and leave		

3.1.2. Recruitment of domestic workers

Voluntary recruitment

The first process of human trafficking for forced domestic labour involves migrant workers who voluntarily decide to find work abroad. Those interviewed spoke of multiple channels, regular and irregular, that could be used to this end. Some relied on family members or friends who had contacts with a recruitment agency or with a prospective employer in the country of destination. An Ethiopian domestic worker said: “I had a friend who was working in Lebanon. I sent her a copy of my passport and she gave it to a recruitment agency in Beirut. I was then selected by a family.” Another experience of a Kenyan domestic worker highlighted the informality of the recruitment process: “The girl I met in Kenya told me I only needed a passport and did not need to pay anything. She told me I could earn US\$350 a month. I gave her my CV and after three days, I received a phone call from a man who said he was calling from Lebanon and had a job to give me to look after his sick mother.”

Although personal contacts did help a few individuals to secure employment abroad,¹ the majority of domestic workers interviewed were aided by PEAs, which they contacted through brokers in the villages, advertisements in the newspapers, radio broadcasts or by visiting their offices in the big cities.² A domestic worker from Madagascar in Lebanon recalled: “I heard on the radio of girls talking about working abroad and adverts saying they were recruiting girls. My family didn’t refuse, so I applied.” Another Nepalese domestic worker said she visited an agency in Kathmandu, where she was told: “You can go abroad, you will be a domestic worker, and every Sunday is free.” A domestic worker from the Philippines interviewed in Jordan explained that in order to migrate, “you first go through the recruiter from the village, someone you trust. All are then connected with a recruitment agency in the city.” Prospective migrants sometimes pass through two or three agencies during the recruitment process.³

The variety of answers recorded to questions about how workers went about finding work abroad underscores the multiplicity of actors, both formal and informal, involved in the recruitment process – family relatives, friends and PEAs – who encourage potential

¹ Some argue that recruitment through personal contacts is safer, since the person who arranges the job knows the foreign sponsor under whom the worker is contracted to work. By contrast, others argue that finding a job through personal contacts is more risky, as there is no responsible registered party to whom recourse can be had in the event of exploitation of the worker. Furthermore, a personal intermediary can usually expect to collect a very high recruitment fee after the worker arrives in the host country. See L.K. Ruhunage: *Recruitment practices of employment agencies recruiting migrant workers* (Colombo, Nov. 2011), pp. 18–19.

² In many countries of origin, PEAs remain the major actors in recruitment. For example, the Sri Lanka Foreign Employment Agency (SLBFE) showed that in 2010 PEAs were responsible for 60% of workers recruited for employment abroad (Ruhunage, *Recruitment practices of employment agencies recruiting migrant workers*, p. 16).

³ Iraqi Kurdish labour recruitment agencies who sent Ethiopian and Nepalese workers to the Iraqi Kurdistan region obtained these workers through other UAE-based labour recruiters with a presence in both countries. (Heartland Alliance, interviews with migrant workers, Iraqi Kurdistan region, Nov. 2010).

migrants to go abroad.⁴ At times, the informality of the recruitment process is at odds with regulations in the countries of origin. For instance, in the Philippines, PEAs are only allowed to recruit from their office premises, and the Government has sought to enforce the law by creating a hotline through which members of the public can report brokers operating in the villages. In Bangladesh, the Ministry of Expatriates' Welfare and Overseas Employment, which is responsible for supervising PEAs, has set up a monitoring and enforcement body to supervise PEAs and take action against fraudulent practices.⁵ However, in spite of efforts to regulate the recruitment process in countries of origin, unlicensed PEAs and brokers continue to operate with a certain degree of impunity, underscoring the need to tighten the monitoring of recruitment practices and impose stiffer sanctions against those apprehended.⁶

Motivations for migrating

There are multiple “push” factors for migrating, which include raising cash, leaving extreme poverty, and being able to provide education to children or health care to sick relatives back home. Many interviewees spoke of limited work opportunities and high unemployment rates in their countries, which left them with few viable alternatives. The Middle East represented an attractive choice for a substantial number of migrant workers, such as the Filipina domestic worker who said: “With the sponsorship system, you don’t have to pay anything for your recruitment. It’s a good system that allows migrants to escape poverty.” The fact that domestic workers are exempted from paying fees at the outset of their migration does not, however, necessarily preclude their employer or agent from later withholding their salary from the first few months in order to recover the costs associated with the recruitment and trip. Other “push” factors included the possibility of finding a job easily owing to high market demand for domestic workers in the Middle East, and the popularity of the region as a reputed source of good wages: as one Ethiopian domestic worker explained, “many people are talking about going to the Middle East to win more money. It’s very common to travel to the region.” In fact, a Nepalese migrant community leader in Kuwait argued: “It’s almost like a fashion. They want to go abroad but do not know what to expect. Nobody is forcing them to come here.”⁷

As a result of the growing interest of so many people in moving abroad to work, recruitment agencies in countries of origin have taken on a more proactive stance, openly marketing destinations and possible employment opportunities in the Middle East. An official from the Nepalese Embassy believed that “the recruitment agents are selling dreams. They go to the villages and people there know that Kuwait is a rich country.”⁸ In some cases, the actual destination is chosen not by the prospective migrant, who may not necessarily know which country to pick, but on the advice of their agent. One woman explained: “I went to an agency in Ethiopia and they told me to come to Lebanon. I had no idea about Lebanon beforehand.”

⁴ For further reading, see R. Abimourched: *Migrant domestic workers in the Mashriq: Towards a rights-based regulatory framework*, Carim Research Report (Florence, Consortium for Applied Research on International Migration, 2011).

⁵ Email correspondence with an official from Winrock International, Bangladesh, 30 Sep. 2012.

⁶ For further reading, see S. M. Morshed (ed.), ECHO: *Survivors Voice*, trans. H. Rahman and S. Piazzano (Dhaka, SHISUK, Nov. 2011), pp. 5–7.

⁷ Interview with an official from the Non-Resident Nepalese Association, Kuwait, 30 Mar. 2012.

⁸ Interview with an official from the Embassy of Nepal, Kuwait, 26 Mar. 2012.

The role of private employment agencies

PEAs in the countries of origin and destination vary in their professionalism, size and mode of operation.⁹ Those that have a good track record seek to provide adequate and accurate information to both workers and employers. The more unscrupulous ones realize that there is the potential to make enormous profits from commissions charged not only to employers and PEAs based in the destination countries, but also to prospective migrants who are willing to pay fees to be selected or to accelerate the process – in spite of the fact that international labour standards prohibit the recruitment agency from charging any fees to workers.¹⁰ The development of these illegal practices demonstrates the lack of monitoring of PEAs in countries of origin and destination.

Similar prohibitions can also be found in national legislation in the region. Indeed, in Jordan, the instructions on recruitment agencies prohibit the agency from taking money from the worker,¹¹ and require that where an agency is found to have committed gross violations of the labour law,¹² the Government shall revoke its licence immediately and shut it down.¹³ In Kuwait, the standard contract requires any person sponsoring a domestic worker to pay the worker's travel costs and the associated fees of the recruitment agency.¹⁴ Also, a ministerial order of 2010 stipulates that the employment agency is prohibited from receiving any remuneration from the domestic worker.¹⁵ In Lebanon, a ministerial decision of 2011 states that the owners of placement offices are prohibited from receiving direct or indirect fees from domestic workers, on penalty of having their licences revoked.¹⁶ PEAs in the UAE are likewise forbidden to receive any payment or fees from workers, and are required to refund to the worker any amounts he or she may have paid for the recruitment process.¹⁷

⁹ PEAs vary widely in size. They may be licensed and certified or unlicensed and uncertified. Some consist simply of one individual, while others employ a large staffs.

¹⁰ ILO: Private Employment Agencies Convention, 1997 (No. 181), art. 7.

¹¹ Jordan, Instructions on the Conditions and Procedures for Licensing Offices Specialized in Working in Recruitment and Placement of Non-Jordanians Working inside the Homes, 16 Feb. 2009, art. 8(d).

¹² These violations include recruiting workers illegally or using forged papers; recruiting workers who are under the legal age of employment; employing workers in jobs other than domestic work or as labourers, or forcing them to work for other house owners where they are not authorized to work; economic exploitation of workers and confiscation of all or part of their wages; assaulting workers physically or sexually, abusing them or facilitating such practices; transferring workers illegally to other countries.

¹³ Additional instructions issued in 2010 further stipulate the need to restrain the creation of more private recruitment agencies. These rules require that such agencies must be established as partnerships (previously they could be individually owned); must be owned by partners who are Jordanian, aged at least 25, without a criminal record, and are not owners of travel agencies, hotels, restaurants, or massage or beauty salons; must have a minimum starting capital of 50,000 Jordanian dinar (JOD) (previously no starting capital was required); must submit a bank guarantee of 100,000 JOD (previously only 50,000 JOD was required); and are subject to warnings, fines, suspension for up to six months, or closure by the Minister if found to have violated any of these requirements.

¹⁴ Kuwait, Standard recruitment and employment contract for domestic workers, 2010, art. 5(5).

¹⁵ Kuwait, Ministry of Interior, Order No. 1182, 2010, art. 11 (2).

¹⁶ Lebanon, Ministerial Decree No. 1/1, 2011, art. 15, stipulates that "owners of placement offices are prohibited from receiving any direct or indirect fees from the foreign female workers, under the penalty of revoking their licences".

¹⁷ UAE, Ministry of Labour, Ordinance No. 1283 regulating the work of private employment agencies, 23 Dec. 2010, art. 6 (b).

In reality, this international norm is often ignored. An owner of a PEA based in Kuwait explained that a “big percentage of recruitment offices outside Kuwait take money from the domestic worker. The domestic worker has to pay for issuing the passport, medical tests, training, if any in the country, and other documents.”¹⁸ Such practices violate Kuwait’s PEA regulation of 2010.¹⁹ An official from the NGO KAFA went even further, arguing that some migrant workers pay double fees, to recruitment agencies in both origin and destination countries, thereby increasing their debt and thus their vulnerability.²⁰ According to the UN Special Rapporteur on Trafficking, when recruitment agencies do not respect these rules they implicate themselves in the crime of trafficking: “The employment agent himself can be considered a trafficker if s/he knows or turns a blind eye to the fact that the employer is recruiting the worker for the purpose of exploitation, but is deceiving the worker about this intention.”²¹

PEAs in countries of origin are also known to facilitate the travel of migrants even when their own governments have issued bans on deployment of domestic workers because of recurring human rights violations against domestic workers in the countries of destination.²² Most of the time, these irregular travel arrangements are organized by unlicensed agencies that operate outside governments’ regulatory schemes. However, some licensed agencies have also been involved in circumventing the bans, even though their legal status makes it more difficult for them to exploit regulatory gaps. These deployment bans are imposed unilaterally by governments of countries of origin and thus are not legally binding in destination countries.²³ Many bans currently apply to countries throughout the region.

An official of the General Directorate of General Security (GDGS) at Beirut International Airport explained that if the migrant worker has a valid tourist or work visa upon arrival, the immigration official will allow the person to enter Lebanon, irrespective of whether a deployment ban is in place in the country of origin.²⁴ Similar practices occur across the region.

¹⁸ Interview with an owner of a private recruitment agency, Kuwait, 27 Mar. 2012.

¹⁹ “If the licensed party (the office) receives from the domestic worker or similar categories of persons any remuneration in exchange for supply or employment, the labour supply office shall be abolished” (Kuwait, Ministerial Resolution No. 1182, 2010, amending some provisions of Order No. 617, 1992, for organizing rules and procedures to obtain licenses for private domestic workers’ offices, art. 11).

²⁰ Interview with an official from KAFA, Lebanon, 21 Sep. 2011. KAFA (Enough) Violence and Exploitation in Lebanon established in 2005, is a Lebanese non-profit, non-political, non-confessional civil society organization committed to the achievement of gender equality and non-discrimination, and the advancement of the human rights of women and children.

²¹ S. Huda: *Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Lebanon*, E/CN.4/2006/62/Add. 3, 20 Feb. 2006, p. 9.

²² “Deployment” in this context refers to the despatch of nationals to another country for work.

²³ For an example of recent ban imposed by Nepal, see BBC News: “Nepal women banned from Middle East over exploitation”, Aug. 2012, <http://www.bbc.co.uk/news/world-asia-19196245> [accessed 27 Sep. 2012].

²⁴ Interview with an official from the GDGS at Beirut Rafic Hariri International Airport, Lebanon, 26 Sep. 2011.

The onus is therefore on the country of origin to implement the ban, but this is not an easy task. As an official from the Philippines Embassy in Jordan remarked, “our Constitution gives us the right to travel and recruitment agencies exploit this constitutional right. We cannot discriminate and say, ‘You look like a domestic worker and can’t travel because of the ban.’ In Jordan, Filipinos can enter on a visa valid for 60 days, and then can convert it into a work visa.”²⁵ In Lebanon, another official from the Philippines Embassy stated that since the imposition of the deployment ban adopted in 2006,²⁶ the number of domestic workers from the Philippines had actually increased, with on average 11,000 Filipinos finding jobs in Lebanon each year.²⁷ Other countries of origin that have imposed bans face similar limits on their capacity to enforce them. Corruption and lax emigration controls in countries of origin also contribute to explaining why the bans do not necessarily help curb the number of domestic workers migrating.²⁸ “In countries where there is a ban, a lot of agencies work clandestinely, without any licence,” said an official of a recruitment agency in Lebanon. “Since they are paying money to some people in the Government, they are able to obtain the necessary documents for the girls to leave the country.”²⁹

Where deployment bans are in place, domestic workers and PEAs have colluded to find ways to circumvent the restrictions. As an official from Winrock International in Bangladesh explained, “the consequences of the bans imposed by the Government of Bangladesh is that unskilled and semi-skilled women migrant workers mainly migrated through irregular channels which made them more vulnerable to exploitation”.³⁰ A Filipina domestic worker confessed during her interview that “as there is a ban in Lebanon, my visa was for Bahrain. It said I would be visiting my mother there, but it’s not true, she is not there. I had to memorize the data given to me by my agent before travelling.”

Another Filipina explained the support she had received while in transit in the UAE: “My agent had described the person I should look for at the airport, who gave me the visa to Lebanon.” An Ethiopian admitted that she too had bypassed the ban: “I told the immigration officials in Ethiopia I was going to Bahrain because they wouldn’t let me go to Lebanon. I stayed one day in Yemen in transit and there I changed my tickets to go to Beirut instead of Bahrain.” The collusion also sometimes involves government officials who are supposed to ensure that migration safeguards are observed. A study carried out in Nepal by several civil society organizations found that many women face difficulties at the

²⁵ Interview with an official of the Embassy of the Philippines, Jordan, 14 Nov. 2011.

²⁶ In the Philippines, Rule III, section 6 of the amended Migrant Workers Act, 2010, states that “in pursuit of the national interest of when public welfare so requires, the Philippine Overseas Employment Administration (POEA) Governing Body, after consultation with the Department of Foreign Affairs (DFA), may, at any time, terminate or impose a ban on the deployment of migrant workers. The POEA Governing Body may, after consultation with the DFA, grant exceptions to the ban or lift the ban.”

²⁷ Interview with an official from the Embassy of the Philippines, Lebanon, 1 Nov. 2011.

²⁸ For example: “The Embassy of the Philippines recognizes that recruitment agencies in the Philippines are corrupt because they have bypassed the ban and continue to send migrant domestic workers to Lebanon for a cost of between 3,000 US\$ and 5,000 US\$”: G. Shahinian, *Report of the Special Rapporteur on contemporary forms of slavery: Mission to Lebanon*, A/HRC/21/41/Add. 1 (New York, UN Human Rights Council, 4 July 2012, p. 9).

²⁹ Interview with an owner of a PEA, Lebanon, 15 Dec. 2011.

³⁰ Email correspondence with an official from Winrock International, Bangladesh, 30 Sep. 2012.

airport in Kathmandu, as they are required to pay “an extra ‘setting fee,’ which is essentially a bribe” of anywhere between US\$100 and US\$700 to the immigration officials in order to leave the country.³¹ Such corruption can also be found in other countries of origin.

Sometimes, PEAs in destination countries take on the role of mediator between the employer and the domestic worker. A migrant community leader in Kuwait spoke of the model that had been established by 35 agents from Nepal, who had formed a committee two years previously and registered it at the Nepalese Embassy.³² In the event of a problem involving a Nepalese domestic worker, they would help to solve it. Similar attempts to mediate can be found throughout the region. An owner of an employment agency in Lebanon said: “If there is a problem, we talk with the employer to try to solve it. If this doesn’t work, we go to the General Directorate of General Security.”³³ An official of the syndicate of owners of PEAs also summarized the critical role that agents in Lebanon can play: “We’re available 24 hours a day. We can go get the girls and have safety rooms at home and at the agency. Only 5 per cent of cases go to the Caritas shelter or the immigration authorities. The rest work their problems out with their agency.”³⁴

Such statements highlight the extent to which some recruitment agencies go beyond the role assigned to them in national regulations. In Kuwait, the Domestic Workers Department of the Ministry of Interior is responsible for providing mediation for civil domestic employment disputes. In Lebanon, the Labour Office Department of the Ministry of Labour must identify the body responsible for overseeing disputes between domestic workers, their employers and the recruitment agencies.³⁵ The role of PEAs is restricted to the recruitment procedure and the three-month probation period after the arrival of the domestic worker.³⁶ As one author of a study on migrant domestic work explained, “once the three months have passed, private employment agencies no longer have a legal role to intervene in disputes between employers and migrant domestic workers, although agents are still required to report any complaints received to the relevant authorities”.³⁷

³¹ GEFONT: Anti-Slavery International: *What is she worth? An urgent call for the protection of the rights of Nepalese migrant domestic workers*, June 2012.

³² Interview with an official of the Non-Resident Nepalese Association, Kuwait, 30 Mar. 2012.

³³ Interview with an owner of a PEA, Lebanon, 15 Dec. 2011.

³⁴ Interview with an official of the syndicate of owners of private recruitment agencies, Lebanon, 23 Nov. 2011. Caritas is an NGO that operates a centre in Lebanon (Caritas Lebanon Migrant Centre) to offer help and support to asylum seekers, refugees and migrant workers.

³⁵ Lebanon, Ministerial Order No. 13(1) regulating recruitment agencies for domestic workers (2009), art. 14. The worker’s contract does not mention how to lodge a complaint with the Ministry of Labour.

³⁶ Lebanon, Ministerial Order No. 13(1) regulating recruitment agencies for domestic workers, 2009.

³⁷ Abimourched: *Migrant domestic workers in the Mashriq*, p. 9.

Box 3.1: The role of private employment agencies

“The private recruitment agencies sell and buy domestic workers and they actually use that language of ‘buying’ and ‘selling’. We are returning to the Middle Ages. Take one example of the employer who returns his domestic worker to the recruitment agency, and receives US\$500 as compensation. The agency will then sell her to another employer for US\$1,000 \$ and keep the profit. The first employer will sign the release at the Ministry of Interior and the Ministry does not see the financial transaction, only the consensual release.”

Interview with an official from the Kuwait Lawyers Association, Kuwait, 28 March 2012.

Some key informants believed that the involvement of recruitment agencies was not always to the benefit of the domestic workers (see box 3.1). Indeed, there were several allegations that some recruitment agents intervene only because there are profits to be made. An official from the Kenyan Consulate in Lebanon upheld the viewpoint that “the agency takes anywhere between US\$3,000 and US\$4,000 from the employer, which is a lot of money. It’s a war between us and the agents.”³⁸ An official of the syndicate of PEA owners in Lebanon agreed, specifying that “the problem lies with those agencies that are not licensed – I like to call it the ‘monkey business’. There are currently 460 licensed agencies operating in Lebanon. I can say that 200 operate in a professional and responsible way.”³⁹ Recognizing the problems brought about by certain recruitment agencies, the Government of Lebanon recently cancelled 40 licences of agencies that were in violation of national regulations in 2011.

In Jordan, an official from Tamkeen, an NGO providing assistance to migrant workers, also argued that PEAs charge high recruitment costs to the employers, averaging anywhere between US\$5,000 and US\$7,000. They are able to do this because the Ministry of Labour regulations prohibit employers from recruiting domestic workers directly. Tamkeen has found it difficult to hold unscrupulous PEAs to account. Although the NGO files cases in court, “no cases related to trafficking and sexual or physical abuse have been won, as the recruitment agents are rich and their hands are everywhere. They can buy off witnesses.”⁴⁰ The lack of successful judicial recourse against such recruitment agencies allows them to continue their practices unhindered. It also highlights the gaps that remain between the regulations recently introduced to govern the PEAs in Jordan and their implementation. Similar gaps are noticeable in the other countries of the region, which also struggle to regulate these agencies effectively.

³⁸ Interview with an official from the Embassy of Kenya, Lebanon, 16 Dec. 2012.

³⁹ Interview with an official of the syndicate of owners of private recruitment agencies, Lebanon, 23 Nov. 2011.

⁴⁰ Interview with an official of Tamkeen, Jordan, 10 Nov. 2011.

'Unfree' recruitment

The research did not find any evidence of coercive practices during the recruitment process of domestic workers, such as the abduction or sale of a worker. However, some migrant workers interviewed had been deceived during their recruitment, and therefore could be considered as subject to 'unfree' recruitment. The second and third processes of human trafficking for forced domestic labour involve the deception of migrant workers about either the nature of the job or the working and living conditions in the country of destination, or both. This entails the breach of an agreement made either orally or in a contract signed in the country of origin or destination. The Dubai Foundation for Women and Children reported this type of deception in their annual report of 2011, which found that eight out of the 23 trafficked victims were told that they would work as domestic workers and instead were forced into sex work.⁴¹

Of those domestic workers interviewed by the research team, not all had signed contracts with their employers or recruitment agencies. Out of those who did, several women said they could not understand the contract's content, either because they were illiterate or because the document was in a foreign language. Those domestic workers who had been deceived about the nature of their job explained that they were expecting to work in some other capacity, as a teacher, sales employee, nanny, nurse or assistant to the elderly (box 3.2).⁴² "The recruiter told me that I will be a teacher and can give private classes," said one woman from Cameroon in Lebanon, who ended up employed as a domestic worker.

Box 3.2: Deception about the nature of the work

"I arrived at 3 a.m. Upon arrival, the border guard took my passport. I was shocked but couldn't do anything. I received no explanations, and once I took my luggage, I had to follow the man in uniform, and I was thrown into a room full of girls. There were about 30 sleeping on the floor. I didn't have my passport and was very angry. I knew it was not right. I asked many times: 'Can I speak to somebody?' I talked about my rights. They told me, 'Wait for your Madam to take you.' At 10 a.m., I was still in this room, very angry. I said I wanted to talk to someone and make a call. From that moment, they monitored me very closely. I was not allowed to go to the bathroom. Some of the girls had been in this room for three days. At 3 p.m., my name was finally called. A man came and my passport was given directly to him. On the way out of the airport, he explained that I was going to work as a domestic for his family, his wife and three children. I was shocked. I realized he was saying the truth and his family was very nice. There was no room for me in their house; I was supposed to sleep on the floor of the reception hall."

Interview with Kenyan domestic worker, Lebanon, 24 September 2011.

⁴¹ Dubai Foundation for Women and Children: *DFWAC 2011 Report on Victims of Human Trafficking* (Dubai, 2011), p. 15.

⁴² Morshed (ed.): ECHO: *Survivors voice*, p. 4.

In addition, some of the domestic workers interviewed explained that they had been deceived about the type of work they were expected to carry out in their employers' homes. An Ethiopian domestic worker in Lebanon said she had come to do housekeeping work, "but then I also had to care for the baby and another child". Many complained of being tasked with the cleaning of multiple homes and of caring for children and the elderly. A domestic worker from Cameroon had been told that she would clean her employer's house, but "in addition to the work at home, I am also obliged to clean rooms at the hotel. I would never have come here if I known I had to live and work in such horrible conditions." The Qatar National Human Rights Committee recorded similarly deceptive practices. In its annual report of 2007, it referred to a case of an Indian domestic worker who had been taken by her sponsor to Saudi Arabia and left to work there with his relatives for more than six months.⁴³

Deception also occurs with respect to the worker's destination. A representative from Heartland Alliance reported that domestic workers and other migrants are sometimes reluctant to voluntarily accept positions within Iraq, including in the relatively secure Kurdistan Region. Several domestic workers supported by the NGO reported that they had been told by their recruiter that they were going to Kuwait, Jordan or Lebanon but had ended up in the Kurdistan Region, at which point they were informed that they had signed a work contract and were no longer free to refuse the employment or leave the country.⁴⁴

The particular case of animal herders

Several migrants interviewed by the research team had originally been recruited as domestic workers but later were moved on to work as animal herders, taking care of sheep, camels and other livestock out in the desert.

An official from the Sri Lankan Embassy explained: "Some boys are brought to Kuwait to work as domestic workers and then sold as shepherds to work in Saudi Arabia or along the Kuwaiti border."⁴⁵ A "runaway" Sri Lankan shepherd interviewed in Kuwait narrated his experience in the desert: "I came to Kuwait to work as a driver and my employer took me across the border in Saudi Arabia for six months. I lived in a small steel hut with no air conditioning, no electricity and no shower or toilet. I was not allowed to kill the animals to feed myself. I was scared of my employer who tried to hit me but I said, 'If you hit me, I will hit you back.'"

This pattern of deception was also noted by an official of Winrock International in Bangladesh, who recalled: "We dealt with several cases of migrant workers who had been promised work as domestic workers but ended up working as shepherds."⁴⁶ The deception in these cases may be perpetrated by the employer, who forces his domestic worker to work

⁴³ Qatar National Human Rights Committee: *Fifth annual report on human rights in Qatar* (Doha, 2007), p. 67.

⁴⁴ Email correspondence with an official of Heartland Alliance, Kurdistan Region of Iraq, 18 Sep. 2012.

⁴⁵ Interview with an official from the Embassy of Sri Lanka, Kuwait, 27 Mar. 2012.

⁴⁶ Email correspondence with an official from Winrock International, Bangladesh, 30 Sep. 2012.

out in the desert, or by the recruitment agent, who deceives the worker about the nature of the job he is going to do.

The animal herders are recruited from many Asian countries, including Bangladesh, Nepal and Sri Lanka. An official from the Nepalese Embassy in Kuwait, which has in the past rescued more than 50 of these workers, believed that they were deceived back home, “where they are told they will work at a company even though the sponsor tells the agent that he wants an employee to work on a camel farm. They pay 500 Kuwaiti dinar [KWD: US\$1,800] to the agent to find the person.”⁴⁷ Not all of the workers deceived in this way believe that they are heading for domestic work.

3.1.3. Work and life under duress

Irrespective of whether their recruitment was voluntary or unfree, the majority of domestic workers interviewed found themselves in degrading working and living situations imposed on them by force or by the use or threat of penalty. The various forms of exploitation revealed in the interviews are discussed below in relation to several of the indicators set out in table 2.3 above.

Forced overtime and lack of rest periods

Many of the domestic workers complained about having no days off and being forced to work around the clock. A Filipina domestic worker in Jordan stated: “My contract said I would work eight hours a day but I worked all day, all night, on average, 15 hours a day.” Another Sri Lankan woman in Kuwait said that she had to work “from 6 a.m. to 2 a.m. the next day, for only 50 KWD [US\$180] per month”. In making these demands, the employer was in violation of the standard contract in Kuwait, which stipulates 48 hours of work and one day off per week.⁴⁸ Others interviewed in Lebanon mentioned that their employers would give them time to go to church on Sundays but that they had to work the remainder of the day. Again, such practices are in violation of the standard contract in Lebanon, which stipulates that an employer must grant a weekly rest period of no less than 24 continuous hours and must restrict the working hours to a maximum of 10 non-consecutive hours a day.⁴⁹ Domestic workers also spoke about the excessive volume of work imposed on them. An Ethiopian domestic worker recalled: “I used to clean two houses every day. I finished my work at my employer’s house at about 3 p.m. and would go up to the second floor where her son lived and clean his house too.” Some were asked to clean their employers’ offices as well as their homes. The arbitrary imposition of an additional workload often created tension between the domestic workers and their sponsors.

⁴⁷ Interview with an official from the Embassy of Nepal, Kuwait, 27 Mar. 2012.

⁴⁸ Kuwait, Standard recruitment and employment contract for domestic workers, 2010, art. 6(1), stipulates that “the third party shall work for 48 hours per week and one day paid rest per week, and he enjoys it with his family”.

⁴⁹ Lebanon, Ministry of Labour, Work contract for migrant domestic workers, No. 19/1, 2009, arts 11 and 12.

Degrading living conditions

Some domestic workers interviewed spoke about poor living conditions, saying that they slept in the baby's room or with an elderly relative. Others who had been promised a private room were shocked to discover that they would actually be sleeping in the kitchen or on the living-room couch, or even in some cases on the balcony. "I was promised a private room with internet and a television," said one domestic worker from Burkina Faso in Lebanon, "but when I arrived they told me to sleep in the kitchen, and later on the balcony. When it got cold, I got pneumonia." Another domestic worker from Cameroon, also living in Lebanon, said that she slept on a small mattress in the living room and "felt like I was in an army camp". Such precarious conditions contravene national regulations in all four countries studied, where in each case the employer is required to provide domestic workers with suitable clothing, food, and accommodation.⁵⁰

Limited freedom of communication and movement

Several domestic workers interviewed said they were not allowed to own a mobile phone. "I stole a phone when my employer was not in the house and called my cousin for help, who then wrote a letter about my situation to my government in Kenya," recalled one woman. A Filipina domestic worker in Jordan also found that the rules varied according to the employer: "My first Madam allowed me to call my family from the house phone but at my second employer's house, I had to hide my mobile during the day and open it only at night to call my family." The lack of communication with friends and relatives weighed heavily on those confined to the home.⁵¹ An Ethiopian domestic worker in Lebanon explained what impact such confinement had on her: "Madam would always lock the door. Her husband was home because he was sick and would watch me every minute. I had no days off and I lost 10 kilograms."

⁵⁰ Jordan, Ministry of Labour, Regulation for Home Workers, Cooks, Gardeners and Similar Categories, No. 90, 2009, art. 4(d); Kuwait, Standard recruitment and employment contract for domestic workers, 2010, art. 5(1); Lebanon, Ministry of Labour, Work contract for migrant domestic workers, No. 19/1 (2009), art. 8; UAE, Employment contract of domestic workers and similar categories, 2007, art. 4.

⁵¹ Lebanon's Work contract for migrant domestic workers, No. 19/1, 2009, art. 14, stipulates that "the first party [the employer] shall undertake to allow the second party [the employee] to receive telephone calls and correspondence intended for the latter as well as to permit the second party to communicate with her/his parents once per month on the expense of the first party, and otherwise the second party shall bear the cost." Jordan's Regulation for Home Workers, Cooks, Gardeners and Similar Categories, No. 90, 2009, art. 4(e), stipulates that the home owners "enable the worker to contact his family abroad by phone at the expense of the home owner once a month, and the worker has the right to additional calls at his own expense, in addition to communicating with them in writing".

Box 3.3: Experience of a Nepalese domestic worker, narrated by her sister

“My sister is in a very difficult situation, working for a bad family. Her Madam does not give her enough food and beats her. She has been here for two years. Her Madam does not let me visit her. She has no freedom. She is not allowed to have a mobile phone. I call her every month but do not know where she is.”

Interview with Nepalese domestic worker, Lebanon, 25 September 2011.

Many other domestic workers interviewed spoke about forced isolation, confinement and surveillance. One domestic worker had escaped only narrowly, after blocking out the security cameras in the estate and disconnecting the sensors. “It was a very big house and no one could leave it freely,” recalled the woman. “There were security guards, cameras, sensors and one alarm. The door was always closed.” Some recruitment agents also forcibly confine domestic workers in their offices before transferring them to their employers. An official from the Jordanian anti-trafficking unit recalled: “We dealt with a case of nine domestic workers of different nationalities who were detained for several days by the agency which brought them to Jordan. We got a call from them through the hotline and we were able to free all the girls.”⁵²

The fact that the standard contracts do not guarantee the domestic worker’s right to free movement makes it more difficult for domestic workers to challenge the constraints imposed by their employers. It also runs counter to the provisions under the ILO’s Domestic Workers Convention, 2011 (No. 189), which clearly stipulates in article 9 that domestic workers “who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave”. In Kuwait, the contract neglects to mention the worker’s right to free movement during non-working hours, stipulating only that the worker should enjoy a weekly day of rest “with her/his family”.⁵³ Similarly, in the UAE the standard contract mentions neither a weekly rest day nor the opportunity to go out of the house freely outside working hours.⁵⁴ In Lebanon, the contract does not state whether the domestic worker will be able to spend her day off outside the house.⁵⁵ In Jordan, national regulations explicitly restrict the domestic worker’s freedom of movement, including outside working hours, by making her ability to leave the house conditional on the employer’s consent and “his knowledge of her whereabouts”.⁵⁶

⁵² Telephone interview with an official from Jordan’s Public Security Directorate, Anti-Trafficking Unit, 26 Sep. 2012.

⁵³ Kuwait, Standard recruitment and employment contract for domestic workers, 2010, art. 6(1).

⁵⁴ UAE, Employment contract of domestic workers and similar categories, 2007, stipulates only (art. 1(2)) that the domestic worker “has to be given sufficient periods to rest”.

⁵⁵ Lebanon’s Work contract for migrant domestic workers, No. 19/1, 2009, art. 12, stipulates: “The first party [the employer] shall pledge to grant the second party [the employee] a period of weekly rest of not less than twenty-four continuous hours, the conditions of the use of which shall be defined by agreement between both parties.”

⁵⁶ Jordan’s Regulation for Home Workers, Cooks, Gardeners and Similar Categories, No. 90, 2009, art. 5(5), stipulates that the worker must “refrain from leaving the house without the permission of the householder who must be informed of the worker’s whereabouts”.

3.1.4. Impossibility of leaving

Work and life under duress can be further compounded by the impossibility of leaving one's employer. This is an important characteristic of exploitative trafficked labour, especially when leaving would entail a penalty or a risk of losing rights or privileges. The testimonies discussed below illustrate the different forms of penalty and threats used against domestic workers to prevent them leaving exploitative situations.

Box 3.4: Penalties for attempting to escape

"I tried running away. I went over the balcony down to the third floor. The Madam there saw me and brought me back to my employers, who got very angry. My employer broke my elbow and then tied my hands behind my back. They left me one day long in my room and put a camera there. He threatened me: 'I'll accuse you of stealing money and ask for my money back, and they will throw you in jail!' They then sent me back to the agent and I stayed with him for three days before he called Caritas. I want to prosecute my employer and get an operation for my elbow. I want him to be judged for what he did to me."

Interview with Filipina domestic worker in Lebanon.

Retention of personal documents

The retention of passports and the residency card (*iqama*) in the Middle East is widespread and well documented.⁵⁷ The majority of domestic workers interviewed reported that their employers had taken their passports and that they were not able to have access to them on request. In some cases, the agency takes passports, as a Filipina domestic worker in Jordan explained: "The agency has my passport. They just took it, they did not ask me if I agreed or not." The NGO Tamkeen also reported in its most recent report that out of the 757 domestic workers whose cases it reviewed in 2011, 530 reported that their employers or recruitment agents had confiscated their passports. Some were even asked to pay a fee in order to retrieve their passports.⁵⁸ Protests made by some women when their passports were taken from them were frequently ignored. A Kenyan domestic worker recalled that "my employer was surprised when I asked for my passport and I didn't agree. Madam went to the agent, asked for passport, and said it was safer with her."

Passports are usually taken away without the worker's consent either at the airport, when the immigration official hands over the worker's travel documents to the employer, or within the first few days, when either the employer or agent makes the request for the domestic

⁵⁷ Even the most progressive regulation in the region, Jordan's Regulation for Home Workers, Cooks, Gardeners and Similar Categories, No. 90, 2009, does not guarantee the domestic worker's right to keep his or her passport.

⁵⁸ Tamkeen: *Between a rock and a hard place: Migrant workers caught between employers' abuse and poor implementation of the law* (Amman, 2012), p. 6.

worker's residency papers. An airport official from the GDGS in Beirut explained: "There is no specific law that requires us to hand over the passport to the employer but it's the practice, especially for low-skilled migrants."⁵⁹

In Jordan, the most recent regulation does not guarantee the worker's right to keep her passport, which is contrary to the standard contract currently implemented.⁶⁰ In Lebanon and the UAE, the right to keep the passport is absent from the standard contract. In Kuwait, the ministerial decree prohibiting employers from confiscating workers' passports fails to cover the domestic work sector, leaving this type of worker without legal protection.⁶¹ As the Kuwait Society for Human Rights explained, "sponsors usually keep the passports and this is especially the case for domestic workers".⁶² Certain PEAs even advise the employers to keep the passports of their domestic workers as a sort of guarantee against their absconding.

This practice is a key element of trafficking situations that gives agents or employers total control over migrant workers. However, it was not altogether condemned in interviews with key stakeholders. An owner of a recruitment agency in Kuwait argued that "99 per cent of the domestic workers give their passports to their employers willingly. This is a kind of protection for the domestic workers."⁶³ This statement reflects the paternalist approach to domestic workers found in many Middle Eastern households, according to which the domestic worker is a junior member of the family and should be protected as one of the children by the head of the household. In such cases, the line between paternalist protection and coercion is very thin.

Balance of power in favour of employers

The *kafala* system (explained in Chapter 1, section 1.3) further increases the leverage the employer has over the worker by requiring that the employer give prior permission for the worker to leave the country.

Legally, the domestic worker has limited rights to terminate the contract due to the way in which national regulations are currently formulated.⁶⁴ In Kuwait, the standard unified contract fails to explain how employees may legally terminate a work contract. In fact, a domestic worker who wishes to change employment cannot do so of his or her own choosing, but must obtain a signed form of release from the original employer before sponsorship can be legally transferred.⁶⁵ In the UAE, the contract of domestic workers is for two years, and any domestic worker who wants to terminate it before the end of that period for personal reasons must bear the expenses of returning to the country of

⁵⁹ Interview with an official from the GDGS at Beirut Rafic Hariri International Airport, Lebanon, 27 Sep. 2011.

⁶⁰ Jordan, Regulation for Home Workers, Cooks, Gardeners and Similar Categories, No. 90, 2009.

⁶¹ Human Rights Watch: *Walls at every turn: Abuse of migrant domestic workers through Kuwait's sponsorship system* (New York, Oct. 2010), pp. 37–38.

⁶² Interview with an official from the Kuwait Society for Human Rights, 26 Mar. 2012.

⁶³ Interview with an owner of a PEA, Kuwait, 27 Mar. 2012.

⁶⁴ For further reading, see Human Rights Watch: *Slow reform: Protection of migrant domestic workers in Asia and the Middle East* (New York, Apr. 2010).

⁶⁵ Kuwait, Ministry of Interior, Order No. 640, 1987, promulgating the by-law of the Aliens' Residence Law, art. 25.

origin.⁶⁶ Such requirements make it difficult for domestic workers to leave as they and their families have limited financial means, indeed are often in debt.

Lebanon's unified standard contract, adopted in 2009, allows the employee to terminate the contract in three specific cases: if the employer does not honour the payment of salary for a period of three consecutive months; if the employer or a relative of the employer beats, assaults, sexually abuses or harasses the domestic worker; and if the employer uses the domestic worker without her consent in a capacity other than that for which he or she had been recruited. If any of these situations applies, the employer is obliged to return the domestic worker to the country of origin and to pay the cost of travel. However, a domestic worker who has been subjected to physical or sexual abuse can break the contract under this clause only if he or she can produce both a medical report by a forensic doctor and an investigative report from the police or the Ministry of Labour to prove the abuse.⁶⁷ In Lebanon, as in Kuwait, the worker cannot transfer to another employer on his or her own initiative due to the *kafala* system: this can only be done with a release form the employer, which the employer may refuse to sign. "My agent talked to my employer many times and asked her to give me my papers and sign a waiver to allow me to work for someone else, but she did not accept," explained an Ethiopian domestic worker in Lebanon. "She would do that only if the agency sends me back to my country."

In all four countries, the difficulty in obtaining release from a position often leaves the domestic worker who wants to terminate the contract with only one viable option: that of leaving without obtaining the consent of the employer, which in the eyes of the authorities amounts to absconding. In Kuwait, the employer is required to notify the Nationality, Passports and Residence Administration within one week of a domestic worker absconding.⁶⁸ Once notified, the police will cancel the worker's residency permit and file an order for his or her detention.⁶⁹ As the Social Work Society in Kuwait explained: "After being caught, the domestic worker is put in jail and the case is dealt with in court. Most domestic workers want to go home because they only have the choice between jail and home."⁷⁰ The police must deport domestic workers charged with absconding after a period of detention that must not exceed six months. In 2011 alone, 2,353 domestic workers from Ethiopia, Indonesia, Nepal, Sri Lanka and the Philippines were deported from Kuwait.⁷¹ In order to avoid the charge of absconding and so prevent their residency visas from being cancelled, domestic workers escaping an exploitative working situation must register a police complaint before their employer reports their absence.⁷² This provision has apparently led to a "race to the police station" in order to report the situation before the

⁶⁶ UAE, Employment contract of domestic workers and similar categories, 2007, art. 9.

⁶⁷ Lebanon, Ministry of Labour, Work contract for migrant domestic workers, No. 19/1, 2009, art. 17.

⁶⁸ Kuwait, Ministry of Interior, Order No. 640, 1987, promulgating the by-law of the Aliens' Residence Law, art. 20.

⁶⁹ Kuwait, Ministerial Order No. 84 regulating the conditions and formalities of private servants' ordinary residence, 1977, arts 3 and 4.

⁷⁰ Interview with an official from the Social Work Society of Kuwait, Kuwait, 31 Mar. 2012.

⁷¹ Statistics provided in 2012 by Kuwait's Ministry of Social Affairs and Labour, Department of Work Relations.

⁷² Interview with several officials of Kuwait's Ministry of Social Affairs and Labour, 25 Mar. 2012.

employer denounces the worker for absconding.⁷³

If the domestic worker tries to leave the country without the employer's consent, he or she will be turned back at the airport. According to one official from the GDGS at Beirut International Airport, "our staff checks the validity of the residency card and passport. If the person does not have a valid residency card, they need to obtain an exit visa before being able to leave. They need to request clearance at the Ministry of Labour and pay the exit taxes. There are more problems with domestic workers than with other workers."⁷⁴

Domestic workers may also find themselves prevented from legally leaving the country by a personal exit ban. This may be issued after the employer has made a formal complaint against a worker for absconding, or because of a supposed theft.⁷⁵ An Indian man interviewed in Kuwait, who had been working as a cook with a domestic worker's visa, explained: "I went to the embassy three times to make an emergency certificate to be able to go to my country without a passport. They gave it to me and when I went to the airport to travel, they sent me back because there was a travel ban on me. I don't even know who the person that lodged a complaint against me is." The exit ban provides the employer with great leverage over the worker, as it can take months, even years, to get such a ban lifted. The domestic worker will only be able to travel once the competent national authorities have reviewed the complaint.

Employers often use the threat of detention to prevent domestic workers from leaving. "After three years, I wanted to leave as agreed, but Monsieur told me I have to stay one more year, if not, he will not pay for the plane ticket," explained a woman from Madagascar living in Lebanon. "He threatened me, he was shouting, shouting, shouting! I was really scared. I had no choice but to stay as they forced me." Domestic workers have often heard stories of others in similar situations who have been detained in extremely poor conditions. In Lebanon, the administrative detention centre of Adlieh, where "runaway" migrant workers are confined, is located beneath a highway bridge and has no access to natural light or fresh air. Most of the cells measure approximately 28 square metres and are overcrowded.⁷⁶ The UN Special Rapporteur on Trafficking in Persons found that, "if apprehended, these domestic workers will in many cases be prosecuted for illegal presence in Lebanon and sentenced to one to three months of imprisonment because the authorities often fail to take their abuse or exploitation into account".⁷⁷

⁷³ US Department of State: *Trafficking in Persons Report 2011* (Washington, DC, 2012). Although the details of the situation as described in this paragraph apply to Kuwait, similar procedures operate in Lebanon, Jordan and the UAE.

⁷⁴ Interview with official from the GDGS at Beirut Rafic Hariri International Airport, Lebanon, 27 Sep. 2011.

⁷⁵ Allegations of theft are often made by employers as a means of preventing domestic workers from leaving. In Lebanon, "theft charges account for half of the total number of arrests of migrant domestic workers by the Internal Security Forces each month" (Shahinian: *Report of the Special Rapporteur on contemporary forms of slavery: Mission to Lebanon*, p. 10).

⁷⁶ Huda: *Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Lebanon*, p. 14; interview with the head of the Adlieh detention centre, Lebanon, 27 Sep. 2011.

⁷⁷ Huda: *Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Lebanon*, p. 13.

Box 3.5: Demand for money to obtain release

“One day, Madam called to tell me that the agent wanted to talk with me and she brought me to the agency. But then, after ten minutes, Madam came back with my luggage. They took me to the agent’s private house and put me in a room on the roof, where there were five other girls like me. The agent was asking me for US\$2,000. He told me I was a liar and wanted to beat me. I replied ‘Don’t even try’ and scared him. The agent told me to give him US\$2,000 if I wanted to leave. But I did not have the money. So I told him, ‘I’m not a prisoner, I just want to leave.’ Finally, as I could not pay him I went back to the family.”

Interview with Kenyan domestic worker in Lebanon.

Withholding of wages

Employers and agents are aware that domestic workers travel abroad to earn money for their families, and so the withholding of wages obliges them to stay on, in the hope that in due course they will be paid. If they leave their employers, they take the risk of never receiving their wages. A 60-year-old Indonesian woman who was interviewed by the research team in a detention facility in Kuwait had worked for the past six years for the same employer but had never received a salary and had decided to escape. As a “runaway”, she had ended up in custody and was awaiting deportation back to her home country. She had little hope of being paid her arrears of salary.

In Jordan, the NGO Tamkeen provided free legal advice and shelter to 37 Sri Lankan domestic workers who had not received their salaries from employers for whom they had worked for between 2 and fourteen years.⁷⁸ Tamkeen also noted that out of the 757 domestic worker cases they had taken on, 465 were about the total or partial withholding of salary.⁷⁹ In Bahrain, statistics collected by the Migrant Workers Protection Society showed that between January 2011 and July 2012, 115 out of the 196 women sheltered complained of low pay and unpaid wages.⁸⁰

These practices contravene national law in all four countries studied, where regulations and standard contracts oblige the employer to pay a monthly salary to the worker.⁸¹ In the

⁷⁸ Interview with an official from Tamkeen, Qatar, 15 Oct. 2012.

⁷⁹ Tamkeen: *Between a rock and a hard place*, p. 7.

⁸⁰ In 2011, 70 women complained of non-payment of salary and seven of insufficient wages. In the first half of 2012, 30 complained of non-payment of salary and eight of insufficient wages (interview with officials from the Migrant Workers Protection Society, Bahrain, 25 Sep. 2009). The Migrant Workers Protection Society was established in 2005 under licence from the Ministry of Social Development. Its main objectives are to help educate and guide expatriate workers to understand their rights and their responsibilities; to create public awareness about the abuse and exploitation of expatriate workers and to explain the community’s role in combating it; and to act as advocate for the expatriate worker community with government authorities and institutions.

⁸¹ Jordan, Ministry of Labour, Regulation for Home Workers, Cooks, Gardeners and Similar Categories, No. 90, 2009, art. 4(b); Lebanon, Ministry of Labour, Work contract for migrant domestic

majority of the cases the salary is paid in cash, given that it is not easy for a migrant domestic worker to open a bank account in the destination country. This mode of payment makes it very difficult for government authorities to monitor payment of salaries and apprehend those employers who do not respect the law.

Psychological, physical and sexual violence

In the most extreme cases, the employer or agent will resort to physical or sexual violence, or threats of violence, against the domestic worker, to exploit them and prevent them from leaving.⁸² A Kenyan domestic worker in Lebanon found her special treatment degrading: “I had a separate bathroom and kitchenware. I was not allowed to eat on the same plate as other members of the family.”⁸³ Another woman from Cameroon, who at the time of the interview still had very short hair, said: “I was forced to cut my hair and dress in rags as my Madam said that I was poor and had to remain poor.” In such cases, the control of the employer over the domestic worker can be absolute, determining the image the worker should have of herself and taking away her self-confidence and indeed her very identity.

Several domestic workers spoke of the verbal insults and beatings they had received from their employers. A few domestic workers interviewed also reported being victims of sexual harassment and rape. A Kenyan domestic worker in Lebanon reported that her employer had shown her pornography on his iPhone and showed her photos of him naked. “He would call me into the bedroom and ask me in front of his wife, ‘How do you feel? You don’t want to see me making love?’ I got very nervous, so I told the employer’s sister what was happening.” A Bangladeshi domestic worker in Lebanon confided in the interviewer

that “I was forced to work for no money for a whole year and was forced to have sexual relations with Mister. Even when I refused and beat him he’d still force me.” A Nepalese domestic worker in Lebanon reported that she had been raped by her employer and had told his wife, but that the wife had subsequently accused her of lying. Violence against

workers, No. 19/1, 2009, art. 6 (“the salary shall be disbursed in cash directly to the second party, in pursuance of a written receipt to be signed by both parties or in pursuance of a bank transfer with a written receipt to be signed by both parties as well”); Kuwait, Standard recruitment and employment contract for domestic workers, 2010, art. 5(2) (“the second party [employer] shall pay a full salary to the third party [employee] from day one at work with him, at the end of every calendar month, given that it’s not less than 40 KWD per month under receipt voucher signed by the third party”); UAE, Employment contract of domestic workers and similar categories, 2007, art. 1 (1) (“The first party agreed to employ the second party in the occupation of — with a monthly salary of — fully paid at the beginning of each month in addition to the worker’s meal and drinks. Both parties shall sign a receipt proving the payment. The receipt shall be made in Arabic and English and shall be kept by the first party to show it when necessary”).

⁸² Sexual violence is commonly associated with trafficking for sexual exploitation, yet research has demonstrated that sexual violence is also used as a form of psychological and physical coercion to compel labour. For more information, see Global Freedom Center, *Overlooked: Sexual violence in labour trafficking* (Washington, DC, and San Francisco, n.d.) pp. 1–2.

⁸³ A recent study on Ethiopian domestic workers revealed racial insults and discriminatory behaviour from employers: see B. Fernandez: “Cheap and disposable? The impact of the global economic crisis on the migration of Ethiopian women domestic workers to the Gulf”, (July 2010), in *Gender and Development* (2010, Vol. 18, No. 2, July), p. 254.

domestic workers also has been documented in other countries of the Middle East (for one example see box 3.6).

Box 3.6: Rape of a domestic worker

“I came to Kuwait on a domestic worker’s visa. I paid my sponsor and he allowed me to work in a mobile shop. One day, his car pulled up in front of the store. He came inside and told me he needed to see me. I followed him and he raped me in the car. I went to the doctors and filed a complaint at the police, and then returned to work the next day. He reported to the authorities that I had run away, and the police arrested me. My employer tells me that if I drop the rape charges, he will make sure that I am not deported.”

Interview with Filipina domestic worker in detention centre, Kuwait.

Psychological, physical and sexual violence committed against migrant domestic workers has also been documented in countries of origin. The harrowing experience of a Sri Lankan domestic worker in Jordan was recorded upon her return home. The 38-year-old woman had been in Amman since February 2012, and was “severely tortured and assaulted with dangerous objects by the recruitment agency”.⁸⁴ In July 2012 her employer took her to the airport, where she boarded a plane back to Sri Lanka. Upon arrival in her country, she was immediately admitted to Batticaloa General Hospital, where she received treatment for 20 days before being discharged. To this day, the woman’s family worries about her mental health and well-being, as she seems unable to recover from her trauma.

In the Philippines, returned migrant workers have also filed court cases against abusive employers and recruitment agencies. One of the cases shared with the research team involved a woman who had travelled to Jordan in July 2002 to become a domestic worker. The day after her arrival in Amman, her employer pushed her from the second story of their home after a quarrel over the use of a mobile phone. The woman survived the fall but suffered from serious injuries, rendering her permanently quadriplegic and requiring mechanical ventilation. After spending a year in hospital in Jordan she was repatriated; she died two weeks later. The labour arbiter at the National Labour Relations Commission of Quezon City found her parents entitled to their deceased daughter’s salary, as well as indemnities for the loss of earnings, moral damages and exemplary damages from the employer in Jordan.⁸⁵

Analysis of the information provided by the domestic workers and key informants participating in the study has confirmed the three processes of trafficking of domestic workers identified above, namely: voluntary recruitment, but exploitation upon arrival; deception about the nature of the work; and deception about the working and living

⁸⁴ Information collected from an official from the Center for Human Rights and Development after carrying out a field visit to Batticaloa (Eastern Province), Sri Lanka, on 4 Sep. 2012.

⁸⁵ Case No. (L) 03-06-1373-00 of the National Labour Relations Commission, Banawe, Quezon City, Philippines, 30 Sep. 2003.

conditions in the destination country. These findings underscore the need for legal and policy reform in the region to better protect domestic workers from unacceptable forms of work. Currently there is a major coverage deficit in the labour laws, which to date include domestic workers only in Jordan. Domestic work continues to be undervalued, and domestic workers remain among the most marginalized workers in Middle Eastern economies. The scale of the problem, of course, remains a matter of debate, calling for further research and quantification. Some believe the trafficking of domestic workers is underestimated, owing to the difficulties involved in gaining access to their workplaces and identifying victims; on the other hand, there are those who question the veracity of the claims made by some victims, and emphasize the overall positive experience that domestic workers can have in the Middle East.⁸⁶ As one Kuwaiti official put it: “We have an expression that says, ‘You see dead fish floating at the surface but you do not see all the other fish alive.’”⁸⁷

⁸⁶ A recent example includes the response of the Government of Lebanon to the report issued by the UN Special Rapporteur on contemporary forms of slavery, which was published in July 2012. On 11 September 2012 the Government issued a statement in which it explained that cases of sexual exploitation and violation of domestic workers’ rights in Lebanon were rare and did not reflect the situation in which the majority of domestic workers in Lebanon found themselves. See Shahinian: *Report of the Special Rapporteur on contemporary forms of slavery: Mission to Lebanon, Comments by the State on the report of the Special Rapporteur*, 11 Sep. 2012, A/HRC/21/41/Add. 2.

⁸⁷ Interview with an official from the Kuwait Institute for Judicial and Legal Studies, Kuwait, 29 Mar. 2012.

3.2. SEX WORK

3.2.1. At a glance: Key findings on sex work

The 20 sex workers interviewed in Lebanon, Jordan and the UAE came from Belarus, Jordan, Lebanon, Russia, Syria, the Philippines, Tunisia, Ukraine and Uzbekistan. All were women, between 19 and 40 years of age. Most came from urban areas, and identified themselves as coming from either poor or middle-class families. The majority had completed secondary school. A few had worked in the Middle East before, but most had migrated for the first time. The majority of women interviewed claimed they had made the decision to work abroad themselves. The research team also met with women and men employed in the entertainment industry, including waitresses and dancers, and the owners, managers and security staff of nightclubs. Sex brokers (pimps) and clients of sex workers were also interviewed. Secondary sources of information were used to provide further evidence and to show the particular vulnerability of Asian and African women migrant workers to being deceived and coerced into sexual exploitation.

Additional data were gathered from a variety of key informants, who shed light on the processes involved in the trafficking of sex workers. These informants included government officials from ministries of labour, interior, justice, foreign affairs and social affairs, as well as government representatives of countries of origin stationed at embassies and consulates. Information was also collected from representatives of workers' organizations, migrant associations, and local and international NGOs in both countries of origin and destination, as well as media professionals and academics.

The analysis of the data collected from both primary and secondary sources revealed four main processes of human trafficking for sex work as forced labour (table 3.2). The first process involves the voluntary recruitment of girls and women as domestic workers. Once in the country of destination, they leave their employers, lured by promises of love or a better job, only to be subsequently forced by their 'boyfriends', taxi drivers or other intermediaries into commercial sexual exploitation. The second process involves of women who have migrated to work as domestic workers, nurses, teachers or waitresses, and are abducted upon arrival by their freelance agents and obliged to provide commercial sexual services to clients out of private or isolated apartments or villas. The third process involves the recruitment of migrant women to work in nightclubs and bars. These women, often referred to as "artists", believe they will work as dancers, waitresses or singers, but are deceived by their impresario or employer about the real nature of the job and obliged to provide sexual services. The fourth process involves women who are deceived by relatives through the false promise of marriage and a better life in another country, or whose relatives are deceived by husbands or agents into allowing a daughter to travel abroad to work. In both scenarios, on her arrival in the destination country the daughter is coerced to work in nightclubs, bars or private apartments and earn a living through commercial sexual exploitation.

Not all processes are found in each of the four countries studied; much depends on the type of entertainment industry that exists in the country and the types of work permit that are available. As commercial sex work is illegal in most countries of the region, workers in the entertainment industry who are coerced into sexual relationships with clients face the real possibility of being detained and deported. The very notion of coercion in this industry was a controversial issue among key informants. Nonetheless, there are striking similarities in the methods reportedly used to coerce identified victims, including physical confinement, non-payment for services, withholding of wages and manipulation of debt. Owners and managers of entertainment establishments and sex brokers (pimps) do not hesitate to use the threat of denunciation to the authorities, actual psychological, physical and sexual violence, or threats of repudiation or even killing by the worker's family to intimidate their victims. The difficulty of leaving the exploiter is exacerbated by the fact that women known to have engaged in sex work are regarded as being unemployable in other economic sectors.

Table 3.2: Overview of four processes of human trafficking for forced labour of sex workers

Process	RECRUITMENT		► WORK AND LIFE IN COUNTRY OF DESTINATION	► IMPOSSIBILITY OF LEAVING EMPLOYER
1	Voluntary recruitment for domestic work (without deception or coercion) facilitated by relatives/friends/agents	<p>Lured by promises and love, runs away from her employer; 'boyfriend' forces her to work as sex worker in private apartment/villa</p> <p>Runs away from exploitative employer and is deceived or abducted by taxi driver for sexual exploitation in a private apartment/villa</p>	Exploitation of worker:	<ul style="list-style-type: none"> • Psychological, physical and sexual violence • Exploitative nature of the artist visa system
2	Unfree recruitment of migrant worker by agents in country of origin and destination	Deceived by agent about the nature of the job: thinks she will be a domestic worker, nurse, teacher, waitress but is instead abducted and obliged to provide sexual services in private apartment/villa	<ul style="list-style-type: none"> • Locked in hotel, massage shop or private apartment • Under constant surveillance • Personal document retention 	<ul style="list-style-type: none"> • Manipulation of debt contracted for the recruitment ("escort fee") • Threat of shame, societal repudiation • Possible imprisonment/deportation • Threat of denunciation and detention to authorities • Limited freedom of movement • Lack of economic alternative
3	Unfree recruitment of "artist" to work in a nightclub or bar by impresario and/or employer	Deceived by impresario and/or employer about the nature of the job: thinks she will work as a waitress, singer or dancer but is obliged to provide sexual services in or outside the nightclub or bar	<ul style="list-style-type: none"> • Withholding of earnings • Threats against individual, family and reputation (blackmail) 	
4	Unfree recruitment by family relative (coercion and/or deception)	<p>Deceived by father who arranges for work in bar/nightclub</p> <p>Deceived by fiancé and/or husband through promise of marriage and/or a better married life abroad</p>		

3.2.2. Recruitment

Recruitment of deceived “runaway” domestic workers

The voluntary recruitment of domestic workers to countries in the Middle East has already been described in detail in the previous section on domestic work. Domestic workers who decide to leave their employers without their consent do so either as a last resort, in order to escape exploitative work conditions, or as a means of securing better-paid jobs. Not all those who run away will be subject to commercial sexual exploitation. However, some may have boyfriends or agents who persuade them to leave their employers, making false promises of love and increased income. The notion that a domestic worker may have a partner is corroborated by one scholar who has observed patterns in Lebanon and comments that “sexual liaisons between maids and family members of the household sometimes occur and others find partners, whether local Lebanese, from their countries of origin, or from other countries such as India, Egypt or Syria”.⁸⁸

Having left the workplace without the employer’s prior consent, these domestic workers, most of whom come from Asia or Africa, are at risk of detention and deportation by the national authorities. They are therefore particularly vulnerable to exploitation by their boyfriends or sex brokers (pimps); sometimes they are even abducted outright by fellow migrant taxi drivers whom they approach for help, who see them as a commercial asset. The problem that national authorities and other concerned stakeholders face is how to obtain reliable and credible information on these cases. It is a challenge for law enforcement officials in Jordan, Kuwait, Lebanon and the UAE alike. “We hear rumours about domestic workers captured against their will,” said one seasoned journalist in Kuwait, “but what happens in the underground world is unknown.”⁸⁹ Officials at the Ministry of Labour and Social Affairs in Kuwait also had heard of such cases, explaining: “The taxi driver promises the ‘runaway’ a new job and better salary, but then takes her to see clients.”⁹⁰ As it was impossible to visit apartments used for sex work and carry out interviews there, the research team interviewed a number of clients in Kuwait who spoke of the sex workers they had encountered.

Migrant workers from Egypt and Nepal who were clients of sex workers agreed to be interviewed. They explained that the women working in these secluded private apartments are all younger than 30, and come from different parts of the world.⁹¹ Arab women typically hail from Lebanon, Egypt, Syria, Tunisia and Morocco, while Asian women come from Sri Lanka, Indonesia and the Philippines, and African women primarily from Ethiopia. The cost of the sexual services depends on several factors, including the worker’s origin, beauty and age. “The most expensive are the Arabs, followed by the Asians, and the Africans,” explained one client, adding: “The price also depends on the woman’s beauty. This fee is for an hour, not by service.”

⁸⁸ R. Jureidini: “Sexuality and the servant: An exploration of Arab images of the sexuality of domestic maids living in the household”, in S. Khalaf and J. Gagnon (eds): *Sexuality in the Arab world* (Beirut, Saqi, 2006), p. 147.

⁸⁹ Interview with Kuwaiti journalist, 25 Mar. 2012.

⁹⁰ Interview with an official from the Ministry of Labour and Social Affairs, Kuwait, 25 Mar. 2012.

⁹¹ The interviews with the clients of sex workers all took place in Kuwait on 1 Apr. 2012.

Box 3.7: A client's perspective on sex work

“Any man who wants sex can call a number and contact a former domestic worker who is now working in a house. Each visit costs between 5 and 8 KWD [US\$18–30]. The price depends on the nationality. It’s like a menu: 8 KWD to be with a woman from the Philippines, 5 KWD from Nepal, Bangladesh or India. The client will give the money to the man who runs the apartment. I am not sure how much the women receive.”

Interview with client of sex workers, Kuwait, 1 April 2012.

A number of noteworthy press articles describe this process of trafficking for sexual exploitation. While these articles cannot always be independently verified, they do shed light on some of the cases that become public and end up in court. One recent article concerned a court case in the UAE involving a 20-year-old man and a 31-year-old woman. Court records showed that the man had deceived the woman into coming to the country to work as a domestic worker earning 800 UAE dirham (AED) a month (US\$218). In her testimony, the victim recounted her ordeal: “One day a man named Mohammad called and arranged for me to visit Dubai. Two men picked me up then took me directly to a flat ... They forced me to have sex with up to seven men a day. One man kept watching me in the flat where I was locked.”⁹²

In some cases the women are exploited by other migrant workers, often of the same nationality as their victims, who seek to make a profit from the illicit trade in sex. They often operate with the support of local sponsors. An official from the Kuwait Lawyers Association explained: “All those accused are foreigners, who take advantage of the domestic workers and force them to provide sexual services. Most of the accused are Asians, in fact, who enable prostitution and sell pornographic materials.”⁹³ A Nepalese migrant community leader in Kuwait confirmed the existence of such informal networks, saying: “We know of three to four women who were caught up in a prostitution ring run by the Bangladeshis.”⁹⁴ The Sri Lankan Embassy in Kuwait also mentioned several cases of forced prostitution involving Sri Lankan perpetrators.⁹⁵ It is also alleged that women already involved in the sex industry play the role of intermediary, pretending to offer shelter and assistance when in fact they bring women to brothels.⁹⁶ Other anecdotal sources and press articles also referred to women who were forced to prostitute themselves by sex brokers. “I met several

⁹² For more on this case, see the following press articles: B. Za’za: “Court upholds three-year jail term for human trafficking”, in Gulfnews.com (Dubai), 9 Aug. 2012, <http://gulfnews.com/news/gulf/uae/crime/court-upholds-three-year-jail-term-for-human-trafficking-1.1060087> [accessed 23 Aug. 2012]; S. Al Amir: “Jail term upheld for man who lured widow into prostitution”, in *The National* (Dubai), 8 Aug. 2012, <http://www.thenational.ae/news/uae-news/courts/jail-term-upheld-for-man-who-lured-widow-into-prostitution> [accessed 23 Aug. 2012].

⁹³ Interview with an official from the Kuwait Lawyers Association, Kuwait, 28 Mar. 2012.

⁹⁴ Interview with an official from the Non-Resident Nepali Association, Kuwait, 30 Mar. 2012.

⁹⁵ Interview with an official from the Embassy of Sri Lanka, Kuwait, 27 Mar. 2012.

⁹⁶ SCME: *Karamatuna: An investigation into the sex trafficking of Iraqi women and girls* (London, 2011), pp. 13–14.

Ethiopian domestic workers who had run away from their employers, who were taken by some pimps and pushed to prostitute themselves in an apartment in Nabaa,” recalled one employee of a bar in Lebanon.⁹⁷

These women are forced into sex work either by outright physical coercion or, in other cases, by the abuse of their vulnerability. A journal article on the migration of Ethiopian women domestic workers to the Gulf explained that domestic workers escaping from exploitative and abusive working conditions “find shelter with other women, who live together in small rented rooms, and take on jobs as ‘freelancers’/working as live-out domestic workers, brewing and selling illicit liquor, or engaging in sex work. Their lack of legal status makes them vulnerable to greater exploitation if they are detected, as they risk blackmail, imprisonment, and deportation.”⁹⁸ These underground prostitution rings involve both victims coerced into commercial sex work and women who voluntarily sell their services to make additional income. It is altogether unsurprising that such establishments exist, given that, in addition to the local demand, there are in these countries large numbers of male migrant workers in their prime years for sexual activity, who are away from their families for years at a time and who are therefore unable to fulfil their natural sex drive by legitimate means. As a result, there is a large and persistent demand that cannot simply be suppressed by punitive measures against those who work in underground prostitution rings.

Recruitment by deception about the nature of the job

The second process of trafficking involves women who have travelled to the Middle East intending to work primarily as domestic workers, nurses, waitresses, saleswomen, teachers or in other similar professional fields. Similar accounts were recorded across the region. An official from the Jordanian Public Security Directorate explained that women are deceived by false advertisements in newspapers or on the Internet announcing job opportunities in domestic and other work, whereas in fact “these agents are searching for women they can exploit sexually”.⁹⁹ The prospective workers travel on either a work or a visitor’s visa. They are then deceived and abducted upon arrival in the country of destination and coerced into commercial sex work. “The perpetrators try to separate the victims from the public,” explained a public prosecutor from the Ministry of Justice in the UAE, “and clients come to the villas or apartments. The girls are often later sold to another person.”¹⁰⁰ An official from the Philippines Embassy in the UAE said it took on average three weeks for the victim to escape, and leaving was not easy because of the threats of violence and the constant control exerted by, in this case, the woman who ran the forced prostitution network, whom the victims called “Mama-San”.¹⁰¹

⁹⁷ Interview with a journalist, Lebanon, 25 Apr., 2012.

⁹⁸ Fernandez: “Cheap and disposable?”, p. 255.

⁹⁹ Interview with an official from the Public Security Directorate, anti-trafficking unit, Jordan, 26 Sep. 2012.

¹⁰⁰ Interview with an official from the Federal Public Prosecution, UAE, 1 Feb. 2012.

¹⁰¹ Interview with an official from the Embassy of the Philippines, UAE, 30 Jan. 2012.

Box 3.8: Cases that reached a shelter for women and children

“The women had been told ‘You will be a hairdresser, a vendor, a waitress,’ but were in fact taken from the airport, locked up physically or psychologically. The victims we had received a lot of threats, directed to them and their families. One victim told me: “They put me in the room and lined up men to have sex with me.” Clients are from everywhere. Many of them do not know that the women are forced to do this, and some who do help them reach the police.”

Interview with three officials of Ewa'a Shelter, Abu Dhabi, UAE, 31 January 2012.

The research team was unable to interview women who had been caught in this trafficking process. However, it obtained information on cases from service providers in the region that provide direct support to victims of trafficking. The Dubai Foundation for Women and Children noted in its annual report for 2011 that 21 out of the 23 victims of trafficking for sexual exploitation it had sheltered were deceived.¹⁰² The Jordanian Women’s Union, which also runs a shelter for women, had dealt with cases of deception and sexual coercion, mainly involving girls and women from Tunisia and Morocco. “Most of them received their contracts through the web, either to work as secretaries or waitresses in a restaurant,” explains an official from the shelter, “but when they arrive in Jordan they are in fact forced to work in a nightclub.”¹⁰³ A representative of an NGO in the UAE which dealt with 284 cases of abused women between January 2011 and October 2012, most of them from Uzbekistan, the Russian Federation, Moldova and Kyrgyzstan, explained that “private employment agencies in countries of origin deceived the victims in promising them unrealistic jobs with high salaries and in presenting them other women who have worked in the Middle East and were able to buy a house or a big car and find good husbands”.¹⁰⁴

In Lebanon, Caritas Lebanon Migrant Centre noted that “there are cases of forced prostitution but they are not referred to us”.¹⁰⁵ Another source, who asked to remain anonymous, explained that he had met a 35-year-old Tunisian woman who had been deceived into believing she would work as a nurse, only to be forced to provide sexual services in Jounieh, Lebanon. She was only released six weeks later, when her parents had sent US\$6,000 to Lebanon.¹⁰⁶

¹⁰² Eight of the victims had thought they would be domestic workers, four had come for further study, three to work in a company, two as beauticians, one as a tailor, one as a waiter, one in sales and one in child care. Of the remaining two, one expected to be a commercial sex worker and the other had no knowledge of the nature of the work prior to arrival. See Dubai Foundation for Women and Children: *DFWAC 2011 Report on Victims of Human Trafficking*, p. 15.

¹⁰³ Interview with an official from the Jordanian Women’s Union, Jordan, 15 Nov. 2012.

¹⁰⁴ Vivere: *Report on activities*, Sep. 2012, p. 18.

¹⁰⁵ Interview with an official from Caritas Lebanon Migrant Centre, Lebanon, 17 Nov. 2011.

¹⁰⁶ Interview with an anonymous source, Lebanon, 19 Sep. 2012.

In the UAE, the Public Prosecution Department of Dubai referred two women and other suspects to the Dubai Court of First Instance in 2011 on charges of forcing three victims to work in a massage parlour and provide sexual services to men while they were held in captivity by the suspects. In the prosecutor's account:

The victim came to the country to work in female massage and after one month she was taken to a flat on the roof of the same building to work in male massage and provide sexual favours. She refused and the perpetrator forced her by threatening her and finally the victim asked for help from a customer and went to the police station. She gave the address of the place and claimed that another woman was used and forced in the same way. Then the police raided the place and arrested the suspects. The Attorney General stated that it is the first time that the prosecutors referred to court human trafficking suspects after filling a charge of forced servitude.¹⁰⁷

Numerous press reports describe this process of trafficking for sexual exploitation (for an example, see box 3.9). In one recent article, three women were accused of deceiving an Uzbek woman who had travelled to Dubai on a visitor's visa with the promise of work as a babysitter. She was instead forced to prostitute herself in order to cover the cost of her travel, which she was told amounted to US\$20,000.¹⁰⁸ A sex worker who was interviewed by the research team also spoke of the fees imposed by the pimp to cover recruitment costs, explaining: "You have to work to reimburse the 'escort fee',¹⁰⁹ which is anywhere between 25,000 and 30,000 AED (US\$6,800–8,200). You need at least one month to reimburse the fees and on average five clients a day. You must reimburse the 'escort fee' before you can leave or do another job." An NGO official confirmed that all the women trapped into trafficking were told by the traffickers that they would have to pay not only the costs of their recruitment but also all their accommodation and food expenses, amounting on average to sums of between US\$20,000 and 30,000.¹¹⁰

¹⁰⁷ Dubai Public Prosecution Department: "Referral of the first cases of human trafficking based on forced servitude", 26 Jan. 2011, <http://www.dxbpp.gov.ae/NewsPage.aspx?ID=806> [accessed 10 June 2012].

¹⁰⁸ B. Za'za: "Trio accused of forcing visitor into prostitution", in Gulfnews.com, 2 May 2012, <http://gulfnews.com/news/gulf/uae/crime/trio-accused-of-forcing-visitor-into-prostitution-1.1016686> [accessed 22 Aug. 2012].

¹⁰⁹ Sex workers interviewed often referred to the "escort fees" which are the fees that the employer/pimp has paid for the recruitment of the worker including the cost of plane tickets, visa and transport and that the worker should reimburse before being able to quit the job.

¹¹⁰ Interview with an official from Vivere, Switzerland, 27 Feb. 2012.

Box 3.9: A press report of trafficking for sexual exploitation

A case involving Nigerian defendants was presented at the Dubai Criminal Court in March 2011. According to the article, the defendants entered the country with a visitor's visa and exploited three women of the same nationality by offering them to male clients. The defendants were earning about 200–500 AED (US\$55–140) daily from each of the women until the victims reported their exploiters to the police. In the testimonies of the three victims (aged 18, 29 and 31 years) to the general prosecutor, the first victim stated that the first defendant provided her with a visa and plane ticket to the UAE and then took her from the airport to her apartment in the Rifa'a region where she was forced into prostitution to repay her debt of 60,000 AED (US\$16,300). However, the victim refused and told the defendant that she was still a virgin. The defendant brought a man of the same nationality to have sexual intercourse with her for the first time and then forced her to have sex with several men on a daily basis. The second defendant did the same with the second and the third victim. The judge subsequently delivered five-year prison sentences to both defendants.

Source: B. Al-Mutery: "Two visitors sentenced to 5 years in prison for trafficking in 3 women", in Emaratalyoum, 31 Mar. 2011, <http://www.emaratalyoum.com/local-section/accidents/2011-03-31-1.375167> [17 May 2012].

The victims of this type of trafficking may arrive in the Middle East on work or tourist/visitor visas arranged for them by freelance agents. An official from the Russian Embassy in the UAE explained that "many of our citizens come through a tourist visa, because it is more difficult for them to pay US\$5,000 for a work visa," adding that "it is also easier for the perpetrators to bring workers through tourist visas because it is less expensive and there is no governmental control over tourists."¹¹¹ A sex worker interviewed in the UAE also noted that those who become sex workers often enter the country on tourist or visit visas, explaining that "all the first timers go through a Madam, who buys their plane ticket and takes care of their visa. Not all the first timers know what they are getting into."

Recruitment of deceived artists

The third process of trafficking for commercial sexual exploitation involves the deception of women working in nightclubs and bars, otherwise known as "artists". The women working in the entertainment industry come mostly from Eastern Europe, particularly Russia, Ukraine, Belarus, and Moldova, the Maghreb, particularly Tunisia and Morocco and other Arab countries, such as Egypt, Syria and Iraq.¹¹²

¹¹¹ Interview with an official from the Embassy of the Russian Federation, UAE, 31 Jan. 2012.

¹¹² Interview with an official from the Jordanian Women's Union, 15 Nov. 2012.

The nightclub scene across the region

Even though prostitution is legally forbidden in most countries of the Middle East,¹¹³ the commercial sex industry employing foreign women is unofficially tolerated.¹¹⁴ The characteristics of the entertainment industry vary widely across the region. In Lebanon, there are super nightclubs, regular nightclubs and bars.¹¹⁵ Only super nightclubs are allowed to recruit foreign “artists”.¹¹⁶ In the regular nightclubs and bars, mostly Lebanese and other Arab women are employed. Some 130 nightclubs operate in the area between Jounieh and Byblos to the north of Beirut and in the Maameltein area of Jounieh.¹¹⁷ The artist visa scheme which governs the work of women in the super nightclubs was established through an official decree in 1962.¹¹⁸ The system applies to musicians, DJs and models as well as to the women working in the super nightclubs.¹¹⁹ According to the GDGS, there are around 60 super nightclubs, which employ women aged between 19 and 31 from Belarus, Moldova, Russia, Ukraine and Uzbekistan, as well as Algeria, Morocco and Tunisia.¹²⁰ These enterprises have been described in the press as “not quite strip clubs, not quite brothels; super nightclubs represent the seedy underside of Lebanon’s famous night life... It’s understood that ‘artist’ is really just a euphemism for ‘prostitute’.”¹²¹

An official from the artist department at the GDGS, interviewed by the research team, denied that super nightclubs are a cover for prostitution. He explained that in 2010 there were between 1,300 and 1,400 artists working in the cabarets at any one time in country.¹²² The artists, he said, live in private rooms and two- or three-star hotels.¹²³ In the super nightclubs, the women are recruited to dance, serve alcohol to men and entertain them. In order to speak to any of the artists, a customer must order drinks; then he can select the woman he wants.¹²⁴ One client explained that “the girls receive five dollars per bottle of champagne bought by the client”.¹²⁵ The artist usually stays in Lebanon for a short period of time, up to a maximum of six months, and must then spend an equal period in her

¹¹³ The only notable exception is Lebanon, which adopted a law legalizing prostitution in 1931. The last permits to operate as a sex worker were issued by the Internal Security Forces in April 1975.

¹¹⁴ KAFA: *Shadow report on article 6 to the 40th CEDAW Session*, 14 Jan.–1 Feb. 2008 (Beirut), p. 5.

¹¹⁵ For further reading, see P. Speetjens: “Tourism’s dark side”, in *Executive*, Aug. 2004, No. 63, <http://www.executive-magazine.com/getarticle.php?article=6315> [accessed 27 Aug. 2012].

¹¹⁶ According to the GDGS, women are not allowed to enter into the super nightclubs in Lebanon as clients. Interview with an official from the GDGS, Lebanon, 27 Sep. 2011.

¹¹⁷ S. Anderson: “Sex for sale in Beirut”, in *Foreign Policy*, 7 Feb. 2012, http://www.foreignpolicy.com/articles/2012/02/09/sex_for_sale_beirut [accessed 27 Aug. 2012]

¹¹⁸ Lebanon, Ministry of Interior, Decree No. 10267 relating to the entry and residency of artists to Lebanon, 6 Aug. 1962.

¹¹⁹ Interview with an official of the GDGS responsible for the artist department, Lebanon, 24 Jan. 2012.

¹²⁰ According to the GDGS, there are over 5,000 artists operating in Lebanon each year.

¹²¹ Anderson: “Sex for sale in Beirut”.

¹²² Interview with an official of the GDGS responsible for the artist department, Lebanon, 24 Jan. 2012.

¹²³ According to the GDGS, there are 23 hotels that host artists, and it inspects these hotels on an ad hoc basis at least once a year.

¹²⁴ For more information, see “Prostitution, the business of sex” in *Executive* (Aug. 2009, Issue 121), <http://www.executive-magazine.com/getarticle.php?article=12135> [accessed 27 Aug. 2012].

¹²⁵ Interview with a client, Lebanon, 15 Dec. 2012.

home country before she is eligible to return to Lebanon.¹²⁶ The GDGS drew up a standard contract between the artist and the club owner to regulate the terms and conditions of the work, but did not specify a minimum wage as the salary is supposed to be determined at the time of signature. A super nightclub owner interviewed explained that “the minimum salary is US\$800 per month and the maximum salary is US\$1,800. The salary is determined based on experience, age and beauty. It does not include the commissions they receive.”¹²⁷ In addition, this standard contract stipulates that both parties should respect “international type contract clauses” regarding termination of contract,¹²⁸ but does not state which body of law should be applied if the employee wants to leave the job or how the stipulation of the contract are to be enforced.

In Jordan, although an artist visa exists, it is not issued frequently. Interviews with several nightclub owners shed light on the size of the industry in Amman. “There are approximately 30 Russian nightclubs and 40 Arab nightclubs in Amman,” explained one owner.¹²⁹ The Russian nightclubs play Western music, and cater to high-level professionals. Many of the women there speak English. They come from Belarus, Moldova, Russia, Ukraine and Uzbekistan. By contrast, the Arab nightclubs offer live local music and employ women from Egypt, Jordan, Lebanon, Morocco, Syria and Tunisia. A sex worker interviewed stated that the Jordanian women employed come from many regions of the country, including Amman, Karak and Irbid, and that “most of the clients are Jordanian and men from the Gulf”. An employer based in Aqaba, Jordan, described the clientele as being “locals, tourists and Saudis, who can easily cross the border which is 20 kilometres away from Aqaba”.¹³⁰

In the UAE there is no specific visa for artists. The Government does, however, allow nightclubs and bars to operate. There are nightclubs for specific ethnic communities and also entertainment venues that cater for a more diverse, eclectic clientele from around the world. “There are two types of shows,” explained one client: “the first are dancing shows, where you find mostly women from India, Pakistan and Nepal. These clubs are closed, and restricted to familiar users. The second option consists of nightclubs, where you can find Russians, Filipinos, South Africans, and Ukrainians. Discos are open to everyone and the interactions with the girls are easy. You choose the girls you like and then you go to a hotel.”¹³¹ One study on Dubai offers the following account:

¹²⁶ According to the GDGS, there are many cases of women who return to Lebanon to work, sometimes choosing to work for a different super nightclub in the country. The six-month limit in the country is stipulated in Decree No. 10267 relating to the entry and residency of artists to Lebanon, 6 Aug. 1962, art. 9.

¹²⁷ Interview with an owner of a super nightclub, Lebanon, 24 Apr. 2012.

¹²⁸ The Lebanese standard artist contract used by the GDGS contains only six articles. Article 3 stipulates that “the two engaged parties respect the clauses of international type contracts concerning sickness, absence, stopping work or severe circumstances (flood, fire, war, national revolution or religious mutinies).”

¹²⁹ Interview with an owner of a nightclub, Jordan, 16 Nov. 2012.

¹³⁰ Interview with an employer, Jordan, 12 Nov. 2011.

¹³¹ Interview with a client of nightclubs, UAE, 27 Jan. 2012.

The nightlife scene in Dubai has grown more diverse and sophisticated – as well as more base – to cater to all tastes. Before the late 1990s, clubs did not cater to the younger well-heeled set of tourists and expatriates, as there were not many of them to cater to. But, as the population and economy have grown, and as the numbers of hotels and tourists have grown, so too have the number and quality of clubs, which in turn lure more tourists and expatriate residents from all over, not just Westerners.¹³²

Whereas in Lebanon, Jordan and the UAE there is an established entertainment industry, in Kuwait nightclubs and bars are forbidden. The Kuwaiti sex industry is therefore conducted entirely underground, and prostitution is carried out in private apartments, hotels and coffee shops. As one migrant community leader commented, “in Kuwait, prostitution is not on the same scale as in Dubai as there are no nightclubs. People use private apartments or houses in Hawalli and Salmiya.”¹³³ A client gave more details: “There are many coffee shops with private cabins, it’s fast, takes five minutes and is over. There are also rented apartments. Some women are willing to go to your place, but it’s more expensive this way.”¹³⁴

There are conflicting views over the existence of commercial sexual activity within the confines of the entertainment venue, be it a super nightclub, a nightclub or a bar. A journalist in Lebanon explained that there are secret rooms in the nightclubs and bars, and “the request for sexual relations can be made to the girl directly or to a man in the bar. If the client chooses to take the girl to a hotel room or some place outside the bar, he will have to pay more.”¹³⁵ If these secret rooms do exist, they remain hidden from the public eye. A newspaper article on Lebanon’s sex industry also described how one undercover reporter had approached a Dominican artist in one super nightclub: “Sex costs US\$100 for three hours,” she said bluntly, responding to a question and leaving the way open for a transaction. ‘Talk to the manager if you want to set a date.’¹³⁶

In most cases, as the interviews for this research suggest, commercial sexual activity happens outside the nightclub establishment. The clients meet the women there, and then invite them to private homes or hotels afterwards. One sex worker in Jordan asserted that “nothing ever happens inside the nightclub because the owner is always watching the place, and will notice if any girl is behaving disrespectfully”, while adding that “some of the girls might go out after their work is over with a client”. The owner of a nightclub interviewed in Amman also alluded to the possibility, saying that “after 3 a.m., the women have free time. My policy is to tell them not to go with the customers as it can be very dangerous.”¹³⁷ Another owner of a super nightclub based in Lebanon hinted that sexual transactions take place outside the nightclub when he complained that the regulations on artists’ hours are bad for business: “The girls work in the cabaret from 10 p.m. until 5 a.m. and then sleep

¹³² S. Ali: *Dubai: Gilded cage* (New Haven, Yale University Press, 2010), p. 45.

¹³³ Interview with an official of a migrant association, Kuwait, 30 Mar. 2012.

¹³⁴ Interview with a client of sex workers, Kuwait, 30 Mar. 2012.

¹³⁵ Interview with a journalist, Lebanon, 15 May 2012.

¹³⁶ B. Gilbert: “Lebanon’s sex industry: hidden in plain sight”, in Globalpost.com (Beirut), 7 Oct.

2010, <http://www.globalpost.com/dispatch/lebanon/091210/lebanon-sex-industry> [accessed 25 Aug. 2012].

¹³⁷ Interview with an owner of a nightclub, Jordan, 16 Nov. 2012.

until 1 p.m. at the hotel. Afterwards, they are free until 7 p.m., at which point they need to get ready for the night. These rules make no sense. Everybody wants to have the woman at night. During the day, it's all business, people work.”¹³⁸

The system currently operated in Lebanon makes it difficult to monitor commercial sexual activity and renders it all the more challenging to identify and eliminate forced sexual exploitation. Caritas Lebanon Migrant Centre confirmed that it had supported an estimated ten cases of abused artists over the last 11 years.¹³⁹ The Lebanese Internal Security Forces (ISF) provided details on a case involving two Russian women:

Two Russian artists said during an investigation that they were being forced to prostitute with clients. The manager of the nightclub filmed one of them while she was prostituting herself with a client and threatened her with the video whenever she would ask to leave to go back to her country. She ran away with another Russian artist to the Russian Embassy, which stated that it was not aware of this kind of work in the nightclubs and that an intermediary had deceived the artist, as she had not come to Lebanon with the intention of engaging in prostitution.¹⁴⁰

As an official from the ISF explained, “even with proof against the owner, their super nightclub cannot be shut down because the law stipulates in article 103 of the Lebanese Criminal Code that the place will be closed only if the crime is committed inside the place. The owner takes the girls outside and forces them to prostitute themselves.”¹⁴¹ The challenge is all the greater given that those establishments that are shut down can reopen once they have the permission of a judge. Between November 2010 and September 2012 the ISF closed down 25 massage parlours, cafés and beach houses used for commercial sex, of which 16 managed to reopen.¹⁴²

Recruitment: Voluntary or involuntary?

Across the region, the owners of nightclubs and super nightclubs use similar recruitment methods. They often rely on impresarios (or agents) in countries of origin and destination, but they also surf the Internet to identify suitable candidates, travel to countries of origin to recruit locally and consider candidates recommended by other women in the industry (box 3.10). Women also actively search for employment overseas: an official from the Russian Embassy in the UAE explained that “they find information on job opportunities on the Internet”.¹⁴³

Once the women have been identified, the club owner sends the contract and travel documents. In Jordan it is difficult to obtain artist visas, so the women enter on tourist or other workers’ visas. As one official from Aqaba Special Economic Zone Authority

¹³⁸ Interview with an owner of a super nightclub, Lebanon, 24 Apr. 2012.

¹³⁹ Interview with an official from Caritas Lebanon Migrant Center, Lebanon, 17 Nov. 2011.

¹⁴⁰ According to the Internal Security Forces (ISF), this case was referred to the Appellate Prosecutor’s Office in Mount Lebanon on 14 Oct. 2009. A search warrant was issued to find the manager of the club and one of the owners.

¹⁴¹ Interview with an official of the ISF, Lebanon, 17 Nov. 2012.

¹⁴² Interview with an official of the ISF, Lebanon, 27 Sep. 2012.

¹⁴³ Interview with an official from the Embassy of the Russian Federation, UAE, 31 Jan. 2012.

(ASEZA) explained, “in Aqaba, the women who work in nightclubs apply to come as tourists or as waitresses, because out of the 800 visas issued a year, there may be 100 visas for waitresses and four to five for artists”. Russian, Belarusian and Ukrainian women do not need visas to enter the country. However, they will need residency permits to stay. “An *iqama* [residency permit] costs 400 Jordanian dinars (JOD) [US\$560] a year for a Russian girl and 272 JOD [US\$380] for an Arab woman,” explained one nightclub owner in Amman.¹⁴⁴ The migration process is more difficult for women from certain countries of origin. For example, prospective workers from Uzbekistan need to obtain an exit visa from the Uzbek authorities if they wish to travel anywhere other than countries in the Commonwealth of Independent States or Turkey. Hence, they will need to travel first to one of these transit countries, where they can then obtain fake papers from an agent to migrate to the Gulf countries.¹⁴⁵

Box 3.10: How artists are recruited

“I have several ways of recruiting. Some girls who work with me suggest their friends. The friend sends me her photo and passport copy. She must be beautiful for me to hire her. If I like her, I take care of her papers and send the visa. Also, I work a little with agencies. I also directly recruit girls who are already working at another nightclub but come to find work in my club. Girls stay two to four years and their ages range from 25 to 35.”

Interview with a nightclub owner in Amman, Jordan, 16 November 2011.

Opinions varied on whether the artists were deceived in respect of the nature of the work they would be expected to do. In Lebanon, for instance, an official from the GDGS asserted: “They know what they are getting into before arriving. If they are not happy with their work as artists, they can leave. There is a long waiting list of women who would like to work in the super nightclubs so impresarios and employers never have to force them to work.”¹⁴⁶ Certainly, these women know that they can make good money in a short space of time. An official of the Russian Embassy in Lebanon added: “The Russian women who come here are from very poor families. I believe they know the disadvantages of their work.”¹⁴⁷ A Lebanese journalist made a similar assessment, saying: “A minority of women think that they are only coming here to dance and they discover when they arrive that it is more than that. If a girl refuses, she will not be able to earn more than US\$200 or US\$300 which is her monthly salary until the end of her contract. Those women that are in need of money did not come all this way to Lebanon for 300 US\$ a month.”¹⁴⁸

By contrast, there are those who insist that the women working in the nightclubs are deceived. After visiting Lebanon, the UN Special Rapporteur on Trafficking expressed

¹⁴⁴ Interview with an owner of nightclub, Amman, Jordan, 16 Nov. 2011.

¹⁴⁵ Vivere: *Report on activities*, Sep. 2012, pp. 20–21.

¹⁴⁶ Interview with an official from the GDGS, Lebanon, 27 Sep. 2011.

¹⁴⁷ Interview with an official from the Embassy of the Russian Federation, UAE, 31 Jan. 2012.

¹⁴⁸ Interview with a journalist, Lebanon, 3 May 2012.

concern about the considerable number of trafficked women who are misled about the type of work they will be asked to do or the exact conditions of their involvement in the sex industry. “Many have been made to believe, for instance, that they would be expected to perform striptease dances but not that they would be expected to have sexual relations with customers. The visa system designating the women as artists facilitates the deception.”¹⁴⁹ Immigration officials also acknowledged that they had dealt with several cases of deception. “In 2011, we had three women who came to Lebanon thinking they would be secretaries but ended up as dancers,” recalled one official of the GDGS. “They came to us and we facilitated their return home with the help of the International Organization for Migration.”¹⁵⁰

Recruitment of women deceived by fathers and husbands

The fourth process of trafficking in this area involves the deceptive recruitment of girls and women into commercial sex work by relatives, particularly fathers or husbands. Fathers can be involved either directly, as perpetrators, voluntarily trading their daughters in exchange for financial benefits, or indirectly, being themselves deceived into letting their daughters travel abroad on the false promise of other work. A study by Heartland Alliance in Iraq found that “a majority of Iraqi victims of trafficking identified while researching this report were initially forced into labour or prostitution by family members and subsequently fell under the control of third party criminals”.¹⁵¹

The research team was unable to interview women who had been caught in this trafficking process but did obtain detailed information on recorded cases from several service providers in the region and key informants. The Dubai Foundation for Women and Children received three victims of trafficking who had been forced into sexual exploitation by their parents.¹⁵² Other cases were recorded in Lebanon (see box 3.11). In Lebanon, the ISF dealt with several cases involving parents. During a nightclub inspection visit in 2011, three minors and three adult women working as dancers were arrested. The girls confessed that they had been forced to work to provide for their families, and that their unemployed fathers took their income directly from the management of the nightclub.¹⁵³

¹⁴⁹ J. Ngozi Ezeilo, *The UN Special Rapporteur in Trafficking in Persons, especially Women and Children concludes her country visit to the United Arab Emirates*, Abu Dhabi, 17 Apr. 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12062&LangID=E> 9 [accessed 5 Mar. 2013], p. 15.

¹⁵⁰ Interview with an official of the GDGS responsible for the artist department, Lebanon, 24 Jan. 2012.

¹⁵¹ Heartland Alliance: *Human trafficking in Iraq: Patterns and practices in forced labour and sexual exploitation* (Chicago, May 2007), p. 5. It is important to note that several Iraqi women who were in the process of being transported to Syria, Iran or the UAE were victims of kidnapping. Interview with an official from Heartland Alliance, 18 Sep. 2012.

¹⁵² Dubai Foundation for Women and Children: *DFWAC 2011 Report on Victims of Human Trafficking*, p. 15.

¹⁵³ According to the ISF, this case was referred to the Appellate Prosecutor’s Office in Mount Lebanon on 30 Oct. 2011. Two of the parents were arrested and a search warrant was issued against the other perpetrators. The nightclub where the girls and women worked was also subsequently closed down.

Box 3.11: A case involving a father and daughter

“One case involved a 13-year-old Lebanese girl who was forced by her father to prostitute herself. She became pregnant and even while she was pregnant her father would take her out on the streets. Officers from the nearby police station saw what was happening and intervened. The father got a severe punishment because he was working independently. He was not part of a prostitution network that could protect him.”

Interview with a journalist, Beirut, Lebanon, 5 May 2012.

Press articles have highlighted how traffickers can deceive fathers about the nature of the work their daughters will do abroad. One case involved a 16-year-old girl from Baghdad who had lost her mother in 2003 in the war and whose father agreed to send her to Dubai as a domestic worker in exchange for US\$6,000. Once in Dubai, she was imprisoned with 20 other young girls, all of whom were forced to engage in prostitution.¹⁵⁴ Another article reported a case brought in the Criminal Court in Dubai, which involved two perpetrators who recruited a 16-year-old victim and promised her and her father that she would have the chance of a job as a domestic worker before forcing her into prostitution.¹⁵⁵ In many countries, when families are struggling to make ends meet fathers will often agree to let their daughters work abroad to escape poverty at home. The study by Heartland Alliance also emphasized the role played by armed conflict in increasing vulnerability: “During times of conflict, women and girls are at greater risk of gender specific harms, including sex trafficking.”

Parents in Middle Eastern countries are also involved in financial transactions with their daughters’ suitors, who according to custom will pay a bride price. It is not clear whether the fathers know that the husbands will then force their new wives into commercial sexual exploitation. A journalist in Lebanon who carried out undercover work on the sex industry found that “the father of the girl will receive between US\$500 and US\$1,000. The amount varies depending on the age of the girl.”¹⁵⁶ In Jordan and Lebanon, the victims are primarily women from Syria, Egypt and Iraq, whose husbands have taken them to a neighbouring Arab country and forced them to work in nightclubs and bars or exploited them in private apartments. The Lebanese ISF uncovered several cases involving husbands forcing their wives into commercial sex work. In one investigation, a Syrian woman explained that she had married a Syrian man who had taken her to an apartment in Jounieh, Lebanon, taken

¹⁵⁴ IRIN: “Iraq–Syria: Sex traffickers target women in war-torn Iraq” (Dubai), 26 Oct. 2006, <http://www.irinnews.org/Report/61903/IRAQ-SYRIA-Sex-traffickers-target-women-in-war-torn-Iraq> [accessed 22 Aug. 2012].

¹⁵⁵ M. Zaher: “Housewife and vendor accused of forcing a girl into prostitution”, in *Albayan*, 11 May 2012, <http://www.albayan.ae/across-the-uae/accidents/2012-05-11-1.1647868> [accessed 18 May 2012].

¹⁵⁶ Interview with a journalist, Lebanon, 15 May 2012.

away her ID card, locked her up, and brought men to the apartment for sex.¹⁵⁷ Another case involved a Lebanese woman who sought protection from her former husband who had beaten her and forced her into prostitution.¹⁵⁸ Heartland Alliance also uncovered cases in which Iraqi women were deceived, threatened and sometimes kidnapped by prospective husbands, who then attempted to transport them across international boundaries to countries including Syria, Iran and the UAE in order to exploit them.¹⁵⁹

Box 3.12: Blackmail within marriage

“There are lots of cases of Iraqi and Syrian girls who arrive in Lebanon and think they will have a great life here. After a few weeks, the husband will tell his wife that they do not have enough money to survive and that she must just go out once with another man, just one time, to get a little money. He pushes her mentally and she finally accepts. Once she has had sex with one guy, she is stuck. The husband will tell her, ‘If you don’t continue, I will tell your parents in Syria that you are a prostitute and they will kill you.’ The girl can’t go back to her family, she is stuck and has to begin prostitute herself. This man often has several wives.”

Interview with bar owner, Jounieh, Lebanon, 24 April 2012.

Many reports confirm the interlinkages between trafficking, forced prostitution and forced marriage. In Yemen, the national authorities had to contend with the problem of young Yemeni girls and women being forced into fake marriages for sex with men from the Gulf. One official interviewed spoke of a case that had been referred to INTERPOL, which involved an 18-year-old woman who had been married to a Saudi man and taken to a hotel for one month, after which she discovered that the man had disappeared. INTERPOL helped track down the husband in Saudi Arabia and he was subsequently made to compensate the young victim by giving her a bride price.¹⁶⁰ One publication on the situation in Iraq explained that Iraqi girls are increasingly finding themselves in temporary marriages, whereby young girls are married off on the Friday in exchange for money and divorced by the following Sunday.¹⁶¹ This practice is often used to sexually exploit the women by selling them to other men for sexual services.

¹⁵⁷ According to the ISF, the case was referred to the Appellate Prosecutor’s Office in Mount Lebanon on 7 Mar. 2012. The Syrian woman was later released and a search warrant issued against her husband.

¹⁵⁸ According to the ISF, the case was referred to the Appellate Prosecutor’s Office in Mount Lebanon on 28 Mar. 2012. The woman was referred to the Mary and Martha Society and a search warrant was issued against the former husband.

¹⁵⁹ Email correspondence with an official from Heartland Alliance, 18 Sep. 2012.

¹⁶⁰ Interview with an official from the Ministry of Interior of Yemen, Qatar, 17 Jan. 2012.

¹⁶¹ SCEME: *Karamatuna*, p. 18.

3.2.3. Work and life under duress

Whatever the process by which trafficking takes place, the women end up being exploited sexually for financial gain. Those interviewed underscored the hardships these women encountered, and their limited options for escape. The means of coercion discussed below do not apply to all sex workers in the Middle East but specifically to those who are forced into the trade. Any woman experiencing one or more of these factors can be considered a victim of trafficking for sexual exploitation.

Box 3.13: A client's view of coercion

“I think the majority of women are forced to have sex. They are physically beaten, isolated and locked in the apartments. The clients are usually aware that the women are forced but are okay with this because they themselves are sexually deprived.”

Interview with a Nepalese client of sex workers, Kuwait, 30 March 2012.

The very idea of coercion provoked a wide range of responses from key informants, including clients of sex workers.¹⁶² One client explained that it was difficult to judge whether the women are coerced, as “we do not talk to them”. He nevertheless argued: “Most women do it voluntarily. Some might be forced at first but then they realize they can make money.” A second client unabashedly stated: “It is none of my business if they are forced or not. I just go there for one objective.” A third client said: “You feel like they don’t want to do it but you don’t see them crying. Once it’s over, they get up. There is no love involved.”¹⁶³ Some clients are concerned about the fate of the sex workers, though, as is clear from one journal article based on fieldwork done in the UAE. The author narrates a conversation with a migrant worker:

This prompted me to ask if he had ever tried to help these trafficked women, when he encountered them on his own visits to brothels. They cry and beg me to take them out [of the brothel]. Take me away! I’ll come with you, they say. But it is very difficult to take them out with their pimps there. I’ll give them some money, about 100 dirhams or something. If they manage to come out [of the brothel], we buy them phone cards so that they can call and speak [on the phone to their family overseas]. What help can we really give?¹⁶⁴

That at least some sex workers in the Middle East are victims of trafficking is apparent from the adverse working and living situations imposed on them through the use or threat of force or other penalties. There were striking similarities across all four countries studied in the mechanisms that were used to coerce these women, although not all indicators were present in every single case.

¹⁶² Interviews with three Egyptian clients of sex workers, Kuwait, 1 Apr. 2012.

¹⁶³ Interviews with three Egyptian clients of sex workers, Kuwait, 1 Apr. 2012.

¹⁶⁴ Kathiravelu: “Social networks in Dubai: Informal solidarities in an uncaring State”, in *Journal of Intercultural Studies* (2012, Vol. 13, No. 1), p. 109.

Non-payment for services, retention of wages and manipulation of debt

Key informants spoke about wages being withheld. Often the workers are told (much like the domestic workers) that they must forgo their first few months' salary to cover the costs of their recruitment. A sex worker in the UAE explained that she could take no time off, because "as a first timer, you work when you are told to work until you repay all your debt, even if you don't want to". As one study found, "the fact that victims often receive little or no money from their forced prostitution means that their debts are not repaid and that the cycle of abuses continues".¹⁶⁵

There are also cases involving family relatives who withhold the wages of the women they have coerced into commercial sex work. A sex worker in Amman, Jordan, who was working at a bar, explained: "There are some women who are forced by their husbands to work and their husbands will take half of the earnings." Another sex worker working at a bar in Jounieh, Lebanon, said she earned between US\$100 and US\$150 a day, and "all the money I have, I give it to my boyfriend, but it is wrong to give the money". A sex worker from the same bar exclaimed: "My boyfriend pushed me to prostitute myself and he is taking the majority of the money I get!"

Some claim that the situation of artists in the super nightclubs in Lebanon is different, because the premises are regularly inspected by both the police and immigration officials.¹⁶⁶ A super nightclub owner interviewed said he always paid the women their full salaries, as "they have the phone number of the immigration authorities, who would come down on me hard if I didn't pay them".¹⁶⁷ However, not all the perpetrators are deterred by fear of inspection. The head of the ISF recalled a case of an artist from Kazakhstan who asked his patrol for help: "When the patrol arrived at the nightclub, the artist approached the officers and told them she was subjected to abuse. She had been forced to prostitute herself, deprived of her income and was not provided with food."¹⁶⁸

Confiscation of personal documents, isolation and confinement

In much the same way as other low-skilled migrant workers in the Middle East, sex workers frequently found that their identity documents were confiscated. An owner of a super nightclub in Lebanon said: "I must have the passports but she can go any time she likes." Another sex worker interviewed in a nightclub in Jordan admitted: "The employer keeps the passport, it stays in the office." A sex worker in the UAE also acknowledged that "Madam takes the passport". By taking charge of identity documents, the employer increases his or her control over the worker and severely limits her chances of leaving an exploitative situation.

¹⁶⁵ SCEME: *Karamatuna*, p. 27.

¹⁶⁶ In Lebanon, the ISF monitor super nightclubs, nightclubs, bars and massage parlours. The GDGS also visits the super nightclubs up to twice a week to check the presence of the artists. Inspections are also performed on an ad hoc basis in the 23 or so hotels where the artists are accommodated.

¹⁶⁷ Interview with an owner of a super nightclub, Lebanon, 24 Apr. 2012.

¹⁶⁸ According to the ISF, this case was referred to the Appellate Prosecutor's Office in Mount Lebanon on 17 May 2009.

Box 3.14: Cases involving the retention of documents

“I received a call from a mother saying her daughter was forced to work at a nightclub. I spoke to the Public Security Directorate who helped free the women. The owner was Lebanese-Jordanian and went to jail for six to seven months for sexual harassment, withholding of papers etc. They could have charged him with the crime of trafficking if the specialized law had been in place then.”

Interview with an official from the National Center for Human Rights, Jordan, 17 November 2011.

“During an attempt to arrest a pimp in Jounieh, the patrol vehicles were shot at. The pimp ran away but the patrol was able to stop his car. Two Syrian girls were inside it. The investigation showed that both girls had been brought to Lebanon by one pimp and were sold to another pimp for US\$10,000. The pimp also took their identity cards. They were forced to prostitute themselves in order to reimburse the pimp.”

Interview with an ISF official, Lebanon, 7 December 2012.

Many of the key informants interviewed spoke of the harsh conditions in which the women lived, whether they were housed in designated hotels for artists or in private apartments. According to the NGO Dar Al Amal in Lebanon, “the hotels are like prisons. They are closed with steel doors.”¹⁶⁹ A client described the situation of artists working in super nightclubs in Lebanon as “unimaginable”, adding that “four to five girls live in one room and they work at night and sleep from 5 a.m. till 1 p.m. Afterwards they see the clients from the night before from 2 p.m. to 6 p.m. They are never free.”¹⁷⁰ A Lebanese judge expressed his disapproval, saying: “The artist system has spurred some concern and condemnation. The 1962 decree establishing the artist system includes a lot of provisions that are humiliating and degrading in both form and content.”¹⁷¹

A sex worker in Amman was well aware of the confinement suffered by others doing the same kind of work, admitting having overheard that “a lot of women working in other nightclubs are locked up in apartments after they finish working, especially Tunisian and Moroccan girls”. Another sex worker, based in Aqaba, claimed that while “nightclubs are the safest places for women”, those working in such places “are always locked up after their shift is over”. The control that employers can exercise over the women’s lives, and their assumptions of entitlement, even ownership, were illustrated by a Lebanese judge’s description of a case he had personally encountered: “I came across one case of a man who had prepared a contract for another in which it stipulated ‘I sell you ‘Paula’ every Saturday

¹⁶⁹ Interview with an official from Dar Al Amal, Lebanon, 14 Dec. 2011.

¹⁷⁰ Interview with a client, Lebanon, 15 Dec. 2011.

¹⁷¹ Speech of Judge Samer Younes during a workshop organized by the Ministry of Social Affairs, the Higher Council of Childhood and World Vision on combating trafficking of children, 27 Mar. 2012.

for 4–7 p.m.’ and it had the signature of both the client and the pimp.”¹⁷² Similarly, a prosecutor from the Ministry of Justice in Jordan spoke of a case that had surfaced in 2010, involving two girls from Morocco and Tunisia. “They were sold from one nightclub to another,” he explained, “and were forced to sit with and have sex with clients. The traffickers were Jordanians but the case is still open and no sentence has been issued so far.”¹⁷³ The same problems of isolation and confinement have been recorded in the UAE. An article based on fieldwork carried out in Dubai in 2008 discussed the virtual imprisonment of trafficked women in the UAE:

A few streets away is a collection of streets called the “Tamil Bazaar” named after the plethora of Tamil restaurants and the concentration of Tamil migrants living nearby. A brothel is inconspicuously located in a squat dirty grey building. My informants tell me that the women interned there have never seen the street outside. One of my informants claims he sees different sets of women brought in the early hours of the morning to ensure the trafficked women inside do not get too familiar with a particular space, while also providing variety to “customers”. Most of the “customers” of this establishment were low-wage migrants living in the vicinity. In a city that is overwhelmingly populated by men of “bachelor” status, sex workers constitute an “invisible” and illegal workforce catering for a demand that is unacknowledged but reluctantly tolerated by the state.¹⁷⁴

3.2.4. Impossibility of leaving

The duress under which victims of sexual exploitation live and work is compounded by the difficulty of leaving their employers, and the risks associated with attempting to escape – all indicative of one of the key dimensions of forced labour.

Psychological, physical and sexual violence

The manager of a bar in Lebanon said that the husbands who coerced their wives into commercial sex work used a mixed approach to impose their will. “The man can use violence to control the girls,” he explained, “but also good words too like ‘I love you.’”¹⁷⁵ A journalist in Lebanon learned at first hand about the violence meted out to women: “I worked undercover for three months, pretending to be a pimp. I heard a girl screaming and asked the pimp why she was screaming. He told me that they were beating her because she was refusing to prostitute herself. The girl was 15 and from a Bedouin family in Syria.”¹⁷⁶

The threat of physical violence was also a major impediment to leaving (box 3.15). A manager of a bar in Lebanon said openly that the employer “can hurt her too much if she gets caught running away”.

¹⁷² Interview with a judge at the Court of Baabda, Lebanon, 11 Jan. 2012.

¹⁷³ Interview with the First General Prosecutor, Court of Justice of Amman, Jordan, 16 Nov. 2011.

¹⁷⁴ Kathiravelu: “Social networks in Dubai”, p. 108.

¹⁷⁵ Interview with a manager of a bar, Lebanon, 24 Apr. 2012.

¹⁷⁶ Interview with a journalist, Lebanon, 15 May 2012.

Box 3.15: Use of violence against sex workers in bars

“Once a girl has entered the sector, she can’t get out. If I discover she wants to work for another club or bar, I will send a fake client to beat her and she will get back to work for me. It’s like that here, once you begin with an owner, you do not leave him.”

Interview with an owner of a bar, Lebanon, 24 April 2012.

The sex worker also risks being harmed even if she does succeed in running away and filing a case in court. A judge in Lebanon explained that she had dealt with one case involving an Iraqi woman who had been forced into prostitution. “Men found ways to threaten her while in preventive detention in Baabda, and promised to burn down her house and take away her children,” recalled the judge. “At the hearings, there were large men sitting there, trying to scare me, the presiding judge. After the second hearing, the woman’s house was set on fire.”¹⁷⁷

Box 3.16: Means of coercion

“In one hotel I know in Amman, you can find Russian, Tunisian and Moroccan women that are forced to work and stay here until their contracts end because their passports are taken from them and they are threatened and beaten. But this only happens to foreign women, not Jordanians. Their contract does not state that they have to provide sexual services but they must know what they were coming to do here. They did not think they were coming here to pray, did they?”

Interview with sex broker, Jordan, 11 November 2011.

Investigations carried out by the ISF in Lebanon identified cases of physical violence. “They carried out a patrol visit to a nightclub in Tabarja, where four women artists were not found, and learned that they were at a nearby hotel,” recalled the official involved in the case. “The patrol headed towards the hotel and saw the artists inside. The artists claimed they had been beaten by the manager of the club. Marks of physical abuse were apparent on their bodies.”¹⁷⁸ According to a local newspaper, most of the victims of forced prostitution are identified during the weekly patrols to the super nightclubs in the densely populated and demographically varied tourist areas of Zahlé, Tripoli, Dar el Ein, Beirut and Jounieh, where the ISF deploy informants trained to detect cases of sexual abuse in suspicious places.¹⁷⁹

¹⁷⁷ Interview with a judge at the Court of Baabda, Lebanon, 11 Jan. 2012.

¹⁷⁸ According to the ISF, the case was referred to the Appellate Prosecutor’s Office in Mount Lebanon on 10 June 2009.

¹⁷⁹ M. Fakhoury: “Entre sexe et argent, la prostitution, un véritable fléau au Liban”, in *L’Orient le Jour*, 30 May 2011, http://www.lorientlejour.com/category/Dossier+Liban/article/705919/Entre_sexe_et_argent,_la_prostitution,_un_veritable_fleau_au_Liban_!.html [accessed 16 Feb. 2012].

Physical violence was also a prominent element in the cases of workers who had been deceived into sex work and were forced to prostitute themselves in villas and apartments. Beatings, rape and isolation are typical means used by perpetrators to maintain control over the victim and prevent her from escaping. One newspaper article published in the UAE illustrates the type and extent of violence used in such cases. “According to victim’s testimony, when she arrived to Dubai airport, the accused received her and took her to an apartment where she found six other girls of her nationality … whenever she refused to prostitute herself they would beat her and oblige her to do so in her place of residence, hotel rooms and private apartments. This situation persisted for nine months until she came across the phone number of the Dubai police.”¹⁸⁰ An NGO supporting victims in the UAE confirmed that:

If the girl is unable to pay the money asked by the trafficker, she will have to work as a prostitute. In a first step the exploiters are using psychological pressure to change the mind of the girls. If this is not working, the hard way starts, every exploiter who are often women has a group of men which are helping to discipline the girls by force. The victim will be stripped and beaten with hands and whips … Sometimes exploiters bring the women to the desert, rape her for hours and treat her like a dog. At this point of time, the girl will agree to do the job because she is completely broken.¹⁸¹

Threats of denunciation, deportation and detention

The fact that prostitution is illegal in most countries of the Middle East implies that any denunciation to the authorities can result in migrant sex workers being detained and deported, even if the prostitution act has itself been forced.¹⁸² An official from the Dubai police said that sex workers were loath to contact the police, as “perpetrators often tell their victims to not contact us and that because prostitution is illegal here, the police will not help but will imprison them”.¹⁸³ A staff member of the NGO Dar Al Amal further explained that if the women are “forced to do it [prostitute themselves], they would never report it to the authorities because if they do, they will be deported”.¹⁸⁴ One woman, who had formerly been a sex worker and later became a cleaner at a bar in Lebanon, told the researchers that “most of the time they are threatened by the employer that ‘if you don’t do everything I want I will denounce you to the police’.”¹⁸⁵

¹⁸⁰ Zaher: “Housewife and vendor accused of forcing a girl into prostitution”.

¹⁸¹ Vivere: *Report on activities*, Sep. 2012, p. 19; interview with an official from Vivere, Switzerland, 27 Feb. 2012.

¹⁸² No ILO instruments or official documents formally exclude sex workers from any ILO Convention or Recommendation, but nor has this occupational group ever explicitly been mentioned either. They are nevertheless implicitly covered by the ILO Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200). The ILO Committee of Experts has noted that the provisions of the Recommendation calling for protection against discrimination on the basis of real or perceived HIV status also aim to provide protection against discrimination based on stereotyping. Referring to paragraph 3 (c) of the Recommendation, the Committee of Experts noted that this discrimination on the basis of stereotypes would include sex workers. For further reading on the subject, see ILO: *Giving globalization a human face: General survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008*, Report III(1B), International Labour Conference, 101st Session, Geneva, 2012 (Geneva), para. 811, note 2048.

¹⁸³ Interview with an official from the trafficking unit of the Dubai Police, UAE, 30 Jan. 2012.

¹⁸⁴ Interview with an official from Dar Al Amal, Lebanon, 14 Dec. 2012.

¹⁸⁵ Interview with a cleaner in a bar, Lebanon, 3 May 2012.

Box 3.17: One case of deportation

“There is another Russian girl who worked at this club. The employer found out that she was pregnant. This is not accepted at all in this country to get pregnant outside wedlock. Then the employer and many other people started telling her to take a tablet to abort the baby. Eventually, she took an abortion pill and had a very severe bleeding and was admitted to the hospital. The authorities then knew about her pregnancy and talked to the employer, who denied any responsibility. They deported her immediately as any kind of problem is immediately deported. We can't afford to have problems related to a woman in this country. It is a very sensitive issue.”

Interview with nightclub security guard, Dubai, UAE, 29 January 2012.

Detention of women accused of prostitution varies across the region. According to an official of the ISF in Lebanon,

The girls stay in jail and after five days a person can pay bail according to article 113 of the penal procedures. This applies only to the Lebanese sex workers. The file is transferred to the judge, who will issue a sanction of one to two months in jail. In Lebanon, prostitution is a felony, not a crime, so the judge cannot sentence anyone to more than three years' imprisonment. The sentence is usually issued in the absence of the prostitute because the woman is usually back at work. If she is not arrested again within three years, the sentence is cancelled. Very few Lebanese are imprisoned. Only foreigners are held and will do time.¹⁸⁶

How long migrant sex workers remain in detention typically depends on the power of their pimp to get them out. As one journalist with specialist knowledge of the sex industry put it, “the Ethiopians stay in detention because they don't have pimps. They operate out of private apartments.”¹⁸⁷ In Kuwait, a Nepalese community leader recalled a recent case of sexual exploitation of a 16-year-old Nepalese girl who had been “locked up by an Afghan man. The Afghan was detained but later helped by his Kuwaiti sponsor to get out of jail. The woman was jailed for three weeks and then deported.”¹⁸⁸ In Lebanon, government authorities also face the challenge of arresting and prosecuting the perpetrators of commercial sexual exploitation. An official of the GDGS explained that a sex broker can be arrested, punished with one year's imprisonment and fined anywhere between US\$2,000 and US\$3,000, but only if caught in the act of facilitating prostitution.¹⁸⁹

Several NGOs denounced the shortcomings of police action against sexual exploitation and the lack of proper identification of victims, which result in some victims being deported without their exploiters being properly tried and convicted. “In jail, there are mostly women who have been arrested for prostitution during regular 'sweeps' to hotels. In spite of the 2008 Bahraini Anti-Trafficking law, we do not believe proper interviewing takes

¹⁸⁶ Interview with an official of the ISF, Lebanon, 7 Dec. 2011.

¹⁸⁷ Interview with a journalist, Lebanon, 3 May 2012.

¹⁸⁸ Interview with a Nepalese community leader, UAE, 27 Jan. 2012.

¹⁸⁹ Interview with an official of the artist department of the GDGS, Lebanon, 24 Jan. 2012.

place to find out whether these women have been trafficked or not and whether they are under age. They are simply deported after a spell at the detention centre.”¹⁹⁰

Limited freedom of movement and termination of contract

Many stakeholders reported that victims were locked in isolated villas and apartments, under constant surveillance of the perpetrators.¹⁹¹ Similar patterns can be found throughout the region. In Lebanon, for example, restrictions on the freedom of movement of artists working in the nightclubs are enshrined in law: the decree concerning the entry of artists into Lebanon and their residence in the country stipulates that “it is forbidden for artists to reside outside the hotel or pension that has been authorized”.¹⁹² The standard contract developed by the Lebanese immigration authorities also makes it difficult for the artist to leave, as its terms are unclear. It states that “the two engaged parties [should] respect the clauses of international type contracts concerning sickness, absence, stopping work or sever circumstances”, but does not actually stipulate how an artist may terminate the contract.¹⁹³

Family vengeance and shame

In order to prevent the victim leaving an exploitative situation, perpetrators frequently threaten to tell the family about her work, exposing her to family repudiation and even death, in a region where “honour” killings are a societal reality. One sex worker explained: “I am worried that someone sees me in Syria and discovers why I came to do this work in Lebanon. It would be too risky if I did this in my homeland.”¹⁹⁴ A cleaner in a bar employing sex workers in Lebanon added that “the most vulnerable women are the Jordanians and the Syrians that are brought into Lebanon and many of them are forced to be prostitutes. Sometimes, a guy will marry them and then bring them here. They are stuck because they can’t go back to their family; if they do they will be killed.”¹⁹⁵

Victims fear retaliation by their families, even if they can demonstrate that they have been forced to work in the sex trade. As one scholar has pointed out, “the resulting stigma of compromised chastity is such that even if the girl should resurface, she may never be taken back by her relations”.¹⁹⁶ The work of Heartland Alliance in Iraq has revealed that most victims are isolated and have difficulty discussing culturally taboo subjects, particularly those involving criminal sexual activity. In addition to being trafficked, many Iraqi victims face the possibility of honour killings if their families discover that they have been raped or forced into prostitution.¹⁹⁷ In some situations, victims from countries in the Middle

¹⁹⁰ Email correspondence with an official from the Migrant Workers Protection Society, Bahrain, 25 Sep. 2012.

¹⁹¹ Interview with an official from the Ewa'a shelter, UAE, 31 Jan. 2012.

¹⁹² Lebanon, Ministry of Interior, Decree No. 10267 relating to the entry and residency of artists to Lebanon, 6 Aug. 1962, art. 8.

¹⁹³ Lebanon, Engagement contract of artist, art. 3.

¹⁹⁴ Interview with a sex worker, Lebanon, 24 Apr. 2012.

¹⁹⁵ Interview with a cleaner in a bar employing sex workers, 25 Apr. 2012.

¹⁹⁶ B. Bennett: “Stolen sway”, in *Time Magazine*, 23 Apr. 2006, <http://www.time.com/time/magazine/article/0,9171,1186558-200.html.com> [accessed 23 Aug. 2012].

¹⁹⁷ Heartland Alliance: *Human trafficking in Iraq*, p. 8.

East who have been forcibly trafficked for sexual exploitation can be reunited with their families, but only if their histories can be kept secret from the wider community, and if an NGO can negotiate a mediated agreement with the woman's family to take her back.¹⁹⁸

Lack of any economic and social alternative

The difficulty of leaving the exploitative situation is further exacerbated by the fact that women who are known to have engaged in sex work are unable to find work opportunities in other economic sectors. This is especially true for Arab women, who do not have the option of returning home. According to an owner of a bar employing sex workers: "In theory, it's possible to stop this work completely, but when you are a sex worker, you will never be able to find a job in a decent sector. These women have to feed their kids so they need money and will keep at it."¹⁹⁹ Financial necessity pushes some of the women back to their perpetrators rather than attempting to find work in another sector. As an official from Dar Al Amal explained, "instead of placing women in prison, it would be better to place them in a rehabilitation centre, where they can receive psychological support and care, which are paramount for the women to regain their dignity. They need financial support and must learn skills to create alternatives for themselves; otherwise they will work again with their pimps."²⁰⁰

Box 3.18: No alternative

"If a prostitute wants to work for another bar, the owner of the bar can denounce her to the police and she will be detained. Then the boss will pay for the lawyer (it costs US\$2,000) to get the girl out of jail but in exchange the girl has to come back work for him. If you want to quit this job you have to stop working in this industry definitely, and this is not easy because after working as a dancer, you will not find a job elsewhere."

Interview with owner of bar and nightclub, Jounieh, Lebanon, 24 April 2012.

An official from the Lebanese NGO Alef explained: "It is a cyclical business. When we interviewed this girl [a victim of trafficking], she said, I am one of the stories that end well but I know that many of the girls will never get out of this system because there is no adequate reintegration programme for victims." There are indeed very few support programmes for victims of sexual exploitation anywhere in the Middle East. A judge in Lebanon described the dilemma facing the women: "The big problem is victims are afraid of speaking in court. There are no shelters for them. Once they're out, the women know they will face the perpetrators again. In the nine years that I have been working, only two were tough enough to speak out."²⁰¹ The despair of sex workers can lead them to contemplate suicide as the only available route out of their situation. One Lebanese sex worker in the

¹⁹⁸ Interview with an official of Heartland Alliance, 18 Sep. 2012.

¹⁹⁹ Interview with a manager of a bar, Lebanon, 24 Apr. 2012.

²⁰⁰ Interview with an official from Dar Al Amal, Lebanon, 14 Dec. 2011.

²⁰¹ Interview with a judge, Court of Justice of Beirut, Lebanon, 26 Sep. 2011.

district of Nabaa told the interviewer how she felt: “I want to find a good job but my only options are to sell drugs or become a police informant, neither of which I am prepared to do. There is no alternative. I seriously considered committing suicide twice. I did not eat anything today, and spent all my time looking for work. I want to commit suicide.”

Limited recourse to judicial redress

Ideally, the best way out for the victims would lie in the justice system. However, current judicial practices in the region offer exploited workers in the entertainment sector only limited redress, and much more needs to be done if more perpetrators are to be convicted and victims are to be assured of their security. Many of the perpetrators are powerful individuals with extensive connections. Indeed, some service providers supporting victims have been threatened: “We filed a case against an owner of a nightclub and our lawyer was threatened with death. At the end, however, the owner went to jail.”²⁰² Cases of forced prostitution require professional investigation, and several officials confessed to doubts about the objectivity of the judicial staff. One judge in Lebanon, for example, admitted: “I never call upon forensic doctors because most are corrupt. I always choose the specialists because they are not after the money. I also ask for two opinions, as it makes it more difficult to manipulate the truth.”²⁰³ As evidence is hard to collect and judicial procedures are long and expensive, victims often find themselves in a situation where they are obliged to accept out-of-court settlements with the perpetrator. As an official from the GDGS in Lebanon summed up: “Prosecutions are time consuming, settlements are easier.”²⁰⁴ A judge corroborated this statement describing that “usually a compromise is reached, the girl returns home, her artist contract is cancelled and she is paid. It’s an area which is still very, very dark.”²⁰⁵

²⁰² Interview with an official from the Jordanian Women’s Union, 15 Jan. 2012.

²⁰³ Interview with a judge, Court of Justice of Beirut, 26 Sep. 2011.

²⁰⁴ Interview with an official from the GDGS, 24 Jan. 2012.

²⁰⁵ Interview with a judge, Court of Justice of Beirut, Lebanon, 26 Sep. 2011.

3.3. OTHER ECONOMIC ACTIVITIES

3.3.1. At a glance: Key findings on work in other economic areas

The researchers met with migrants in construction, manufacturing, trade, support services and agriculture, as well as seafarers. The workers interviewed were from Afghanistan, Bangladesh, India, Nepal, Pakistan, the Philippines and Sri Lanka in Asia; from Egypt, Iraq, Jordan, Lebanon and Syria in the Middle East; from Ethiopia and Sudan in Africa; and from Brazil in Latin America. A total of 188 individuals (164 men and 24 women) aged between 18 and 51 years were interviewed. They came from rural and urban areas, and most identified themselves as coming from either poor or middle-class families; only a few respondents stated that they came from very poor backgrounds. Many of those interviewed had at least some secondary school education, and several individuals had attended university as well. The vast majority had migrated to the Middle East for the first time, and claimed they had taken the decision to work abroad themselves; only a few said they had been influenced by family relatives. At the time of the interviews, the migrant workers were in a variety of situations. Some had a regular working status, others were in irregular work, and some were detained and awaiting deportation.

Data were also gathered from a variety of other key informants, who provided information on the migration process and its ensuing challenges. They include government officials from ministries of labour, interior, justice, foreign affairs and social affairs, as well as government representatives from countries of origin stationed at the embassies and consulates of destination countries. Information was also collected from owners and managers of companies, chambers of commerce and industry, workers' organizations and migrants' associations, as well as from local and international NGOs in countries of both origin and destination. The research team also met with lawyers, media professionals and specialists from international organizations.

Analysis of the data revealed four main processes of human trafficking for forced labour in these other economic sectors (table 3.3). The research did not find any evidence of coercive practices during the recruitment process of migrant workers, such as the abduction or sale of a worker, or the threat of penalties, for example against family members. However, some of those interviewed did report being deceived by recruitment agents and employers about the nature of the job, the working and living conditions, or the very existence of the job.

These sectors rely heavily on a predominantly male migrant workforce, thus illustrating the particular vulnerabilities faced by men which are often overlooked when the focus is exclusively or primarily on the trafficking of women and girls. The recruitment process differs depending on the nationality of the workers involved. Syrians, for instance, have easier access to the labour markets in the Mashreq than Asian and African migrants, who are subject to the *kafala* system. There are differences between economic sectors, too. For instance, interviews with workers in the maritime industry revealed deceptive practices related to living and working conditions. Hired as seafarers, some suffer from delayed payment or non-payment of wages, forced overtime and poor living conditions. Others

were deceived about the nature of the job itself: some men believed they were being recruited as drivers and gardeners, only to find themselves sent by their employers out into the scorching desert heat as animal herders. These migrant workers cannot leave their employers, due to the *kafala* system, which severely constrains the mobility of workers. Employers also prevent their employees from leaving by requiring them to pay high fees for their release, withholding their wages as well as personal travel documents.

The construction and agricultural sectors in the Middle East depend heavily on foreign labour. Small and medium-sized companies and individual employers tend to hire workers already in the country but with irregular migration status, so as to avoid paying the costs of recruitment and travel from countries of origin. Migrant workers often find themselves in this “informal” labour market through no fault of their own. There is a prevailing practice of *kafeels* recruiting foreign workers for non-existent jobs and then auctioning off their visas to the highest bidder. Thus the fraudulent sponsor makes a considerable profit for himself, while the unfortunate worker finds himself stranded in the destination country, often in debt, with no job, and forced to look for irregular work. PEAs also profit by illegally charging fees to both workers and the employers. These workers are left in very precarious working and living situations, and have limited recourse to support mechanisms and justice. They too are constrained by the *kafala* system, and have difficulty escaping exploitative situations.

Table 3.3: Overview of four processes of human trafficking for forced labour in other economic activities

Process	RECRUITMENT		► WORK AND LIFE IN COUNTRY OF DESTINATION	► IMPOSSIBILITY OF LEAVING EMPLOYER
1	Voluntary recruitment through regular or irregular channels	Arrive in the country and find work in informal or formal sector through relatives and friends	Exploitation of the worker:	<ul style="list-style-type: none"> • <i>Kafala</i> system prevents the worker from changing employer
2	Unfree recruitment (deception about the nature of the work) by agent in country of origin, intermediaries, employer, or labour supply agencies	Upon arrival, learns true nature of job and is unable to refuse the terms of employment	<ul style="list-style-type: none"> • Withholding of wages • Forced overtime • Limited freedom of movement 	<ul style="list-style-type: none"> • Sponsors often refuse to release the worker and/or charge high fees for release
3	Unfree recruitment (deception about the working conditions or the legality of the employment contract) by agent in country of origin, intermediaries or employer	Upon arrival, discovers different working and living conditions and is unable to refuse the terms of employment	<ul style="list-style-type: none"> • Degrading living and working conditions • Denunciation to authorities • Physical violence and threats 	<ul style="list-style-type: none"> • Withholding of wages as security to prevent workers from running away • Withholding of personal travel documents
4	Unfree recruitment (deception about the existence of the job) by agent or employer	Upon arrival, discovers that there is no job		

3.3.2. Recruitment

Migration: patterns and motivations

Many workers migrate voluntarily to countries in the Middle East to work in a variety of occupational sectors, including construction, manufacturing, health, trade, hospitality and agriculture, and in the maritime sector as seafarers and fishermen. In the major destination countries of the region, labour markets have become segmented, with foreign and national workers employed in different sectors, subject to vastly differing terms and conditions of labour. There is a marked seasonal pattern to migration patterns: an official at Beirut International Airport commented that, “on average, we have during the high season 350 migrants arriving in Lebanon daily to work in various sectors, and anywhere between 50 and 100 in the low season”.²⁰⁶ Migrants are attracted by the prospect of higher earnings than are available in their home countries. A Syrian construction worker who needed to earn money to support his family believed that there was a significant financial advantage to working in Lebanon, calculating that, “in order to feed a family in Syria, you need to send two persons of the household to work in Lebanon”. A Pakistani taxi driver in the UAE admitted that he had migrated because of family pressure: “As I have seven sisters who need to get married, and no brothers, I needed to make money to pay their dowries.” The possibility of making more money while working abroad is emphasized by the PEAs, who describe the region as a land of opportunity. “The agent said that Kuwait is a paradise,” recalled an Egyptian construction worker in Kuwait.

Box 3.19: Motivations for migrating

“My family being rather poor, I didn’t go much to school when I was a kid. I learned to read and write Nepali at a very basic level and quickly started working to support my father who was a labourer. I didn’t make much money so I decided to go to India, but even there I was unable to provide sufficiently for the 12 people living in my house. That’s why I decided to move to a richer country.”

Interview with a Nepalese cleaner and security guard, Dubai, UAE, 27 January 2012.

Prospective migrant workers were also motivated to leave by conditions in their home countries. An Egyptian construction worker in Lebanon explained: “Life is hard in Egypt, so we have to go abroad to make money. I want my kids to be able to go to school, to have an education.” Money was not the only consideration: several Iraqi, Sudanese and Afghan migrant workers interviewed in Lebanon and the UAE stated that the armed conflicts in their home countries had encouraged them to leave. Another migrant worker interviewed in the UAE highlighted the impact that migration has on others remaining in the home country: “When one person in the village travels, others will want to go to Dubai too.”

²⁰⁶ Interview with an official from the GDGS at the Beirut Rafic Hariri International Airport, Lebanon, 27 Sep. 2011.

Indeed, many of those interviewed were influenced by the fact that relatives and friends had previously travelled to these countries. Many ignored the stark realities that awaited them as migrant workers and the possibility that their relatives might not tell them the whole truth. “Families often distort the facts, the narrative, as a mother will never tell her friends that her son cleaned bathrooms abroad,” explained a migrant community leader interviewed in Qatar.²⁰⁷

Patterns of voluntary recruitment

The recruitment process of these migrant workers who voluntarily sign up to work abroad differs by economic sector, nationality and geographical location. There are many different ways of securing work abroad. A minority can find work more easily as they do not need a sponsor to facilitate their entry into and exit from the destination country. This is the case of Syrian workers in Lebanon, who benefit from a treaty of cooperation between the two countries. As an employer explained, “The Syrians travel by bus and have a red card, which allows them to enter Lebanon. They stay six months in Lebanon, and then cross the border to renew their red card.”²⁰⁸ In this case, the ease of migrating encourages both women and men to cross the border in search of more lucrative work. As a Syrian construction worker in Lebanon said, “We were not forced to come. We had the idea through friends and other Syrians we know who told us that it was easy to come to Lebanon as we don’t need a visa.” Such ease of movement also implies that most Syrian workers do not rely on recruitment agencies to secure work opportunities in Lebanon. Instead, as they explained in their interviews, “We just came to Lebanon and began searching for a job. Most of us work in construction, but a few are also hired by cleaning companies.”

By contrast, under the *kafala* system currently prevailing in Jordan, Kuwait, Lebanon and the United Arab Emirates, migrant workers of other nationalities require a sponsor: a national of the destination country, who is responsible for the immigration and residency of the migrant worker. Those interviewed confirmed that there were different ways of finding a sponsor. One route was to travel to the destination country with a visitor’s visa and find a sponsor upon arrival. In Jordan, an official from the ASEZA explained that Egyptians go to the Dead Sea area to work as agricultural workers “and then go to work on construction sites, in hotels, basically anywhere they can find work. The workers pay for their trips, work visas and even for the renewal of their work permits.”²⁰⁹ Indian and Sri Lankan workers at a packaging and cleaning factory in Lebanon admitted that “we all came through on tourist visas and then regularized our situation”.

²⁰⁷ Interview with a migrant community leader, Qatar, 18 Jan. 2012.

²⁰⁸ Interview with an employer, Lebanon, 23 Sep. 2011.

²⁰⁹ Interview with an official from the Aqaba Special Economic Zone Authority (ASEZA), Jordan, 13 Nov. 2011. The Special Economic Zone of Aqaba, created in 2001 in the southern tip of the country, is a low-tax, duty-free, multisectoral development zone covering the seaports of Jordan and an international airport. ASEZA is a financially and administratively autonomous institution responsible for the management, regulation and development of the zone. A Memorandum of Understanding signed by the Federal Ministry of Labour and ASEZA delegates to ASEZA the full responsibility for foreign workers (art. 12) and all work processes and employee affairs (art. 10(b)(9)). As such, the Authority regulates the entry and recruitment of foreigners into the Aqaba zone, as well as their residency and work permits, and is responsible for labour inspections.

Indians working at an electrical company in Kuwait had had a similar experience: “We arrived on the commercial visit visa number 14, and found work through persons we know in Kuwait. Each of us paid 580 KWD [US\$2,060] to the owner of the company in order to be recruited for the work.”²¹⁰ The same practice was also documented in a report on migrant construction workers in the UAE, which referred to the particular case of an Indian man who had “arrived in the UAE on a tourist visa and was subsequently employed by a manpower supply company”.²¹¹ Many of those interviewed for the present research spoke about the role of personal contacts, relatives and social networks already working in the Middle East in finding work opportunities by facilitating contacts with potential sponsors. A Pakistani working in a food company in the UAE explained: “My brother was working here and arranged all my papers. I didn’t need to go through an agency.”

Box 3.20: Purchasing a visa

“We have to pay the person who provided us with the visa. If he is a relative, we pay less. There is no fixed price for the visa. The relatives in Dubai buy the visa from a local person in the UAE, they might buy it for 40,000 AED and then sell it in Pakistan for 50,000 AED (US\$13,610).”

Pakistani vendor in the UAE participating in focus group discussion, 30 January 2012.

Most migrant workers, however, find a sponsor through PEAs in the country of origin or destination. “The recruiter will show the villagers a photo to convince them to leave,” explained a senior workers’ representative who wished to remain anonymous, adding: “There is even a popular catchphrase saying “Go Dubai” for those wishing to go to the Gulf countries.”²¹² A Nepalese worker interviewed in the UAE said he had relied on an agent, who was “my neighbour in our village and a friend of my younger brother. He told me about the job in the UAE, promising me to have a better life.” In a group discussion in a labour camp with 14 Afghan construction workers in the UAE, all spoke of securing work through agents in their home country. Migrant workers from Bangladesh, India, Nepal, Pakistan and Sri Lanka interviewed at garment factories in Jordan had found work through agencies in major cities, like Colombo and Dhaka. An employer at a health spa in Jordan confirmed that he had relied on employment agencies to find staff. In his particular case, “the agency I work with brings the workers to Jordan, and then allow us to try them out for a period of one or two months. If you are not satisfied, you can switch worker.”²¹³

²¹⁰ An ILO survey of migrant workers in Kuwait and the UAE noted that “in Kuwait, workers hired under the ‘commercial’ visa 14 status (not considered as official work visas) could be deported and banned from entering the GCC countries for six years if caught”: ILO; Kuwait Economic Society; University of Sharjah: *Travels of hope, toils of despair: The lives of migrant workers in the Gulf States* (Geneva, Dec. 2011), pp. 14–15.

²¹¹ Human Rights Watch: *Building towers, cheating workers: Exploitation of migrant construction workers in the United Arab Emirates*, Vol. 18, No. 8E (New York, 2006), p. 45.

²¹² Interview with an anonymous source, 18 Jan. 2012.

²¹³ Interview with an employer of a spa company, Jordan, 15 Nov. 2011.

Some migrant workers resorted to smugglers to get them into the destination country irregularly, hoping to find work on arrival. Egyptian construction workers interviewed in Lebanon had travelled first to Jordan, then on to Syria and finally through to Lebanon, and had paid the smugglers for entry into all three countries. One worker had calculated that “in total, it cost me US\$4,000 to reach Lebanon, and will take me two years to reimburse my friends and relatives who lent me the money”. Once in Lebanon, they searched for sponsors and sought to regularize their situation. This is possible, they explained, as “every year, the GDGS has a regularization period for illegal migrants. It’s the opportunity to have legal papers with a sponsor.” However, relying on smugglers can leave migrant workers in an irregular and highly precarious situation. A Sudanese man working on an ad hoc basis in Lebanon told the researchers: “I had to leave Sudan because I was being persecuted. A friend arranged for me to travel to Syria, as we do not need visas to go there, and then I paid US\$250 to the smugglers to take me to Lebanon. I came illegally into the country and I am still working illegally.”

The cost of voluntary migration

Those who took the decision to migrate abroad in search of work often had to raise considerable funds to pay for both the journey and the necessary permits. Owing to the lack of adequate regulation and monitoring of PEAs in countries of both origin and destination, and constraints on the issue of visas by some countries, the agencies are able to impose illegal fees on migrant workers, often requiring them to take part in what amounts to an auction to gain visas for work opportunities abroad.

Many of those interviewed had borrowed money, whether from relatives or friends, individual brokers in their villages, or banks. Similar experiences were documented across the Middle East. In order to secure an employment offer, a Nepalese man had to pay 110,000 Nepalese rupees (NPR: US\$900), which required “taking a loan from the bank, which was only possible after we had mortgaged the small plot of land that we owned”. An Indian migrant worker in Kuwait had taken money from a private moneylender in exchange for a pledge to renounce ownership of his family’s land if he failed to repay his debt. Other Indians working as electricians in Kuwait had agreed to have 50 KWD (US\$180) deducted from their monthly salaries of 160 KWD (US\$560) until they had reimbursed 580 KWD (US\$2,060) in total. Pakistani vendors in the UAE also accepted salary deductions to cover the recruitment costs, explaining: “We do not borrow money in Pakistan but reimburse the person who sold us the visa. There is no set price, but typically one pays 20,000 AED [US\$5,500] to work in the market and for other jobs, it can go up to 50,000 AED [US\$13,600].”

Reliance on PEAs forces many migrant workers into crippling debt. A senior civil society leader based in Qatar, who asked to remain anonymous, underscored the consequences of such debt. “The low-skilled migrants have financial problems back home, so when they arrive, they are under terrible pressure from their families and need to recover their investment. The rate of suicide is very high among those who have to go back, as they are

ashamed not to be able to bring dollars home.”²¹⁴ An official from the Nepalese Embassy in the UAE emphasized a similar point: “What is sad is that they are poor people, so although they are getting less money than what was initially agreed to in their country, they still have to work as they spent a lot of money to come here.”²¹⁵ The same vulnerability to debt was highlighted by the results of a survey of Asian workers in Qatar: Half of those interviewed had paid recruiting agencies a fee before leaving home; the average fee was 2,000 Qatari rials (QAR: US\$550), and some had paid much more, putting themselves deep in debt.²¹⁶

Vulnerable migrant workers desperate to find work are easy targets for unscrupulous agents looking for chances to make a profit. Indeed, agents often impose excessive and unauthorized fees on workers in very precarious situations, knowing that they will accept these terms because they are under pressure from their families to remit badly needed money home. Indebtedness is often the first step in the cycle of deception and coercion in which workers become trapped.²¹⁷ As a recent ILO quantitative survey of migrant workers in Kuwait and the UAE found, “the recruitment fees and interests on loans charged to foreign workers … may in turn limit workers’ bargaining power over the terms of the official work contract. This translates into involuntary servitude through excessive work hours with little or virtually no pay for months.”²¹⁸

These practices are in contravention of article 7 of the ILO Private Employment Agencies Convention, 1997 (No. 181), which states that “private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers”.²¹⁹ Most states in the Middle East have adopted laws or policies that regulate the activities of employment agencies to some extent, including through provisions related to licensing or registration requirements, the prohibition of placement fees and other measures. For example, in the UAE, Ordinance No. 1283 stipulates that the employment agency is prohibited from receiving any payment or gain as commission or fees from the worker, and that the agency undertakes to refund any amounts paid by the worker to any entity or person inside or outside the country with whom the agency dealt for the purpose of recruiting the worker.²²⁰

²¹⁴ Interview with a civil society leader, UAE, 31 Jan. 2012.

²¹⁵ Interview with an official from the Embassy of Nepal, UAE, 1 Feb. 2012.

²¹⁶ ITUC: *Hidden faces of the Gulf miracle: Behind the gleaming cities of Doha (Qatar) and Dubai (UAE), stories of migrant workers with few rights and inhuman living conditions* (Brussels, May 2011), p. 16.

²¹⁷ D. Rannveig Agunias: *Migration’s middlemen: Regulating recruitment agencies in the Philippines–United Arab Emirates corridor* (Washington, DC, Migration Policy Institute, June 2010), p. 12.

²¹⁸ ILO; Kuwait Economic Society; University of Sharjah: *Travels of hope, toils of despair*, p. 14.

²¹⁹ Article 7(2) of Convention No. 181 clarifies exceptions to this rules: “In the interest of the workers concerned, and after consulting the most representative organisations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.”

²²⁰ UAE, Ministry of Labour, Ordinance regulating the work of private employment agencies, No. 1283, Dec. 2010, art. 6 (b).

Involuntary recruitment: Deception about the legality of changing employers

Those who migrated through regular employment channels typically signed a contract prior to arrival in their country of destination. Some of the workers interviewed had understood the content of their contracts, while others had not. Either way, the signing of a contract did not necessarily translate into gainful employment upon arrival. As an official of the Embassy of Pakistan in Kuwait explained: “At times, the workers know that they will only obtain their residency permits from their sponsors and will need to find work elsewhere. What they don’t know is that it is illegal to work for another employer.”²²¹ Herein lies the problem that can lead to trafficking for exploitative labour: the worker may indeed know that the contract is a fake but will still travel, having been deceived by his employer, agent, relatives or friends about the legality of working for another employer. The problem is exacerbated by the ready availability of visas, allowing the recruitment of workers beyond the demand for labour in the destination countries; as a result, many workers who have migrated find themselves with irregular status and working in exploitative conditions. The same embassy official explained: “Our people call it the Azad visa, meaning free or open visa. It’s famous in Pakistan, and people think they can work anywhere with that visa.”

Egyptian construction workers in Kuwait taking part in a focus group discussion spoke of a similar experience, stating that “the first contract signed in Egypt is fake and the real one is signed here in Kuwait”, and adding: “Some of us didn’t know the contract was fake until we got here. Others knew it was fake, but had to come anyway because the situation in Egypt is awful.” This deception, coupled with coercion once in work and the impossibility of leaving the employer, creates victims of human trafficking for forced labour.

Such deceptive practices can be highly profitable for intermediaries, as the workers are asked to pay not only for their initial residency and work permits, but also for the renewal of these permits. In Bahrain, an official from the Migrant Workers Protection Society explained: “The initial purchase costs of a ‘free’ visa are 1,000 Bahraini dinar [BHD: US\$2,650]. Then the visa seller will charge the worker additional fees to renew the visa every two years and he is in a position to dictate his price, usually charging far more than the actual cost of renewal. If the worker cannot pay, his visa expires and he becomes an illegal resident, his passport may also expire and he may become undocumented. The ‘free’ visa situation is widespread in Bahrain.” The MWPS has also learned from the Embassy of Bangladesh that it has more than 30,000 nationals working under such conditions with no rights whatsoever, “usually without their passports as these are retained by the sellers in order to maintain control over the workers”.²²²

In Jordan, an official from ASEZA calculated that “work permits represent 4 to 5 million JOD annually [US\$5.6 – 7.1 million]. Out of the 20,000 workers in ASEZA, 16,000 to 18,000 are legal.” In the UAE, a manager at a food market estimated that 75 per cent of the vendors came from other employers “but came to work here as vendors because the work

²²¹ Interview with an official from the Embassy of Pakistan, Kuwait, 29 Mar. 2012.

²²² Email correspondence with an official from the Migrant Workers Protection Society, Bahrain, 25 Sep. 2012.

is more lucrative. If they did not do that, we wouldn't have such a market and wouldn't make any profit.”²²³ Such practices are against the national laws. In Jordan, the employer must cover the fees payable for the worker's employment permit.²²⁴ Similar national laws in Kuwait and the UAE stipulate that it is the responsibility of the employer to bear the cost of the worker's work and residency permits.²²⁵ In fact, the business exchanges related to securing the necessary residency and work permits in the country of destination often happen through intermediaries, without the sponsor and workers ever meeting. During a focus group discussion with 25 Egyptian workers at a juice and soda company in Kuwait, the participants said that none of them were working in the jobs they signed up for in their contracts, adding: “We don't even know who the *kafeel* is and what he looks like.”

In many cases it is these intermediaries, such as agents or company managers, who are responsible for the financial exploitation of workers. “Violations are often done by the technical managers, who are not the *kafeels*, but nationals from others countries, often of the same nationality as the migrant workers,” explained a workers’ representative who asked to remain anonymous. The former ambassador of Nepal to Qatar confirmed that many low-skilled Nepalese workers in the country complained about poor treatment from Egyptian and Indian management, adding that “most of the sponsors are good. The problem is that some are not aware that their workers are being abused and exploited by the expatriate management.”²²⁶ Moreover, it is extremely difficult to prove that such financial exchanges take place between workers, managers, agents and sponsors. The former Nepalese ambassador reflected that the lack of transparency of payment of the service charge for a work permit was problematic, and that “generally, the amount of service charge and promotional cost is paid directly by the worker to the manpower agency/agent in cash”.²²⁷ This cash payment can become “an unsolved mystery” if disagreement arises between the concerned parties.

Officials interviewed at the Ministry of Social Affairs and Labour in Kuwait acknowledged that “there are cases of workers paying a fee to the *kafeel* for the residency permit and the right to go elsewhere to work. However, there is no evidence of such financial transactions.”²²⁸ As a result of this practice, large numbers of migrant workers end up in an irregular situation and consequently are more vulnerable to exploitation. An official from the Kuwait Chamber of Commerce stated that “there is a problem of 130,000 unregistered workers here in Kuwait since 1990. Every year, the Emir grants an amnesty to allow

²²³ Interview with a manager of a market, UAE, 28 Jan. 2012.

²²⁴ Jordan, Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers in the Qualified Industrial Zones, issued by virtue of the provisions of article 4 of the Regulation of the Fees of the Employment Permits for Non-Jordanian Workers, No. 36, and its amendments, 1997, art. 6(a).

²²⁵ Kuwait, Ministerial Order No. 115, 1996, art. 10; UAE Ministerial Resolution No. 1188, 2010, regarding the regulations and conditions of issuing internal work permits, art. 9.

²²⁶ Interview with a former ambassador of Nepal, Qatar, 19 Jan. 2012.

²²⁷ S. Nath Mishra: *Migration of Nepalese manpower for foreign employment: Prospects and challenges*, background paper for the Fifth Middle East Regional Conference of the Non-Resident Nepalese Association, Dubai, 14 Jan. 2011.

²²⁸ Interview with an official from the Ministry of Social Affairs and Labour, Kuwait, 25 Mar. 2012.

workers to return home or regularize their work situation.”²²⁹ A recent amnesty in Kuwait was given from March to June 2011. However, some argue that it had counter-productive effects. Because the majority of migrant workers had not obtained release forms from their first employers allowing them to change their workplaces, their original sponsors had kept their passports and work visas and so they were not able to regularize their situations. Thus they were forced to obtain emergency passports enabling them to leave the country before the end of the amnesty.²³⁰

Involuntary recruitment: Deception about the nature of the job

Workers can be deceived not only about their immigration status and the legality of their employment contracts, but also about the nature of their work. An Iraqi man interviewed in Lebanon recounted his experience of forced labour, explaining: “I found work at a gas station, but quickly found out that if I wanted to keep the job, I also had to work at a construction site. The owner of the gas station forced me to work for free on that site for two hours every day.” A Nepalese migrant worker signed a contract in Nepal for a job as a cook in a restaurant at Dubai airport, only to have to “sign another contract in the UAE, which I didn’t understand because it was written in English and Arabic”. This worker ended up working as a cleaner in Sharjah Free Zone, earning 1,124 AED [US\$306] a month instead of the 1,500 AED [US\$410] promised by the employer. He was subsequently forced by his employer to work as a security guard at Sharjah prison and was arrested and detained by the authorities for working with the wrong sponsor and without the appropriate work visa.

An official from the Embassy of Nepal in the UAE said that “there are not many cases of contract substitution, but it happens,” adding that “sometimes a person arrives and is not suitable for the position so the sponsor asks him to work elsewhere even if he is not authorised to do so”.²³¹ Contract substitution is a practice in which migrants sign a new contract in the destination country with different stipulations from the contract they signed in their country of origin. For example, some migrant workers discover upon arrival that they will be subcontracted to several companies. In many cases, migrant workers will sign the second contract anyway because they are already in debt and fear deportation. Interviews with Afghan migrant workers at a labour camp in the UAE underscored the precarious conditions in which they live. “We work for several companies in the construction sector,” explained one man. “Our sponsor sub-contracts us, and it’s difficult to work like that because sometimes you have a lot of work, up to 15 hours a day, and sometimes very little.” Subcontracting is legal in the UAE, but only if certain conditions are observed. As an official from the Ministry of Labour explained, “in order for a company to sub-contract, it needs an authorization from the Ministry of Labour”.²³²

The benefits of subcontracting are well known, as a migrant community leader in the UAE pointed out: “For the smaller companies, it’s cheaper because they do not pay visa fees and

²²⁹ Interview with an official from the Kuwait Chamber of Commerce, 29 Mar. 2012.

²³⁰ ITUC: Annual survey of violations of trade unions rights: Kuwait 2012, <http://survey.ituc-csi.org/Kuwait.html?lang=en#tabs-4> [accessed 10 June 2012].

²³¹ Interview with an official from the Embassy of Nepal, UAE, 1 Feb. 2012.

²³² Interview with an official from the Ministry of Labour, UAE, 2 Feb. 2012.

insurance for the worker. It's not always legal but the penalties are small compared to the gains.”²³³ There are also fewer risks for smaller companies, as an official of the Kuwait Society for Human Rights explained, because “a small contractor would never himself sponsor migrant workers, as he may not know all his projects for the year. Only large companies can sponsor their workers.”²³⁴ Officials at the Ministry of Interior in the UAE took a different view, explaining that “logistically, it is impossible to force a person to work for another company. We impose heavy fines on an employer who relies on workers that are not under his sponsorship as a deterrence method.”²³⁵ The fine is 100,000 AED (US\$27,225) for each worker found in an irregular situation. Fines are also levied in other countries, including Kuwait, where an official from the Ministry of Social Affairs and Labour stated: “We monitor the private sector to see if the workers are with their legal employers and if the rights of the workers are being respected. If the worker is not with the right employer, we issue a warning to the sponsor and, if the situation remains unchanged a month later, we fine the employer 100 KWD [US\$355] per worker and close down the company.”²³⁶

Involuntary recruitment: Deception about working and living conditions

The third process of trafficking for labour exploitation involves migrant workers who are deceived about their working and/or living conditions – including, in some cases, about their ultimate destination. Similar experiences were recorded throughout the Middle East.

An official of the Ministry of Interior in Yemen explained that “migrant workers know there are a lot of problems in Yemen, but they are deceived and encouraged to travel from Africa with the promise of either finding work in another GCC country or being resettled by the International Organization for Migration [IOM].”²³⁷ Migrant workers from Asia are also confronted with poor working and living conditions. In Kuwait, an Indian worker at an electrical company stated that “the agent in India told us we would earn 200 KWD [US\$712] and that everything would be included. But we receive 160 KWD [US\$570] and food is not included.” Such deceptive practices were summarized by a journalist who argued that “abuse of contract and contract substitution are tools of worker exploitation”.²³⁸ The former Nepalese ambassador to Qatar said that “the workers duped by their manpower agencies and agents are mostly found to have been provided with the visa of one company and the employment contract of another”.²³⁹ As a result, the ambassador went on, “the employer institution cannot be forced legally to provide salary and other benefits in accordance with the terms specified in the fake employment contract”.

Migrants who work in agriculture are also subjected to harsh working conditions, facilitated in part by the fact that the work is done in remote rural areas, away from public

²³³ Interview with an official from a migrant association, UAE, 27 Jan. 2012.

²³⁴ Interview with an official from the Kuwait Society for Human Rights, 26 Mar. 2012.

²³⁵ Interview with an official from the Ministry of Interior, UAE, 2 Feb. 2012.

²³⁶ Interview with an official from the Ministry of Social Affairs and Labour, Kuwait, 25 Mar. 2012.

²³⁷ Interview with an official from the Ministry of Interior of Yemen, Qatar, 17 Jan. 2012.

²³⁸ Transient Workers Count Two (TWC2): *Signing on the dotted line: Examining operational indicators of trafficking*, 6 July 2012, http://twc2.org.sg/wp-content/uploads/2012/07/signing_on_dotted_line_p2.pdf [accessed 10 Aug. 2012].

²³⁹ Nath Mishra: *Migration of Nepalese manpower for foreign employment*.

scrutiny. An official from the General Confederation of Lebanese Workers (CGTL) in Lebanon explained during an interview that the agricultural industry is an important but underprivileged sector in the country.²⁴⁰ The industry faces a multitude of problems, including the lack of fertile land, inadequate investment and mishandling of property by owners. The agricultural workforce is composed of Palestinians (mainly working in the south of the country), Syrians (in the Beqaa), Bedouins and Lebanese. These workers are very poor, and so accept seasonal work with no contracts; they are often deceived about their working conditions, including their exposure to occupational safety and health hazards, such as working with pesticides. The situation has been better documented in Jordan, which relies extensively on Egyptian migrant workers, of whom there are currently estimated to be 87,000.²⁴¹ Tamkeen reported that migrant workers' rights are severely neglected in Jordan. Many of them work long hours, are not allowed the weekly day off to which they are entitled and have no annual leave; their passports are taken from them, their wages are withheld, and they are subjected to verbal and physical abuse.²⁴² Egyptian workers wishing to leave Jordan to return home are required to obtain a double release, both from the sponsor and from the Ministry of Labour. This rule, recently introduced, enables unscrupulous sponsors to blackmail their workers, asking for payment in order to hand over the release document.²⁴³

The particular case of seafarers

Stories emerging from the maritime industry provide many examples of the kinds of deception related to living and working conditions practised in the Arab peninsula. Over the past few decades, shipowners have sought cheaper sources of labour as part of a drive to reduce operating costs, and most crews now come from developing countries. Agents recruit from a number of different countries, including Bangladesh, India, Myanmar, Nepal, Pakistan and the Philippines, as well as Egypt, Sudan and Syria. There are also a number of seafarers from Ukraine working on ships in the region. The majority of seafarers are men, although a few vessels are captained by women. The contract duration for seafarers is usually six months, but is sometimes extended to nine months. Fishermen, too, will sometimes spend months out on the water. They tend to be less well protected than other ships' crew, as they operate on small and medium-sized boats that do not always leave from the major ports where labour inspectors and trade union representatives are present.

According to the International Transport Workers' Federation (ITF), very few seafarers have access to decent work in the Middle East. They suffer from limited and delayed payment of wages, forced overtime and poor living conditions.²⁴⁴ In extreme cases, seafarers may be abandoned either at ports of call or at sea, and, as the ITF global report explained, "at best abandoned seafarers are subject to cruel, inhuman and degrading treatment, at

²⁴⁰ Interview with an official from the General Confederation of Lebanese Workers, Lebanon, 27 Sep. 2012.

²⁴¹ Tamkeen: *Between a rock and a hard place*, p. 49.

²⁴² Ibid., p. 56.

²⁴³ Ibid., pp. 56–60.

²⁴⁴ Telephone interview with an official from the ITF, 30 Sep. 2012. The ITF is a federation of more than 600 transport workers' trade unions in 136 countries, representing over 4.5 million workers. The ITF represents transport workers at the global level and promotes their interests through global campaigning and solidarity.

worst they find themselves in life-threatening working conditions with no means of subsistence. In most cases of abandonment, crew members have not received wages for months, sometimes years, and are effectively subject to forced labour.”²⁴⁵ These practices contravene international minimum standards, which require the flag state of a commercial vessel to ensure that the human and labour rights of its crew are respected.²⁴⁶

The ITF official interviewed shared the particularly poignant example of a case involving a Turkish-owned ship crewed by Turkish seafarers that had arrived in Aqaba, Jordan, in 2010. The owner of the ship had gone bankrupt and decided to abandon the ship and the workers on board. A seafarer was subsequently accused of causing a fire on the ship, resulting in the Jordanian authorities detaining all the seafarers on board. Nine seafarers had not been paid for nine months, and in order to recover their lost income, they had to wait until the court decided to sell the vessel, a process which would take months. The ITF intervened to provide support to these seafarers.

In Lebanon, seafarers come primarily from India and Bangladesh. The migrant seafarer community is currently quite small, amounting to 150 men between the ages of 25 and 50, as the Lebanese maritime industry has suffered setbacks in recent years.²⁴⁷ The seafarers are recruited by Indian and Bangladeshi agents, to whom they pay on average US\$3,000: half of this is kept by the agent and the other half passed to the owner of the ship. Their own monthly salary varies between US\$300 and US\$500. Upon arrival at the airport in Beirut, the migrant seafarers are taken to their ships and will stay on board for the entire duration of their contract. These seafarers often have no rest days and no overtime pay, and food is not always provided. They are prohibited from joining the Lebanese Seamen’s Syndicate as they do not have residency permits.

In the UAE, migrant seafarers pay agents to secure contracts with Gulf-based companies, often for work on small boats (tugs, rig supply vessels etc.), for which they pay on average US\$2,400–3,200.²⁴⁸ There are also, on average, 100 cargo ships in several ports along the Persian Gulf and at anchorage in the Gulf of Oman, waiting to go into the Gulf. One cause of poor working and living conditions is a practice whereby Emiratis who own companies based in the UAE try to increase their profit margins by not paying port fees for their ships. Eventually, the port authorities will arrest the ships, setting in motion protracted legal battles with the shipowners that can last months or even years. During this time, the ships’ crews are often not paid or cared for properly. They also themselves risk arrest and detention if they try to escape from the arrested ship. According to one report by the Mission to Seafarers:

When we contacted the Captain of the *Azrak 7*, the five seafarers aboard this ship had been abandoned with no clean clothes, food, medicine, air-conditioning or basic supplies;

²⁴⁵ ITF: *Out of sight, out of mind: Seafarers, fishers and human rights* (London, 2006), p. 12.

²⁴⁶ The flag state of a commercial vessel is the state under whose laws the vessel is registered or licensed. The flag state has the authority and responsibility to enforce regulations over vessels registered under its flag, including those relating to inspection, certification, and issuance of safety and pollution prevention documents.

²⁴⁷ Interview with an official from the Lebanese Seamen’s Syndicate, Lebanon, 19 Sep. 2012.

²⁴⁸ Interview with an official from the Mission to Seafarers, UAE, 2 Oct. 2012.

left on a rusting ship for seven months with no pay or supplies and worried sick about how their families are coping without any money... The same owner had also abandoned another vessel in Ajman Port, with a crew of two seafarers, Nelson and Juma. These two proud seafarers were reduced to begging from other crews in the port in order to survive.²⁴⁹

Many migrant seafarers are also deceived about their living conditions on the smaller merchant ships which carry supplies, maintenance equipment and personnel from the ports to offshore oil rigs and islands. The living conditions on these ships are poorer than on the oceangoing vessels, which have been designed for longer voyages (it takes a vessel from the Gulf 14 days to reach China and 18 days to get to Europe). Delayed payment and unlawful deductions from wages are frequent. Moreover, in order to terminate a contract, the migrant seafarer will have to pay any outstanding wages up to the end of the contract and pay for his air ticket home; he may also be asked to pay the flight costs out of his successor, if is leaving before the contract has expired.

Seafarers may also suffer from forced isolation, brought about by weeks at anchorage (while a ship waits to go into the Gulf), or by control orders imposed in cases such as that in Aqaba described above, when a ship is arrested by the port authorities pending legal arbitration. Where such an order has been made, the seafarers cannot leave their ships until the matter has been resolved. There are also at any one time between five and eight ships that have been abandoned, leaving their crews without pay.²⁵⁰

According to an interview with an official from the Mission to Seafarers, “the UAE national authorities are working hard to improve ship owner practices and standards, and to raise the overall levels to those recognised by internal regulatory standards”.²⁵¹ The Mission to Seafarers has also built the world’s first seagoing seafarers’ support vessel, the *Flying Angel*, which since its launch in 2007 has reached over 100,000 seafarers who have benefited from welfare services available on the ship.

Involuntary recruitment: Deception about the existence of the job

The fourth process of trafficking concerns migrant workers who are taken to destination countries only to find upon arrival that there are no jobs for them. The ease of access to foreign labour through the *kafala* system, which is supposed to facilitate immigration in order to meet the demand for labour, can also produce unemployment among migrant workers if workers are brought in to fill fictitiously identified jobs. If the profits of the *kafeels* exceed the costs of bringing in migrant workers, some of them will bring in workers for whom there is no real demand. Once these workers have arrived, they will have no choice but to enter the informal labour market; and as they will be dependent on the *kafeels* for renewal of their work and residency permits, the payments charged for these may well increase their indebtedness. As a result, the *kafala* system works against the intent

²⁴⁹ Mission to Seafarers: *The Angel Appeal Project*, 2012, p. 5. See <http://www.missiontoseafarers.org/for-seafarers> [accessed 7 Mar. 2012].

²⁵⁰ Ibid.

²⁵¹ Interview with an official from the Mission to Seafarers, UAE, 2 Oct. 2012.

of the immigration law, by making it possible to acquire residency permits for workers even without any formal guarantee of employment. Migrant workers who find themselves without the jobs they expected will join the informal economy in order to recoup the cost of their migration.

Interviews in the region confirmed the practice of recruiting migrant workers for whom there are no real jobs. “Sometimes workers arrive in the country and there is no job waiting,” explained an official from the Emirates Human Rights Association, adding: “We cannot always blame the recruitment agency in the country of origin because sometimes the worker agrees to sign a fake contract or travel under a visitor’s visa in search of work.”²⁵² There are also the “ghost companies”, as an official at ASEZA in Jordan explained: “Ghost factories emerge when an individual establishes a company, starts a business and then brings workers to the rented office for a few months. During inspections, we discover that another company is located at the same spot, and that the workers employed by the first company have gone to work for other firms.”²⁵³ The Ministry of Social Affairs and Labour in Kuwait also confirmed that there are some worksites that “are not registered with us or at the Ministry of Commerce, as the employer will only register one main site but not the other ones”.²⁵⁴ Migrant workers caught up in such schemes often end up in debt and desperate to find work elsewhere, in order to repay their travel and recruitment costs. Many stories of migrant workers stranded in this way have been documented in the media. One article in Kuwait summarized their experience as follows:

The sponsorship system represents a means of quick profit through the creation of ghost companies which bring thousands of Asian and Arab workers in exchange for amounts of money that reach up to 1,000 Dinars per person. Only later, those workers will find out that these companies do not actually exist, or sometimes they only work for several months and then are laid off to the streets as a result of the problems they face.²⁵⁵

Officials interviewed at the Ministry of Labour in the United Arab Emirates acknowledged that this was a major concern. They said that “if a worker realizes that he has been deceived, he should directly come to the Ministry of Labour and we will find him a new job”.²⁵⁶ Indeed, in 2006 the ministry issued a decree stipulating that if a worker discovers during his first three months in the country that no real job exists for him, he may change employer.²⁵⁷

However, workers caught in such situations do not always turn to the official channels for help. An official from the Ministry of Interior in Kuwait commented that “workers think they can earn a lot of money, especially doing freelance work. They do not always come to us or their embassies when they have a problem.”²⁵⁸ The Dubai police in the United Arab

²⁵² Interview with an official from the Emirates Human Rights Association, UAE, 30 Jan. 2012.

²⁵³ Interview with an official from ASEZA, Jordan, 13 Nov. 2011.

²⁵⁴ Interview with an official from the Ministry of Social Affairs and Labour, Kuwait, 25 Mar. 2012.

²⁵⁵ M. Masaad: “In Kuwait, our work is non-ending and they delay the payment of our salaries and seize our passports”, in *Al-Masry Alyoum*, 5 June 2012, www.almasryalyoum.com/node/753731 [accessed 20 June 2012].

²⁵⁶ Interview with an official from the Ministry of Labour, UAE, 2 Feb. 2012.

²⁵⁷ Interview with an official from the Ministry of Labour, UAE, 2 Feb. 2012.

²⁵⁸ Interview with an official from the Ministry of Interior, Kuwait, 27 Mar. 2012.

Emirates also stated that they rarely received complaints from migrant workers, adding: “We visit worksites, but we do not find any coercion and do not receive complaints.” In Aqaba, Jordan, the ASEZA officials also acknowledged the existence of the problem, adding that “the profile of the traffickers is well known. They work in export-import, and have small to medium sized companies. The problem is that 90 per cent of the workers don’t have the courage to complain.”²⁵⁹ The president of the national trade union found similar practices in neighbouring Lebanon: “Most of the very bad stories are individual employers, not big companies.”²⁶⁰

3.3.3. Work and life under duress and impossibility of leaving

Many of the migrant workers interviewed, irrespective of whether they had taken part in the recruitment process voluntarily, found themselves in degrading working and living situations imposed on them by the use or threat of force or penalty, amounting to conditions of work and life under duress.²⁶¹ This section illustrates the different forms of exploitation practised with examples from the interviews.

Forced overtime

Several workers interviewed complained of being forced to work overtime, often unpaid, above the national limits. In the UAE, Pakistani workers employed at a food company said they had to work two Fridays a month, and that “if the supervisor asks you, you can’t say no”. The degree of control that employers have over their workers was also apparent to the researchers in Kuwait, where a Filipino maintenance worker said: “Sometimes I have to do overtime because the *kafel* tells me I must obey.” A garment worker in Jordan also explained that those in the factory “are obliged to do two hours of overtime per day because everyone is doing it”. An owner of a garment factory who was also interviewed in Jordan admitted that this could be a problem in some factories, as “the supervisor forces the worker to work overtime in order to produce more”.

Withholding of wages

One of the major causes of concern has been delayed payment, or non-payment, of salary. An official from the National Human Rights Commission in Jordan told researchers about a case that had recently come to his attention “involving agricultural workers who had not been paid in eight months, and who couldn’t leave as their employer was withholding their passports”.²⁶² The situation is compounded by the fact that agricultural workers are not covered by the labour law in Jordan. Many of the migrant workers interviewed for

²⁵⁹ Interview with an official from ASEZA, Jordan, 13 Nov. 2011.

²⁶⁰ Interview with an official from the General Confederation of Lebanese Workers (CGTL) Lebanon, 28 Nov. 2011.

²⁶¹ Work under duress entails an excessive volume of work or tasks that are beyond what can reasonably be expected within the framework of the national labour laws. Life under duress refers to situations where an employer imposes on a worker degrading living conditions and limits freedom of movement and communication. ILO: *Hard to see, harder to count: Survey guidelines to estimate forced labour of adults and children* (Geneva, 2012), p. 14.

²⁶² Interview with an official from the National Human Rights Commission, Jordan, 17 Nov. 2011.

this study said that they had been deceived about the level of pay they would receive. Quantitative research by the ILO in Kuwait and the UAE has found that about 12 per cent of the Kuwait sample and 27 per cent of the UAE sample said their monthly salaries had been fluctuating or irregular over the previous 12 months. Of the UAE respondents, 38 per cent had not received all the pay due to them from work in the previous three months because the employer had held back wages; of those, 90 per cent were construction workers.²⁶³ The Kuwait Trade Union Federation (KTUF) has received many complaints of salary retention, and has pressed the Ministry of Social Affairs and Labour in Kuwait to solve them as a matter of urgency. One case that KTUF shared with the research team involved 180 migrant workers from Viet Nam, who had not been paid for nearly three months, as their employer had “run away” and “abandoned the Viet Nam labourers”.²⁶⁴

Box 3.21: Withholding of wages

“As an organization, the main complaint we have received concerns the non-payment of wages. The majority of the complaints come from cleaning staff and security guards working at schools, hospitals and other government buildings. These workers sometimes have to wait six to nine months before they are paid, and sometimes deductions are made from their wages. We usually contact the Ministry of Social Affairs and Labour to resolve these cases and force the company to pay the workers their due wages. The cases are resolved more quickly if the companies have contracts with the government and have paid bank guarantees.”

Interview with two officials from the Kuwait Society for Human Rights, Kuwait, 26 March 2012.

Degrading living and working conditions

Throughout the region, migrant workers interviewed complained about unacceptable living and working conditions. Afghan construction workers, interviewed in their room in the UAE, told researchers that “15 of us sleep in this room of 25 metres square, and at times we can be up to 25”. In Jordan, five Bangladeshi manufacturing workers were appalled by the decision of their sponsor to have “13 to 18 people sleeping in one room, it’s too much, too crowded”. Some workers said they had been provided with accommodation, but others had to find and pay for their own private lodgings. During one focus group discussion, five Indian men working as electricians in Kuwait explained: “We thought the sponsor would provide accommodation but we ended up having to rent an apartment as none was provided, and paid 60 KWD [US\$215] a month per person to stay there.” Syrian workers in Lebanon could either live on the construction site for free or “in a room that we share with others for US\$30 a month”. In the UAE, Pakistani retail workers said that

²⁶³ ILO: Kuwait Economic Society; University of Sharjah: *Travels of hope, toils of despair*, p. 21. The Kuwait survey involved 1,000 migrant workers, while that undertaken in the UAE involved 1,300 migrant workers.

²⁶⁴ Letter from the Embassy of Viet Nam in the State of Kuwait to the KTUF, 9 Oct. 2012.

some workers were housed while others had to rent their own rooms, “which are crowded and cost 600 to 800 AED [US\$163–218] per month”.

Conditions have also been causing increasing concern in Qatar, which has begun to open its doors to large numbers of additional migrants to build the infrastructure needed to host the football World Cup in 2022. This includes 12 football stadiums, additional hotels, and new rail and subway networks, as well as a complete new city to house 200,000 residents – at a cost expected to exceed US\$100 billion.²⁶⁵ Recent photographic evidence of poor housing conditions in labour camps prompted the ITUC’s general secretary to issue a statement during the International Labour Conference in Geneva in June 2012 calling for decent work for migrant workers:

Working and living conditions for migrant workers in Qatar are modern-day slavery. As it undertakes a massive construction job for the 2022 World Cup, Qatar is putting at risk the lives of thousands of workers. Without genuine legal protection and union rights, more workers will die building the World Cup stadiums than players will play in the World Cup itself.²⁶⁶

The Qatari authorities are currently exploring options to remedy this situation and ensure that the success of the World Cup is not bought at a high human cost.

Physical violence and threats

Employers and workers alike indicated in the interviews that it was more difficult to use violence against male migrant workers than their female counterparts. An employer in Lebanon admitted openly that “it is not possible to use physical violence against these workers. They are men.” Syrian and Egyptian workers in Lebanon agreed, saying that “employers in Lebanon never use force with Egyptians because they know that we will take our revenge if they do so”. Even so, while employers may not often resort to outright physical violence against male migrant workers in putting pressure on them to work, they frequently use threats and insults. An Egyptian construction worker in Lebanon admitted: “We are often blackmailed by the employer,” and a Nepalese factory worker in Lebanon said that “my employer uses verbal insults against me”. Workers are often threatened with denunciation to the authorities and deportation back to their country of origin. For example, Bengali cleaning workers in Lebanon said that “our employer threatens us with dismissal if we don’t work like he wants”.

Lack of mobility between employers under the kafala system

Under the *kafala* system, a migrant worker cannot change employer without completing the contractual period and obtaining official release from the first employer. In Kuwait,

²⁶⁵ ITUC: *Qatar’s ambitions for the 2022 World Cup are pharaonic in scale*, May 2011, <http://www.ituc-csi.org/hidden-faces-of-the-gulf-miracle,9144.html> [accessed 10 Aug. 2012].

²⁶⁶ ITUC: *ITUC confronts Qatari labour minister with new evidence of abuse of migrant workers* (12 June 2012), <http://www.ituc-csi.org/ituc-confronts-qatari-labour.html?lang=en> [accessed 10 Aug. 2012].

workers who have three continuous years of residence and work with one employer in the country may transfer their work permits without reference to that employer.²⁶⁷ In Jordan, the migrant worker is allowed to transfer from one employer to another after six months have elapsed from the issuance of the work permit with the first employer, but only “provided that the Ministry and both the employers – the former and the new employer – give their approval in addition to cancelling of the work permit and issuance of a new one for a period of one year and with new fees”.²⁶⁸ Migrant workers (with the exception of agricultural workers) may also transfer without the approval of the former employer after their initial work permit expires.²⁶⁹

In the UAE, a ministerial decree of 2010 stipulates that migrant workers who have completed two years’ work with one employer can change job if they so choose and that the employer cannot prevent them from doing so.²⁷⁰ According to the annual report by the country’s National Committee to Combat Human Trafficking,

Ministerial Decree 1186 (2010) was issued with the aim of reorganising the labour market in the UAE and achieving more flexibility and liberalisation, as well as a balance in the contractual relationship between the employer and the worker. This allows a foreign worker who has completed a two-year working period to change jobs if he or she chooses to. The employer cannot compel such an employee to stay on. More importantly, the ‘no-objection certificate’ (NOC) rule stands scrapped, which means workers no longer face a six-month ban. Previously, workers had to complete at least three years of service with their employers and had to obtain an NOC letter to change jobs. The new decree is consistent with International Labour Convention 143 (1975) concerning migrant workers.²⁷¹

Both employers and workers interviewed in the region recognized that these rules governing their relations provide workers in exploitative situations with very few options to leave their employer. “My job is very good,” explained an Indian security guard in the UAE, “but I cannot leave before finishing my contract.” An owner of a garment and clothing factory in Jordan confirmed that “it is not possible for a worker to transfer from a company to another, unless the factory shuts down”.²⁷² Officials from the Kuwait Chamber of Commerce defended the operation of the *kafala* system, arguing that “we invest in workers. There are costs associated with bringing people over and training them, which are paid by the employer. There must therefore also be a dividend for the employers.”²⁷³ However, in preventing workers from moving at will from one employer to another, the *kafala* system constrains mobility and thereby prevents the efficient functioning of the labour market.

²⁶⁷ Kuwait, Ministerial Order No. 200(a), 27 Feb. 2011, concerning the regulation of employment in the private sector, art. 15.

²⁶⁸ Jordan, Instructions for the Conditions and Procedures of Recruiting and Employing Non-Jordanian Workers for the Year 2009, art. 12(2a).

²⁶⁹ Jordan, Instructions for the Conditions and Procedures of Recruiting and Employing Non-Jordanian Workers for the year 2009, art. 12(2b).

²⁷⁰ UAE, Ministerial Decree No. 1186, 2010.

²⁷¹ UAE, National Committee to Combat Human Trafficking: *Combating human trafficking in the UAE: Annual Report 2010–2011* (Abu Dhabi, 2011), p. 27.

²⁷² Interview with an owner of a garment factory, Jordan, 17 Nov. 2011.

²⁷³ Interview with an official of the Kuwait Chamber of Commerce, Kuwait, 29 Mar. 2012.

In the same way as for domestic and sex work, the reliance on the *kafala* system in these male-dominated sectors creates an unequal power dynamic. Egyptian construction workers in Lebanon found that “most of the time, when you have a sponsor, he controls everything”. Sri Lankan and Indian workers at a packaging company in Lebanon argued that “the problem is that you can’t change employer, so if you have a bad one who exploits you, you’ll have to stay with him as it’s pretty much impossible to leave your employer”. Egyptian workers in Kuwait also identified as their main problems “the *kafala* system and the way Kuwaitis treat foreigners, as if they were superior to us”. Others working at a soda company in Kuwait took a different view, saying “the problem is not with the Kuwait society because they are good people, but with the laws”. The KTUF positioned itself unambiguously on the issue in 2012 when it submitted a proposal to the Government to abolish the *kafala* system.

If the employer refuses to release a migrant worker from his contract, the worker is left in a difficult predicament: either he will have to agree to compensate the employer financially in order to terminate the contract, or he will have to leave without the employer’s consent. As the owner of a garment factory in Jordan said: “To terminate the contract, the worker must give one to three months’ notice and reimburse the cost of the residency permit and visa. As most who want to leave cannot pay this amount, we let them go back.” Better Work Jordan, a partnership between the ILO and the International Finance Corporation, noted in its latest compliance report one case of an employer refusing to allow a worker to leave upon the expiration of the labour contract until a replacement was found, and two cases of factories refusing to allow workers to resign with reasonable notice.²⁷⁴

In the UAE, Pakistani workers explained: “If you want to go back to your country before having completed the first six months, you have to pay 7,000 AED [US\$1,900].” The consequences of not agreeing to financially compensate the sponsor can also be grave: Egyptian drivers working in Kuwait believed that it would be possible for them to leave their jobs, “but we would have to forfeit our rights and pay the *kafeel* a sum of money through the agent who acts as an intermediary. If we do not pay, we will be deported.”

Some migrant workers decide to take the risk of leaving their employers without an official release in order to work as freelancers. If a worker absconds, the employer will report him to the authorities, which in turn will issue an exit ban on the individual and impose a fine that the migrant will have to pay in order to leave the country. “We don’t have the option to leave our sponsor because it is very difficult to find another one,” explained Egyptian construction workers in Lebanon. “If you leave, you become illegal and will have problems with the authorities who will detain you.” The risks of running away are compounded by the intraregional cooperation arrangements among the GCC countries, which now ensure that a migrant worker banned from one country will also be banned from the others. An Indian electrician interviewed in Kuwait said that workers understood that running away “effectively means you will never be able to work again in Kuwait or another GCC country, and the economic opportunities are here”.

²⁷⁴ Better Work: *Better Work Jordan: Garment industry 4th compliance synthesis report* (Geneva, ILO/IFC, 14 Nov. 2012), p. 25.

Box 3.22: Impossibility of leaving

Egyptians are considered the second largest community after the Indian community. Hundreds of them work under the mercy of a Kuwaiti sponsor without any guarantees that secure their rights as workers. The sponsor may, under any circumstances, lay-off the worker and throw him on the street no matter how difficult the worker's conditions might be. In such a case, the worker only has two choices. Either to become a fugitive violating the residency laws because of his incapability to pay his residence fees to a sponsor, or to face deportation to his country, this is always an unacceptable solution for them.

Akhbarelyum: "Egyptians in Kuwait: We suffer from injustice and our embassy ignores our problems", 8 June 2012, <http://www.akhbarelyum.com/12501/> [20 June 2012].

Retention of personal documents

Lack of mobility is compounded by the fact that migrant workers are not always in possession of their identity papers and cannot easily reclaim them from their employers. Higher-skilled migrant workers are not systematically deprived of their passports, as a Nepalese community leader in the UAE admitted: "Companies will sometimes keep the passports of low-skilled workers, but never the middle and high-skilled ones." However, for lower-skilled workers passport retention is widespread, and workers frequently have to pay to get their passports back. In the UAE, Pakistani workers at a food company said that their company kept their passports, "and if you want your passport back, you have to deposit 3,000 AED [US\$8], otherwise it's very difficult to obtain". Afghan construction workers also stated: "Our sponsor will not give us our passports until we finish our three-year contract. If we want to take annual leave, the sponsor will ask us to put money as a deposit to guarantee that we will return to finish our contract." Similarly, Nepalese workers at a factor in Lebanon reported that they had to pay US\$900 if they wanted their passports back. Some reports mentioned improvements in giving construction workers access to their passports, but there is still a long way to go to reach the ideal situation where no worker's passport is retained.²⁷⁵ A report by the ITUC on the working conditions of migrants in Qatar and the UAE also documented the malpractice of passport retention, stating that "the employers who sponsored their arrival will often hold on to their workers' passports or refuse to provide the authorisation needed for them to get an exit visa".²⁷⁶

Several reasons are advanced by employers to justify their keeping workers' passports. A recent survey on Egyptian workers in Jordan explains that "employers insist on keeping the custody of their workers' passports as soon as they arrive under the pretext that they need it to distribute the work permits".²⁷⁷ The retention of passports was seen as a problem by

²⁷⁵ "Home is much sweeter for Saadiyat Island labourers", in *Seven Days in Abu Dhabi* (Abu Dhabi), 20 Nov. 2012. This press article refers to some of the conclusions of the audit report of PricewaterhouseCoopers (PWC), which was appointed by the Abu Dhabi Tourism Development and Investment Company to monitor working conditions on Saadiyat Island.

²⁷⁶ ITUC: *Hidden faces of the Gulf miracle*, p. 16.

²⁷⁷ Tamkeen: *Between a rock and a hard place*, p. 58.

many official government sources interviewed, as it is against national laws. However, there was a tacit understanding that in certain cases it could be admissible. As an official from the Ministry of Social Affairs and Labour in Kuwait explained, “passport retention depends on the job. If the worker is handling money, the employer will not want the worker to have his passport.”²⁷⁸

This analysis of the responses of migrant workers and key informants in questionnaires, interviews and focus groups has shed considerable light on the four processes of trafficking involving construction, manufacturing, trade and agricultural workers, as well as seafarers. As in the cases of domestic work and sex work, further quantitative research is necessary to establish the true scale of the problem. Debate is under way on the need to reform the *kafala* system, and the ILO has called upon governments to take effective action to ensure that this system does not place migrant workers in a situation of increased vulnerability.²⁷⁹ Furthermore, the ILO Committee of Experts has reminded governments in the region of all workers’ right to terminate their employment contract at their own request without indicating any specific reason, simply by giving reasonable notice.²⁸⁰

²⁷⁸ Interview with an official from the Ministry of Social Affairs and Labour, Kuwait, 25 Mar. 2012.

²⁷⁹ ILO: *Observation (CEACR), Kuwait, Forced Labour Convention (No. 29)*, adopted 2011, published International Labour Conference, 101st Session, Geneva, 2012.

²⁸⁰ ILO: *Direct Request (CEACR), Yemen, Forced Labour Convention (No. 29)*, adopted 2011, published International Labour Conference, 101st Session, Geneva, 2012.

CHAPTER 4: REGIONAL RESPONSES TO HUMAN TRAFFICKING

4.1. STRENGTHENING THE LEGAL FRAMEWORK

In response to the crime of human trafficking, governments have sought to strengthen legal frameworks to facilitate the prosecution of perpetrators. All countries of the Middle East, with the exception of Yemen, have ratified the Palermo Protocol and the ILO Conventions on forced labour (see Annex I).¹ In accordance with these international conventions, which require each State party to adopt legislative measures to establish trafficking in persons as a criminal offence, governments in the region have sought to enact national legislation to that effect. All the governments in the region have adopted national legislation to combat trafficking with the exception of Kuwait, the Occupied Palestinian Territory and Yemen, which have drafted legislation. The penalties prescribed for violations vary, but all provide for terms of imprisonment and, in some cases, fines.

In 2004 the Arab League adopted the Arab Charter on Human Rights, which prohibits all forms of forced labour and human trafficking.² It also devised a Strategy to Combat Human Trafficking, developed a model law on combating human trafficking, and established a special unit that will receive reports from individual Arab countries on the status of human trafficking. This chapter will give details of penal and labour legislation related to trafficking in Jordan, Kuwait, Lebanon and the UAE, and of prosecution efforts to date.

4.1.1. Adoption of national laws on human trafficking

The Government of the UAE ratified the Palermo Protocol in January 2009, having already adopted Federal Law No. 51 on Combating Human Trafficking Crimes, which came into effect in November 2006. The passing of this law was particularly noteworthy as it was the first specialized anti-trafficking law in the Middle East. The law covers different types of human trafficking and imposes a life sentence if the crime was committed using deceit, force, threat of murder, bodily harm, or physical or psychological torture. It prescribes penalties against traffickers ranging from one year to life imprisonment and fines of between 100,000 and 1 million AED (US\$27,500–275,000).³ This law represents a significant step towards the elimination of human trafficking. However, it lacks provisions on the protection of victims. Recognizing these limitations in the law, the National Committee to Combat Human Trafficking appointed a subcommittee in 2010 to study the possibilities of amending Law No. 51 to reinforce the protection of victims and bring the legislation into line with international standards. Its recommendations have been forwarded to the Government for consideration.⁴

¹ ILO Convention on Forced Labour, 1930 (No. 29); ILO Convention on the Abolition of Forced Labour, 1957 (No. 105).

² League of Arab States, Arab Charter on Human Rights, 15 Sep. 2004, arts 9 and 10.

³ UAE, National Committee to Combat Human Trafficking: *Combating human trafficking in the UAE: Annual Report 2010–2011* (Abu Dhabi, 2011), p. 8.

⁴ Ibid., p. 9.

In Jordan, institutional reform to counter trafficking more effectively began in 2007, with the establishment of an interministerial committee for the coordination of labour issues.⁵ One of the major accomplishments of the committee was to speed up the process of adopting national legislation to combat trafficking. Jordan ratified the Palermo Protocol in June 2009 and adopted its Anti-Human Trafficking Law No. 9 in March 2009. The law prohibits all forms of trafficking and prescribes penalties of up to ten years' imprisonment and fines up to US\$28,000 for sex trafficking, and a minimum of six months' imprisonment and a maximum fine of US\$7,000 for labour trafficking. According to one scholar, the Jordanian law is quite progressive in terms of victim protection as it includes the principle of non-punishment of victims of trafficking in its explicit stipulation that no victim of trafficking will be prosecuted even if he or she has committed an act that is considered a crime under the law.⁶

In Lebanon, the Government ratified the Palermo Protocol in October 2005 and adopted Law No. 164 on the Punishment for the Crime of Trafficking in Persons, which came into force in August 2011.⁷ The law prohibits all forms of human trafficking and prescribes penalties of up to 15 years' imprisonment and the payment of a maximum fine of 600 times the official minimum wage for perpetrators and their partners, accomplices or other instigators.⁸ The entry into force of this law marked a significant milestone for the country in combating human trafficking. The law included a non-punishment clause for victims, as well as provision for the confiscation of the perpetrator's assets. Gaps in protection remain, however, as no assurance is given of the victim's right to present his/her view at appropriate stages of criminal proceedings, or to be protected during the court proceedings, as required under the Palermo Protocol.⁹ The law also states that a defendant may stay in Lebanon during the period of the investigation but it does not require the issuing of a temporary residence permit to the victim for the entire duration of the legal proceedings.¹⁰ Finally, the law lacks detail regarding the support and protection that should be afforded to trafficked victims under the age of 18.¹¹ A recent legislative statute tried to clarify how the Minister

⁵ Jordan, Ministry of Labour: *Labour administration and compliance in Jordan: A multi stakeholder collaboration. First progress report*, Oct. 2009, p. 22.

⁶ M. Mattar: *The international legal norms applicable to human rights*, speech delivered to a conference organized by Foundation for the Future, Amman, Jordan, 29 Sep. 2010.

⁷ Lebanon, Law of Punishment for the Crime of Trafficking in Persons, No. 64, 9 Jan. 2011, art. 586(1), identifies the nine different types of exploitation that are considered acts punishable by law: prostitution or sexual exploitation; begging; slavery or slavery practices; compulsory work; forced recruitment of children for use in armed conflicts; forcible involvement in terrorist acts; and trafficking of organs.

⁸ Lebanon, Law of Punishment for the Crime of Trafficking in Persons, No. 64, 9 Jan. 2011, art. 586(1).

⁹ According to art. 6 (2) of the Palermo Protocol relating to the assistance and protection of victims of trafficking in persons, each State Party shall ensure that its domestic legal system contains measures to protect and assist the victims, such as to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against the offenders.

¹⁰ Lebanon, Counter-Trafficking Working Group, *Joint recommendations on the draft law on the punishment of trafficking in Persons*, 1 June 2011.

¹¹ According to art. 6 (4) of the Palermo Protocol, each State Party "shall take into account ... the age, gender and special needs of victims, in particular the special needs of children, including appropriate housing, education and care". Also, art. 7(b) of ILO Convention No. 182 states that the national law should "provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration".

of Justice might enter into agreements with specialized institutions that assist and protect victims of human trafficking.¹²

In Kuwait, the Government ratified the Palermo Protocol on 12 May 2006; as required under the protocol, a draft anti-trafficking law was proposed by the Ministry of Justice in 2007. It has been on Parliament's agenda ever since.¹³ Kuwait renewed its pledge to enact human trafficking legislation at the UN's Human Rights Council in May 2010;¹⁴ to date, however, the draft law has still not been adopted, making Kuwait and Yemen the only countries in the Middle East with no specific legislation on human trafficking. The delay in the law's adoption should be seen within the wider political setting in Kuwait, with multiple cabinet reshuffles and parliamentary dissolutions between 2008 and 2012.¹⁵ Several human rights advocates consider the absence of a law criminalizing trafficking as a major factor in the continuing exploitation of migrant workers and have lobbied the Government to ratify a law that includes severe penalties.¹⁶

4.1.2. Creation of institutions

Several countries in the Middle East have tried to support the improvements in the legal framework by setting up institutions that foster efforts to combat human trafficking. A number of institutions have been established, sometimes in the form of a foundation, as in Qatar, elsewhere through the establishment of a national committee, as in Jordan, Saudi Arabia and the UAE.¹⁷ No such institutional arrangement has yet been set up in Kuwait.¹⁸

The Government of the UAE established the National Committee to Combat Human Trafficking (NCCHT) in April 2007 to oversee the implementation of Federal Law No. 51 and to create a coordinating body for anti-human-trafficking efforts in the seven emirates of the federation.¹⁹ The NCCHT is responsible for implementing a four-pillar action plan

¹² Lebanon, Implementation Decree No. 12 for Law No. 164, Statute defining terms for entering into contracts with institutions and associations that help and protect victims of trafficking in persons and [setting] the bases for extending assistance and protection, 12 July 2012.

¹³ Kuwait issued Law No. 5, 2006, ratifying the UN Convention adopted by General Assembly Resolution 55/25 of 15 Nov. 2000.

¹⁴ UN Human Rights Council: *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council Resolution 5/1, Kuwait*, A/HRC/WG.6/8/KWT/1, 22 Feb. 2010, p. 25.

¹⁵ M. Badri Eid: *Kuwait's 2012 National Assembly Elections and the future of Kuwaiti democracy* (Doha, Al Jazeera Centre for Studies, Feb. 2012), p. 2. In Feb. 2012, Kuwait's Islamist-led opposition won a majority in snap parliamentary elections called by the Emir, Sheikh Sabah al-Ahmed al-Sabah. But in June 2012, the country's constitutional court declared the elections illegal and dissolved the new parliament. BBC News: "Arab uprising: Country by country – Kuwait", <http://www.bbc.co.uk/news/world-19401680> [accessed 14 Aug. 2012].

¹⁶ See e.g. Kuwaiti Association of the Basic Evaluators of Human Rights, *Statement about: Status of human rights in the State of Kuwait* (Kuwait City, 1 Nov. 2009), p. 4.

¹⁷ Mattar: *The international legal norms applicable to human rights*; interview with the Secretary-General of the Committee on Combating Trafficking in Persons in Saudi Arabia, Qatar, 18 Jan. 2012.

¹⁸ Mattar: *The international legal norms applicable to human rights*.

¹⁹ Its members include representatives from the Federal Ministries of Interior, Foreign Affairs, Labour, and Health and Social Affairs; the State Security Authority, Public Prosecutors, Law Enforcement, the Red Crescent Society and the Emirates Human Rights Association, as well as the shelters Ewa'a and the Dubai Foundation for Women and Children.

which focuses on legislation, enforcement, victim support and international cooperation. The activities of the NCCHT include (among others) revising human trafficking legislation with the aim of bringing the UAE into line with international standards; creating resources to increase public awareness of human trafficking issues; and developing training in victim sensitivity for the bodies and individuals dealing with victims of trafficking.²⁰

In Jordan, under the 2009 anti-trafficking law, the interministerial committee was replaced by the National Committee for Combating Trafficking in Human Beings (NCT), chaired by the Minister of Justice, in June 2009.²¹ In 2009 the NCT launched a National Strategy and Action Plan to Combat Human Trafficking for 2010–2012.²² The action plan includes a number of important provisions, such as building the capacity of the judiciary and public prosecutors to ensure the enforcement of the new anti-trafficking law.²³ The NCT is supposed to meet quarterly, but has not done so since August 2010, owing to several government reshuffles and a lack of interministerial cooperation.²⁴

In Lebanon, a drafting committee working on elaborating a strategy for the enforcement of the Law on the Punishment for the Crime of Trafficking in Persons has recently been established on the initiative of the Institute for Human Rights of the Beirut Bar Association. The committee is composed of representatives from governmental institutions as well as from the Beirut Bar Association.²⁵ The committee holds regular meetings, and the strategy is expected to be released shortly.²⁶

4.1.3. Provisions in penal and labour codes applying to the crime of trafficking

In addition to the anti-trafficking laws, the penal and labour legislative codes in Jordan, Kuwait, Lebanon and the UAE contain provisions that can be applied to the crime of trafficking. The Jordanian criminal law includes several provisions that criminalize offences related to the crime of human trafficking, such as threats of murder or of assault, beating and rape; driving someone to suicide; torture, forced confinement and murder.²⁷ There are also specific provisions in the penal code that can be used to prosecute perpetrators of sex trafficking.²⁸ Several articles in the labour law can also be used to punish trafficking-related

²⁰ UAE: National Committee to Combat Human Trafficking, *Introduction*, <http://www.nccht.gov.ae/en/menu/index.aspx?mnu=cat&PriMenuID=11&CatID=3> [accessed 14 Aug. 2012].

²¹ Jordan, Anti-Human Trafficking Law No. 9, 2009, art. 4.

²² Jordan, National Committee for Combating Trafficking in Human Beings: *National Strategy for Combating Trafficking in Human Beings and 2010–2012 Framework* (Amman, 2010).

²³ Ibid., p. 7.

²⁴ Interview with an official from the the Anti-Human Trafficking National Committee, Ministry of Justice, Jordan, Nov. 2011.

²⁵ Namely the Ministries of Labour, Interior, Justice and Social Affairs, the ISF and the General Security Directorate.

²⁶ Interview with an official of the Institute for Human Rights of the Beirut Bar Association, Sep. 2012.

²⁷ Jordan, Criminal Code of 1956 and its amendments, arts 13, 208, 292, 326–30, 334, 339, 343, 344, 346, 350, 352.

²⁸ Jordan, Criminal Code of 1960, ch. 2, arts 317 and 292.

offences.²⁹ These provisions were used by judges to punish perpetrators of the crime of trafficking prior to the passing of the 2009 law specifically designed to counter trafficking.

Lebanon's penal code also criminalizes offences related to the crime of human trafficking. These provisions cover abduction and deprivation of liberty; fraud, deceit and abuse of power; exploitation of the prostitution of others; abandonment of a minor for money; and threats to inflict unfair harm.³⁰ The criminal code furthermore punishes forced prostitution.³¹ Additionally, Lebanon's labour code limits coercive and deceptive practices by requiring that contracts are issued to workers, prohibiting excessive overtime, and stipulating that employers must give annual leave to their workers.³² The Law of 1962 regulating foreigners' entry into and residence in Lebanon also has several important provisions that guarantee basic rights to migrant workers, such as liberty of movement throughout the Lebanese territory.³³

In the UAE, the Federal Penal Code No. 3 of 1987 includes several articles that penalize crimes related to trafficking offences. These articles prohibit slavery,³⁴ kidnappings,³⁵ forced

²⁹ Pertinent provisions from the Jordanian Labour Law No. 8 of 1996 include the following: art. 12(f) (1) stipulates that an employer or director of an establishment can be punished with a fine between 200 JOD and 500 JOD for every non-Jordanian worker hired without obtaining a work permit; art. 46 prohibits employers from "deducting any part" from the salary, which shall be paid no later than seven days after it has been earned; art. 59 specifies that workers shall earn 125 per cent of their hourly wages for overtime, and 150 per cent for work on weekly rest days, or religious and national holidays; art. 77 stipulates that an employer can be punished for employing a worker through force, threat, fraud or coercion, including withholding of travel documents, with a fine between 500 JOD and 1,000 JOD. Also, art. 18(b) of the Passport Law No. 5 of 2003 adds that anyone found in possession of a passport or travel documents in an illegal manner shall be punished by imprisonment for between six months and three years, and/or by a fine between 500 JOD and 1,000 JOD.

³⁰ Lebanon, Criminal Code, 1 Mar. 1943, as amended on 16 Sep. 1983 and 27 May 1993 respectively, arts 492, 495, 500, 507, 508, 515, 523, 524, 525, 569, 578, 668.

³¹ Lebanon, Criminal Code, 1 Mar. 1943, art. 523. In terms of sexual exploitation, the case of Lebanon is unique in that a law of 1931 allowed prostitution and that no specific amendment to that law has ever been adopted. However, no more licences for brothels have been issued since 1975 (MTV documentary: *Prostitution in Lebanon*, 2011, <http://www.youtube.com/watch?v=iRI81FN0-L4> [accessed 2 Mar. 2012]).

³² Lebanon, Labour Code, 1946, art. 34, provides protection against excessive overtime work by fixing the maximum period of work at six consecutive hours for male employees and five consecutive working hours for female employees and by obliging the employer to grant them an hour of rest during this time. The employees must have, every 24 hours, an uninterrupted break of a period of nine hours. Art. 36 imposes a weekly rest period of no less than 36 uninterrupted hours. Art. 39 provides an annual leave of a period of 15 days for all workers who have been employed for at least one year within the same company or for the same employer. Art. 47 states that salaries must be paid at least once a month to the workers and twice a month to the workers.

³³ Republic of Lebanon, Law on the entry and stay in Lebanon as well as the exit of 10 July 1962, Articles 4 and 12.

³⁴ UAE, Federal Penal Code No. 3, 1987, art. 346, states: "Whoever smuggles someone into or out of the country with the intention of taking possession of him or disposing of him, and whoever possesses, buys, sells, offers for sale, or disposes in any manner whatsoever of a person as a slave, shall be punished by a term of imprisonment."

³⁵ UAE, Federal Penal Code No. 3, 1987, art. 34, states: "Whoever illegally kidnaps, arrests, detains or deprives a person of his freedom, whether by himself or through another by any means without lawful justification, shall be punished by a term of imprisonment."

labour and physical abuse, as well as endangering the life of a child.³⁶ The penal code makes forced prostitution a criminal offence, which can lead to ten years' imprisonment. It also lays out penalties for those establishing and managing premises where prostitution takes place.³⁷ The Federal Labour Law No. 8 of 1980 also contains provisions to limit exploitative practices of employers, but falls short of dealing with the core issues of trafficking and forced labour.³⁸ The Ministry of Labour is currently studying the possible amendment of Federal Labour Law No. 8 to better protect workers from exploitation, perhaps including a definition of forced labour and a corresponding criminal penalty.³⁹ By doing so, it would bring the revised law into conformity with international standards stipulated in the ILO's Convention No. 29, which requires countries to ensure that the exaction of forced or compulsory labour is punishable as a penal offence, and that the penalties imposed by law are really adequate and strictly enforced.⁴⁰

In Kuwait, in the absence of a specific law combating trafficking, the Government penalizes the crime of human trafficking using its current constitution,⁴¹ penal code⁴² and several

³⁶ UAE, Federal Penal Code No. 3, 1987, art. 350, states: "Whoever endangers a child aged under seven years in a place inhabited by people, whether directly by himself or indirectly through others, shall be punished by detention or by a fine not exceeding 10,000 dirhams."

³⁷ UAE, Federal Penal Code No. 3, 1987, art. 364 states: "Whoever entices a male or female into committing debauchery or prostitution by coercion, threat or trickery, shall be punished by imprisonment for a period not exceeding ten years. Punishment by imprisonment for at least ten years shall be inflicted on the offender if the victim is under 18 years of age. Whoever detains a person against his will by coercion, threat or trickery, with the intention of forcing him to commit any act of lewdness or prostitution, shall be sentenced to the previous penalties as the case may be."

³⁸ Pertinent articles from the UAE Federal Labour Law No. 8, 1980, include the following: art. 18 stipulates that it is not permissible for any licensed labour agent to demand or accept from any worker any commission or material reward in consideration for arranging such recruitment, nor may he obtain from him any expenses except as may be decided by the Ministry of Labour and Social Affairs; art. 60 states that no amounts of money may be deducted from the employee's remuneration to recover particular rights, except specific cases; art. 65 states that the maximum normal working hours for an adult shall be eight hours per day or 48 hours per week (however, working hours for the employees of commercial establishments, hotels and restaurants may be increased to nine hours per day); art. 69 stipulates that actual overtime may not exceed two hours per day unless work is necessary to prevent substantial loss or serious accident; art. 70 states that Friday is the normal weekly holiday for all employees except for those on a daily wage basis; art. 94 stipulates that the employer must provide proper cleanliness and ventilation in each place of business and must provide such places with adequate illumination, potable water and toilets; art. 101 adds that each employer who employs employees in areas that are remote from cities shall provide employees with adequate means of transport, adequate accommodation, drinking water, proper foodstuffs, medical aid equipment, and entertainment and sports amenities. With the exception of foodstuffs, all these services shall be at the expense of the employer.

³⁹ UAE, National Committee to Combat Human Trafficking: *Combating human trafficking in the UAE, Annual Report 2010–2011*, p. 10.

⁴⁰ ILO, Forced Labour Convention, 1930 (No. 29), arts 23 and 24.

⁴¹ Kuwait's Constitution of 1962, art. 31, states that no person shall be detained or compelled to reside in a specific place, nor shall the liberty of movement be restricted. This article also forbids torture and degrading treatment. Art. 42 criminalizes forced labour except in the cases specified by law for national emergency and with just remuneration.

⁴² Kuwait's Penal Code of 1960, arts 178–83, criminalize kidnapping, which may be punished by death. Art. 184 forbids the illegal detention of a person; art. 185 forbids anyone to enable a person to enter or leave Kuwait with the intention of making them a slave or to purchase or offer for sale a person

ministerial orders.⁴³ The Government has a legal basis on which to prosecute some of the offences that constitute the crime of trafficking, but does not currently have any specific protection mechanisms for victims of trafficking. Kuwait also can draw on its Law of Labour in the Private Sector (No. 6), adopted in February 2010, which sets the standards for work in the country, including measures to limit coercive and deceptive practices. It replaced a law that had been used for the previous 45 years, and which had been criticized by human rights advocates as favouring employers at the expense of workers.⁴⁴ Law No. 6 sets new standards for working hours, public holidays, paid leave and sick leave, and end of service payments.⁴⁵ It has been seen by many as providing a basis on which to combat the deceptive and coercive labour practices that are key elements of trafficking.

4.1.4. Specific legal instruments regulating the work of domestic workers

Most countries in the region exclude domestic workers from the scope of their labour laws, and this exclusion is highly problematic for the effective protection of their rights as workers. The notable exception is Jordan, which 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.⁴⁶ In 2009 such a regulation was issued, setting out the respective obligations of employers and workers in domestic labour contexts and containing provisions relating to working hours, paid leave and working conditions.⁴⁷ In 2012, Bahrain also extended coverage of certain provisions of its new Labour Law to domestic workers, including those relating to labour contracts, wage calculations, annual leave and dispute settlements.⁴⁸

as a slave; art. 186 stipulates that rape is punishable by life imprisonment; art. 201 makes it illegal for an individual to force someone to engage in prostitution by using either coercive or deceptive means or threats. Arts. 200–04 state that prostitution is illegal, as are the activities of pimps, clients, brothel owners and those who facilitate or encourage prostitution.

⁴³ Kuwait, Ministry of Social Affairs and Labour, Order No. 105 of 1994, art. 1(1) and (2) prohibits employers in the private sector to force a worker to work or to perform tasks that fall outside the scope of the job and to employ a worker without pay; Order No. 166, 2007, and Order No. 194/A, 2010, art. 1, prohibit employers in the private sector from retaining the travel documents of their workers.

⁴⁴ Agence France Presse: “Kuwait MPs pass new labour law, but sponsor system stays”, *Arab Times*, 14 June 2012, <http://www.arabtimesonline.com/NewsDetails/tabid/96/smid/414/ArticleID/147218/reftab/96/t/Kuwait-MPs-pass-new-labour-law-but-sponsor-system-stays/Default.aspx> [accessed 14 June 2012].

⁴⁵ Pertinent articles from Kuwait’s Law of Labour in the Private Sector (No. 6), 2010, include the following: art. 10 prohibits the employer from recruiting foreign workers without permission from the authorities and requires the sponsor to provide them with employment; art. 19 prohibits the employment of persons below the age of 15 years; art. 23 prohibits women from being employed in jobs that violate morals and exploit their femininity in violation of public morals, and specifies that no woman shall be made to work at establishments that provide services exclusively for men; art. 64 forbids workers to work more than 48 hours per week or eight hours a day.

⁴⁶ Jordan, Law No. 48, 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.

⁴⁷ Jordan, Ministry of Labour, Regulation for Domestic Workers, Cooks, Gardeners and Similar Categories, No. 90, 2009.

⁴⁸ Bahrain, Act No. 36, 2012, Promulgating the Labour Law in the Private Sector.

Other countries have taken the approach of developing separate legal provisions specific to domestic workers, through either laws or regulations. Kuwait, Lebanon, Qatar, Saudi Arabia, and the UAE are among those countries that have drafted specific laws regulating the work of domestic workers, although to date none of these provisions have been enacted. However, some 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 them and their employers shall be established instead by ministerial decision.⁴⁹ A resolution issued in 2010 provides for certain guarantees for domestic workers related to the minimum wage, working hours and annual paid leave.⁵⁰ At the same time, draft legislation on domestic work is reportedly under review by the National Assembly.

Aside from the laws and regulations described above, several countries have introduced standard employment contracts; in many cases, these contracts constitute the only form of legal protection for migrant domestic workers. In Lebanon, the standard contract sets out the respective obligations of employers and workers and contains provisions regarding food and housing, working hours, termination of the contract and other conditions of work.⁵¹ Other countries that have developed standard employment contracts include Bahrain, Jordan, Kuwait, Oman and the UAE.

4.1.5. Prosecution of human trafficking cases

The emergence in the Middle East of a body of law specific on human trafficking, while commendable, has not led to many prosecutions and convictions of perpetrators. This lack of accountability, and lack of access to justice for victims, can be traced back to inadequacies in the capacity of law enforcement officials and other key stakeholders to identify victims. As one eminent scholar and practitioner recently stated: "Many Arab governments have not developed a systematic approach to identifying victims or those who may be vulnerable, including those arrested for prostitution or foreign workers."⁵² As this study has sought to demonstrate, victims are to be found in many and various occupational sectors, suggesting a need for a stronger focus on trafficking for labour exploitation.

In addition to weak identification mechanisms, governments in the region have yet to implement strong data collection systems which enable the referral of cases between law enforcement entities and ensure a coordinated response. The absence of such data systems makes it difficult to know the status of cases across the judicial system and to identify perpetrators clearly. Moreover, as the UN Secretary-General explained to the General Assembly, "data gathered more consistently and uniformly by States allow for a more accurate global assessment of the impact of trafficking and identify relevant linkages and flows between States to assist in the development of more targeted solutions".⁵³

⁴⁹ Kuwait, Law of Labour in the Private Sector, No. 6, 2010.

⁵⁰ Kuwait, Ministerial Resolution No. 1182, 2010.

⁵¹ Lebanon, Ministry of Labour, Work contract for migrant domestic workers, No. 19/1, 2009.

⁵² M. Mattar: The Protection Project: Testimony by Dr. Mohamed Mattar at the Tom Lantos Human Rights Commission Hearing, 28 Nov. 2012, p. 3.

⁵³ UN General Assembly: Trafficking in women and girls, report of the Secretary General (23 July 2012), A/67/170, p. 16.

In Lebanon, there are no official data on court cases human trafficking, as the counter-trafficking law was adopted only recently. Recent cases filed at the Court House of Baabda concern minors forced by their parents to beg on the streets, minors forced to work in super nightclubs and a Syrian woman forced into prostitution.⁵⁴ According to the General Prosecutor of Mount Lebanon, these cases are currently before the indictment chamber and the perpetrators, Lebanese and Syrian alike, will be prosecuted according to the newly added article 586 of the penal code.⁵⁵ A judge at the Court of Appeals in Beirut also confirmed that four cases related to trafficking had been submitted to him as of April 2012.⁵⁶

All the cases brought to court to date involve the trafficking of persons for sexual or child exploitation. Cases of labour exploitation against domestic workers have also been filed in court but are not typically considered a penal crime, unless there is physical violence involved. The first successful court case lodged by a domestic worker was won in 2007, prior to the adoption of Lebanon's counter-trafficking law. It involved a Sri Lankan domestic worker who had been repeatedly beaten by her female employer.⁵⁷ She had sought help at Caritas, and subsequently was sent to hospital for treatment.⁵⁸ "This case was important," explained a judge, "because it expressed the willingness of the magistrate to protect the victims."⁵⁹

In the UAE, 37 cases related to human trafficking were registered under Federal Law No. 51 in 2011, involving 51 victims and 111 traffickers, and leading to 19 convictions.⁶⁰ The National Committee to Combat Human Trafficking noted in its annual report:

A change is being observed in the nature of human trafficking crimes that are being recorded in the country. While all cases in the past pertained to sexual exploitation, there are now cases that fall outside the scope of this form of abuse. A few cases of labour exploitation, forced labour, and in even fewer instances sale of children [linked to adoption, which is illegal in the UAE] were also recorded.⁶¹

⁵⁴ Interview with an official from the Palace of Justice, Mount Lebanon, 18 Jan. 2012.

⁵⁵ Interview with an official from the Palace of Justice, Mount Lebanon, 18 Jan. 2012.

⁵⁶ Two cases involved two Syrian women forced into prostitution by an Iraqi man. The perpetrator has been accused under art. 1 of Lebanon's anti-trafficking law, but the judgment has not yet been rendered (request for investigation No. 8321/2012). The third case involves a Syrian man residing illegally in Lebanon who has been accused of exploiting his 12-year-old son into forced begging (request for investigation No. 8564/2012). The fourth case involves a Lebanese man who preyed on minors through the Internet, inciting them to have sexual intercourse with him (request for investigation No. 8562/2012).

⁵⁷ Case Law No. 28063, provided by the judge on 9 Mar. 2012. The case was presented to the Court of First Instance in Byblos, Mount Lebanon on 12 Sep. 2007.

⁵⁸ The judge delivered the sentence on 24 June 2010. It consisted of: (1) one month's imprisonment for the employer; (2) a 10 million Lebanese pounds (LBP: US\$6,700) fine, to be paid to the victim as compensation for the physical and moral abuse encountered; (3) a prohibition on the defendant's employing another domestic worker for five years. The defendant appealed the decision on 5 July 2010 at the Court of Appeal in Mount Lebanon, but the sentence was confirmed on 31 Jan. 2011.

⁵⁹ Interview with an official from the Ministry of Justice, Lebanon, 26 Sep. 2011.

⁶⁰ UAE, National Committee to Combat Human Trafficking: *Combating human trafficking in the UAE: Annual Report 2010–2011* (Abu Dhabi, 2011), pp. 12–13.

⁶¹ Ibid., p. 13.

Stakeholders interviewed confirmed that the majority of cases brought in the UAE are related to sex trafficking. Three officials of the Dubai Public Prosecution said that they had dealt with only one case of labour exploitation in 2010.⁶² Officials from the Abu Dhabi Public Prosecution and Federal Public Prosecution also confirmed that they had not dealt with any cases of labour trafficking.⁶³ According to a senior official of the Ministry of Labour, the paucity of labour trafficking cases prosecuted is attributable to the existence of safety nets relating to labour exploitation, and that typically cases of this kind are not referred to the NCCHT but are directly handled by labour dispute mechanisms.⁶⁴

Box 4.1: Ending the use of child camel jockeys

The tradition of camel racing in the Arab peninsula dates back hundreds of years. Historically, camel racing was a Bedouin sport, with races put on for social celebration and competition.^a Children as young as 2 or 3 years old were used as camel jockeys. These children were recruited primarily from Bangladesh, Mauritania, Pakistan and Sudan. Some parents knew what awaited their children, while others did not. Both the UAE and Qatar recognized the need to phase out this form of child labour, which had resulted in deaths and various forms of injury, including injuries to head, spine and genitals, to the children involved.^b In what became the most high-profile effort to combat human trafficking, the Government of the UAE adopted Law No. 15 of 2005 to ban children under 18 from participating in camel racing.^c Also in 2005, in partnership with the United Nations Children's Fund (UNICEF), the UAE's Ministry of Interior supported the repatriation of 4,782 children to their countries.^d It provided US\$3 million to establish transit centres providing medical assistance and other services to children affected, community care committees, a family tracing system, social care for children and the roll-out of educational campaigns. In Qatar, the Supreme Council for Family Affairs oversaw the repatriation of 25 children to Sudan, with the support of the Qatar Foundation. Both the UAE and Qatar supported not only the repatriation of the children but also their reintegration into their home societies, and introduced robots to replace children as camel jockeys.

^a Save the Children Sweden: Camel jockeys of Rahimyar Khan: Findings of a participatory research on the life and situation of child camel jockeys (Peshawar, 2005).

^b Interview with an official from UNICEF, UAE, 29 January 2012.

^c N. Janardhan: Boom amid gloom: The spirit of possibility in the 21st century Gulf (London, Ithaca Press, 2011).

^d Interview with an official of the Ministry of Interior, UAE, 27 Jan. 2012. According to the figures provided by the Ministry of Interior, 879 children were repatriated to Bangladesh, 543 to Mauritania, 1,303 to Pakistan and 2,057 to Sudan.

⁶² Interview with an official of the Dubai Public Prosecution, UAE, 30 Jan. 2012. The Attorney General of the Dubai Public Prosecution took the decision to establish a special investigation team to deal exclusively with cases of human trafficking.

⁶³ Interview with an official of the Abu Dhabi Public Prosecution, 1 Feb. 2012

⁶⁴ Interview with an official of the Ministry of Labour, United Arab Emirates, 29 Jan. 2012.

In Jordan, the police's anti-trafficking unit dealt with 14 cases of human trafficking in 2012, involving 23 victims.⁶⁵ According to a judicial source, the Government investigated and prosecuted 35 cases in 2011, including several cases of trafficking of domestic workers for forced labour and one case of forced prostitution.⁶⁶ The Chief Prosecutor of Amman also reported that the Prosecutor's Office had dealt with 14 cases of human trafficking in 2009 (before the passing of the law) and eight cases in 2010.⁶⁷ Between 2008 and 2010 prosecutors investigated several cases of organ selling (sale of kidneys), one case of trafficking for sexual exploitation and two cases of selling of children, which were not considered human trafficking under the law as it stood in 2008. Prosecutors also reported a case of sexual exploitation in 2010 involving two girls from Morocco and Tunisia who were working in a nightclub and were sold to another nightclub.⁶⁸

Kuwait, like Lebanon, has no specific data available on prosecutions for trafficking as it does not have a counter-trafficking law. Judicial sources interviewed nonetheless told the research team of important court decisions related to sexual exploitation. These cases primarily concerned the physical and sexual abuse of domestic workers and those involved in commercial sex work. There was also one notable decision in December 2003 that condemned a local sponsor for forced labour and passport retention.⁶⁹ The *United States Trafficking in Persons Report* has documented the prosecution of several Kuwaiti citizens and expatriates for crimes related to the abuse of domestic workers.⁷⁰ It also refers to several prosecutions for illegal trading in residence permits and for recruiting workers without providing them with work.⁷¹ These cases could arguably be seen as dealing with trafficking offences.

4.2. STRENGTHENING THE INSTITUTIONAL FRAMEWORK

Governments and other key stakeholders have broadened the response to human trafficking beyond the legal framework in order to more effectively prevent and punish the crime by enforcing national laws and regulations and protect identified victims. The details presented here by no means constitute an exhaustive account of responses by all the actors concerned,

⁶⁵ Interview with an official from Jordan's Public Security Directorate, anti-trafficking unit, 15 Nov. 2012. The statistics for 2012 provided by the Public Security Directorate showed that 13 victims were women and 10 were men. There were three cases (involving nine women) of trafficking of domestic workers, two cases (involving two men) of trafficking for organ removal, and two cases (involving four women and eight men) of trafficking in other sectors of the economy.

⁶⁶ Telephone interview with a judge at the Ministry of Justice, Court of Justice of Amman, Jordan, 31 May 2012.

⁶⁷ Interview with an official of the Ministry of Justice, Jordan, 15 Nov. 2011.

⁶⁸ Interview with an official of the Court of Justice of Amman, Jordan, 16 Nov. 2011.

⁶⁹ Kuwaiti court decisions shared by Court of Justice, Amman, 28 Mar. 2012.

⁷⁰ For more information, see US Department of State: *Trafficking in Persons Report 2010* (Washington, DC, 2011). The report notes that Kuwait charged 15 Kuwaiti citizens and 63 expatriates with crimes relating to the abuse of domestic workers, including one murder. Only two individuals were subsequently imprisoned. A Kuwaiti employer was also sentenced to seven years in prison for beating a domestic worker to death.

⁷¹ US Department of State: *Trafficking in Persons Report 2007* (Washington, DC, 2008).

but rather provide a snapshot of the various mechanisms currently used in this evolving response.

The “Arab Initiative for Building National Capacities to Combat Human Trafficking”, launched in March 2010 by the Qatar Foundation for Combating Human Trafficking and the League of Arab States in collaboration with UNODC, aims to strengthen the institutional capacities of the region’s criminal justice systems, improve mechanisms for the appropriate identification, referral, support and protection of trafficking victims, and raise awareness of the crime and its consequences.⁷² “GCC countries, due to their welfare, stability and high connectivity are very vulnerable to illegal trafficking in general and human trafficking in particular,” explained the representative of UNODC to the GCC, adding that “UNODC hopes that the Arab Initiative might help lead the already existing commitment of the GCC and Arab States in the right direction, in conformity with international standards”⁷³.

The ILO also recently launched a regional programme on the protection of migrant workers in the Middle East (of which the present research forms a part), with the support of the Swiss Agency for Development and Cooperation. The ILO will work with its national constituents and other key partners on improving the labour migration governance framework and protection mechanisms available in the region. The ILO also has plans for partnerships with key stakeholders in the region to pursue the fight against trafficking for labour exploitation.

4.2.1. Delivery of training programmes for law enforcement officials

With the adoption of new legislation, there has been a concerted effort to reinforce the capacity of the authorities to act effectively in enforcing it. To this end, governments have developed a series of training programmes for their staff. In the UAE, the NCCHT organized workshops and training courses for officials working in immigration, police and public prosecution, and for those managing shelters for victims.⁷⁴ The Ministry of Labour also created a specialized human trafficking unit in 2008, with four inspectors in Dubai and six in Abu Dhabi.⁷⁵

⁷² Qatar Foundation for Combating Human Trafficking: *Second Doha Forum on Combating Human Trafficking*, background conference paper for the launch of the Arab Initiative for Building National Capacities to Combat Human Trafficking, Doha, 16–17 Jan. 2012.

⁷³ Interview with the representative of UNODC for the GCC, Qatar, 16 Jan. 2012. The purpose of the initiative is to build the capacity of key stakeholders, including governmental and non-governmental bodies, to promote the development, monitoring and implementation of national strategies. The Arab Initiative is also focused on promoting the development of legal and regulatory frameworks in accordance with the Arab League strategy, establishing an anti-trafficking coalition across the Arab world, and ensuring that victim care mechanisms are more accommodating to all forms of trafficking and the gender of victims.

⁷⁴ Interview with an official from the UAE National Committee to Combat Human Trafficking, UAE, 29 Jan. 2012.

⁷⁵ Interview with an official from the Ministry of Labour, UAE, 2 Feb. 2012.

In Jordan, the ILO organized training for labour inspectors, police officers and prosecutors on how to identify and respond to cases of forced labour and trafficking in February 2013. The IOM, in partnership with the Government, also delivered training programmes on identifying victims of human trafficking. In 2011 the American Bar Association (ABA) convened several awareness workshops to build jurisprudence for judges and public prosecutors in all the governorates of Jordan;⁷⁶ it also organized, in partnership with the Sisterhood Global Institute, an awareness workshop for lawyers, civil society organizations, and Public Security Directorate personal and media representatives. In 2012 the ABA also set up awareness sessions for junior women judges.⁷⁷

In Lebanon, several NGOs, including Heartland Alliance, Caritas, World Vision and the International Centre for Migration Policy Development (ICMPD), carried out issue-specific training for immigration and police officers.⁷⁸ In September 2011 Caritas also launched jointly with the GDGS a project at Beirut International Airport to improve the reception of women migrant domestic workers on arrival and prevent them from falling into trafficking during their stay in Lebanon by providing them with information about their rights and responsibilities.⁷⁹ Caritas also trained the GDGS's border management officers at the airport on the identification of victims of trafficking and developed a referral mechanism in collaboration with them.⁸⁰

In Kuwait, the IOM has been the main actor providing specialized training on trafficking for law enforcement officials,⁸¹ who have been advised on how to protect victims as well as how to investigate a case and prosecute the traffickers.⁸² The IOM also delivered training on shelter management and victim assistance to shelter staff in Kuwait, and organized a study tour for law enforcement to shelters in Belgium and the Netherlands.⁸³

⁷⁶ Interview with an official from the American Bar Association, Rule of Law Initiative, Amman, Jordan, 16 Nov. 2011 and 27 Sep. 2012.

⁷⁷ Jordan, Anti-Human Trafficking National Committee: *Summary of activities during the past few months*, 29 Aug. 2011, <http://www.ahtnc.org.jo/en/news/summary-activities-during-past-few-months> [accessed 12 Aug. 2012].

⁷⁸ The ICMPD delivered several programmes of Training to Enhance Lebanese Anti-trafficking Effort (TELAE) from Oct. 2010 to Mar. 2013. One of the objectives of this project is to develop a first draft of a National Action Plan in early 2013.

⁷⁹ Interview with an official of Caritas Lebanon Migrant Centre, Beirut, 17 Nov. 2011. See also *Daily Star* (Lebanon): "Migrant workers to get warmer welcome", 9 Sep. 2011, <http://www.dailystar.com.lb/News/Local-News/2011/Sep-09/148324-migrant-workers-to-get-warmer-welcome.ashx#axzz21pHfWw9V> [accessed 24 Nov. 2011].

⁸⁰ Currently, a group of ten male and female specialized staff maintain a non-stop presence at the airport to welcome the migrants and inform them about their rights.

⁸¹ Interview with an official from the IOM office in Kuwait, Kuwait, 26 Mar. 2012.

⁸² IOM, Foundational and advanced training courses for law enforcement officers on protecting trafficking victims and investigating traffickers, UN House Kuwait, 6–7 Jan. 2011.

⁸³ IOM, Training to shelter staff on shelter management and victim assistance, UN House Kuwait, 26–30 Sep. 2011; IOM, Study tour to shelter centres in Holland and Belgium, 20–22 June 2011.

4.2.2. Strengthened interdepartmental cooperation

Governments have sought to establish innovative interdepartmental initiatives to improve the collaboration and cooperation of law enforcement officials in combating human trafficking. In Jordan, for instance, the Government established a Human Trafficking Office within the Public Security Directorate's Criminal Investigation Unit: its 25 members (four labour inspectors and 21 police officers) monitor hotels, restaurants, bars and nightclubs.⁸⁴ A special committee was also formed by the Minister of Labour under article 9(a) of Regulation No. 90/2009 (concerning domestic workers, cooks, gardeners and similar categories) to deal with the problems of domestic workers in the embassies of countries that export labour.⁸⁵ Between October 2009 and February 2010 the committee handled 477 cases of "runaway" domestic workers staying at the Indonesian Embassy.⁸⁶

In Kuwait, several enforcement measures were taken to ensure the application of all the relevant legislation and to prevent the exploitation of workers. In 2010, a ministerial decision was issued to empower the Ministry of Social Affairs and Labour to transfer a worker from one employer to another in cases where a legitimate complaint has been lodged (although this right cannot be exercised in respect of domestic workers).⁸⁷ The ministry has established five working relations offices in the country to which workers can go to register their grievances.⁸⁸ The Ministries of Interior and Labour have also established two joint committees that deal with deportation and conflict over payment of salaries. Several migrant community leaders and civil society actors have recognized that in recent years, and with the passing of the new law governing labour in the private sector (Law No. 6 of 2010), cases were being treated more comprehensively by officials.⁸⁹

In the UAE, the Ministry of Labour allocated 100 legal and administrative staff to the investigation of complaints against employers by workers across the country.⁹⁰ The aim is to settle disputes within a period of two weeks. If the worker or the employer rejects the settlement, the dispute is referred to a court of law, which should issue a verdict without charging the worker any fees, irrespective of the nature of the litigation. If the complaint involves a case of trafficking, such complaints should be directly referred to the prosecutors specialized in dealing with trafficking cases.⁹¹

⁸⁴ Interview with an official of the Ministry of Interior, Criminal Investigation Department, Jordan, 15 Nov. 2011 and 26 Sep. 2012.

⁸⁵ Members of the committee include representatives of the Ministry of Labour, Public Security Directorate, Ministry of Foreign Affairs, Ministry of Interior, Syndicate of Domestic Labour Recruitment Offices and the attorneys of the embassies of the countries that export domestic labour.

⁸⁶ These workers were exempted from residency fines, deported at the expense of the embassy and given the wages to which they were entitled, amounting to about 500,000 JOD.

⁸⁷ In 2011, over 4,000 complaints were filed relating to disputes over work and residency permits, of which 2,266 were resolved. The Ministry of Social Affairs and Labour (MoSAL) reported that in 2011 it had permitted more than 8,000 workers to switch employers without the consent of their employers, and another 5,000 cases to change employers with the consent of their employers. MoSAL indicated that some cases involved more than one worker.

⁸⁸ The Kuwaiti MoSAL's Department of Work Relations has 320 staff members, of whom 85 are legal practitioners.

⁸⁹ Interview with a migrant community leader, Kuwait, 25 Mar. 2012.

⁹⁰ Interview with an official of the Ministry of Labour, UAE, 2 Feb. 2012.

⁹¹ UAE, National Committee to Combat Human Trafficking: *Combating human trafficking in the UAE*:

4.2.3. Labour inspection

Governments throughout the region are carrying out labour inspections to monitor work conditions. Specific departments have also been set up to investigate complaints, such as in Kuwait, where the Ministry of Labour established the Immigration Investigation Department in 2009. These investigations are critical to the detection of victims of trafficking and forced labour. Since the creation of this department, the Ministry of Interior has closed down more than 3,000 companies – most of them large construction companies – and placed them on a blacklist, to prevent them from resuming the recruitment of migrant workers. The ministry claims that while it regularly investigates cases, it is not aware of all companies using exploitative practices, as some embassies of countries of origin enter into direct negotiations with sponsors without informing the Government.⁹² The efficiency of this government action has, however, been questioned: according to one KTUF official, “the Ministry of Social Affairs and Labour is more concerned about what the employer thinks than about the law. The labour inspection system is questionable. As for the blacklist, it is not published.”⁹³

In the UAE, the Ministry of Labour has established units in labour-intensive areas to provide care for migrant workers and raise awareness about their rights.⁹⁴ Through these offices, the Government is able to identify workers who are vulnerable to trafficking. In 2005 the Ministry of Labour started the first work stoppage projects, which required all workers to stop work from 12.30 to 3.00 p.m. in the peak summer months (mid-June to mid-September). The UAE was the first country to initiate such practices, and was followed by several other Gulf countries.⁹⁵

Annual Report 2010–2011, p. 31.

⁹² Interview with an official from the Ministry of Interior, Kuwait, 27 Mar. 2012.

⁹³ Interview with an official of the KTUF, Kuwait, 27 Mar. 2012.

⁹⁴ Such units are currently operational in Yas Island and Al Raha Village in Al Wathba, Abu Dhabi, in Al Muhaisna in Dubai and in Sharjah’s industrial area. The Ministry of Labour plans to open more such units in Al Quoz, Dubai, Ras Al Khaimah, Fujairah and Al Ain.

⁹⁵ Interview with an official from the Ministry of Labour, UAE, 9 Feb. 2013.

Box 4.2: Wage protection system

In the UAE, the Government sought to counter the practice of wage retention by establishing the Wage Protection System (WPS), an electronic system under which UAE-based companies transfer wages to their workers through banks or money transfer companies, rather than by making cash payments. An estimated 3.18 million workers currently receive wages through this system. In the two years since its introduction, the Ministry of Labour has responded to 13,000 cases, representing financial transactions worth 12 million AED (US\$3.3 million). If an employer does not pay the worker's salary, the WPS will directly inform the ministry, which after two months will send out inspectors to meet the employer and try to settle the issue. Such proactive monitoring systems seek to prevent the worker from being trapped in an exploitative situation whereby the employer retains the worker's salary, thereby obliging the individual to continue working in order to have any hope of being paid.

Sources: Interview with an official from the Ministry of Labour, UAE, 2 Feb. 2012; UAE, National Committee to Combat Human Trafficking: Combating human trafficking in the UAE: Annual Report 2010–2011, pp. 27–28.

The Dubai police also established a Human Trafficking Monitoring Centre in 2009, but face obstacles in their dealings with victims and potential victims of trafficking, who are wary of dealing with the police and fear retaliation by the perpetrators and deportation.⁹⁶ The Monitoring Centre has focused its efforts on identifying victims of trafficking for sexual exploitation; identification of victims of labour exploitation remains practically non-existent.

⁹⁶ Interview with an official of the Ministry of Interior, Dubai police, UAE, 30 Jan. 2012.

Box 4.3: Ending forced labour in the garment sector

In Jordan, following a scathing report in 2006 by the National Labour Committee entitled Descending into human trafficking and involuntary servitude (alleging that serious violations of Jordanian and international labour laws and practices were being committed against migrant workers within Jordan's garment industry), the Jordanian Government sought to improve the working and living conditions in the Qualified Industrial Zones (QIZs). The Government swiftly reformed the labour inspection system, through which it imposed sanctions against violators, including temporary or permanent closure of some enterprises where employers flouted the law.^a It also developed the Intensive Inspection Surveillance List (IISL) in March 2007 for enterprises in the QIZs with a record of serious and repeated labour violations. Factories on the IISL are subject to more frequent inspections to ensure they are improving their compliance. If an enterprise is found repeatedly violating the labour law or guest worker criteria, it can be placed on the Blacklist or Watchlist.^b In addition to these measures, in 2006 the ministry created the Golden List, a monitoring mechanism for garment factories which aims to ensure that employers are complying with the law and showcases those that adhere to best practices on labour rights and working conditions. The Ministry revised the Golden List in 2008 to add stricter rules limiting overtime and the maximum amount that can be deducted from workers' salaries for living accommodation.^c

Better Work Jordan, a project jointly managed by the ILO and the International Finance Corporation, was also established in February 2008 with the aim of improving the competitiveness of the industry by enhancing economic performance at the enterprise level and improving compliance with Jordanian labour law and the ILO core labour standards. The results of Better Work Jordan, documented in its four compliance synthesis reports, show significant progress towards ending forced labour in the garment industry. In 2006, it was standard practice to confiscate migrant workers' passports; today, the majority have their passports with them. Recruitment fees have also stabilized for all groups except for Indians, as the recruitment process is handled by state-affiliated companies in the countries of origin that keep costs minimal, covering only administrative fees for official stamps etc. In 2008, contract substitution was common practice; today it is exceptional. The confinement of workers has also been relaxed considerably. As the Better Work Manager explains, "there has been huge improvement on key indicators of forced labour, which has been brought about by the zero-tolerance attitude of brands and the willingness of the Jordanian Government and factory owners to improve the situation. We've gotten to the point of seeing attitudes change."^d

^a The reform of the inspection system included increasing the number of labour and occupational safety and health (OSH) inspectors; providing intensive training courses for all inspectors, mainly on international labour standards; integration of labour inspection with OSH inspection; motivating inspectors by generous performance-based incentives; and computerization of inspection activities.

^b An enterprise on the Blacklist is forbidden to bring in guest workers. An enterprise on the Watchlist can only bring in guest workers after inspectorate approval.

^c Ministry of Labour, Jordan, Labour administration and compliance in Jordan: A multi stakeholder collaboration. First progress report, Oct. 2009, p. 13.

^d Interview with an official from Better Work Jordan, Jordan, 19 Feb. 2013.

Enforced labour inspection mechanisms have also been developed by the ITF to monitor the wages and other work conditions of seafarers working on ships flying Flags of Convenience (FOC). According to the ITF, these flags enable ship owners to circumvent labour regulation in the country of ownership, which leads to lower wages, forced overtime and unsafe working conditions. As ships flying FOCs have no real nationality and are therefore beyond the reach of any one trade union, the ITF has taken the lead in organizing and negotiating on behalf of the FOC crews over the past 50 years.⁹⁷ The ITF has also developed policies that cover FOC ships, including a standard collective agreement that sets the wages and working conditions for all crew. The ITF has dispatched 140 inspectors to major ports to monitor the conditions of workers; it has one inspector based in Egypt who covers the Arab States.⁹⁸

Hotlines

Governments throughout the region have established hotlines through which workers can make complaints. This mechanism is an important step to facilitate the transfer of information and activate a rapid response. In the UAE, the Ministry of Labour created a hotline enabling complaints to be lodged either over the phone or online over the Internet, and the Ministry of Interior also established a hotline specifically for domestic workers.⁹⁹ The Ministry of Labour in Jordan created a hotline in 2006 to receive complaints in six languages. At the time of the interview, in November 2011, the ministry reported that 1,009 complaints had been registered, of which 94 per cent had been solved.¹⁰⁰ It is nonetheless important to note that several NGOs interviewed questioned the effectiveness of the hotline.¹⁰¹ In April 2010, the Ministry of Labour in Lebanon established an office and hotline to receive labour complaints from foreign workers against their employers.¹⁰² The effectiveness of the hotline here has also been questioned, as there is limited awareness of its existence among migrant workers and no protocol has been established for following up on information received.¹⁰³

⁹⁷ For more information, visit the ITF's website, which provides detail on the Flags of Convenience campaign: <http://www.itfglobal.org/flags-convenience/index.cfm> [accessed 6 Mar. 2013].

⁹⁸ Telephone interview with an official from the ITF, 30 Sep. 2012.

⁹⁹ Interview with an official of the Ministry of Labour, UAE, 2 Feb. 2012; interview with officials of the Ministry of Interior, Dubai police, UAE, 30 Jan. 2012.

¹⁰⁰ Interview with a labour inspector specializing in counter-trafficking, Ministry of Labour, Jordan, 15 Nov. 2011.

¹⁰¹ For more information, see Tamkeen: *The weakest link: Migrant labour in domestic and QIZ sectors in Jordan in 2010* (Amman, Apr. 2011), p. 34.

¹⁰² P. Kollock: "Dialling up complaints", in *Now Lebanon*, 15 Sep. 2010, <http://www.nowlebanon.com/NewsArchiveDetails.aspx?ID=201147> [accessed 17 Apr. 2012]. See also *The Economist*: "Little better than slavery: Domestic workers in the Middle East have a horrible time", 2 Sep. 2010, <http://www.economist.com/node/16953469> [accessed 17 Apr. 2012].

¹⁰³ Human Rights Watch: *Without protection: How the Lebanese justice system fails migrant domestic workers* (New York, Sep. 2010), pp. 2–3; US Department of State: *Trafficking in Persons Report 2011*.

4.2.4. Protection and redress for victims: Shelters and financial support

Several countries in the region have opened specialized institutions to cater to the needs of victims of trafficking. In parallel with these institutions, and to address gaps in provision by host countries and NGOs, several embassies of countries of origin have opened shelters for their nationals.

In Lebanon, the GDGS and Caritas developed several mechanisms for close collaboration in order to better protect migrant workers. A memorandum of understanding was signed, allowing Caritas to maintain a constant presence at the administrative detention centre for foreigners in Adlieh to provide social and medical assistance to the foreign detainees. The close collaboration between Caritas social workers and the immigration officers conducting in-depth investigations enables potential victims of human trafficking to be identified and referred to the Caritas shelters and safehouse for victims of trafficking.¹⁰⁴ The safe house, opened in 2005, usually accommodates up to 30 victims of trafficking at any one time: these are usually female migrant domestic workers, although it has also sheltered Iraqi women refugees who have experienced labour or sexual exploitation. Most of the women stay in the shelter for between two and seven months and then return to their home countries, while Caritas continues to follow their cases.¹⁰⁵ In addition, the NGO Dar Al Amal provides day care for women victims of sexual exploitation and is in the process of renovating a shelter for abused children and women.¹⁰⁶

In the UAE, the Dubai Foundation for Women and Children was established in July 2007 as the first licensed non-profit shelter in the UAE for women and child victims of domestic violence, child abuse and human trafficking. The foundation's facilities can accommodate up to 250 people and includes a school for 300 children. Victims are provided with comprehensive services, including immediate medical and psychological care, case management and consular, immigration and legal support, as well as educational and vocational training. In the following years, Ewa'a shelters for women and children victims of human trafficking were established elsewhere in the Emirates, including Abu Dhabi in 2008, Ras El Khaima in 2010 and Sharjah in 2011, in collaboration with the national Red Crescent Authority. These three shelters all provide both immediate and long term support to victims of trafficking.¹⁰⁷

In Jordan, there is currently no specialized government-run shelter for victims of forced labour and trafficking. The Government recently finalized guidelines for establishing and operating such a facility and submitted them to the Prime Minister's Cabinet for

¹⁰⁴ The GDGS stated that most files of detained workers are processed within the maximum period of one week. In exceptional cases where the worker does not have any legal papers, the detention period at the General Security will not exceed one month. See Shahinian: *Report of the Special Rapporteur on contemporary forms of slavery: Mission to Lebanon, Comments by the State on the report of the Special Rapporteur*, 11 Sep. 2012, A/HRC/21/41/Add. 2.

¹⁰⁵ Interview with an official from Caritas Lebanon Migrant Centre, Lebanon, 17 Nov. 2011.

¹⁰⁶ Interview with an official from Dar Al Amal, Lebanon, 14 Dec. 2011.

¹⁰⁷ Interview with an official of the Ewa'a shelters, UAE, 31 Jan. 2012.

final approval. Currently, victims of trafficking are referred to the shelter of the Jordanian Women's Union or the Ministry of Social Development's shelter for abused women Dar Al Wifak (House of Reconciliation). However, neither of these shelters has the capacity to respond to the needs of victims of trafficking.¹⁰⁸ Hence migrant domestic workers often turn to their embassies for help. For example, in 2011, 1,870 Sri Lankan domestic workers contacted their embassy in Amman to report abuses committed by their employers and harsh working conditions.¹⁰⁹ However, embassy shelters too have not always been able to respond adequately to victims. Tamkeen wrote to the Ministry of Labour in January 2011 regarding the needs of 37 Sri Lankan domestic workers who had run away from their embassy's shelter because they had not received adequate support.¹¹⁰ The Ministry of Labour has established a Humanitarian and Legal Assistance Fund to provide financial support to victims of trafficking in the QIZ factories. Employers have deposited a total of US\$336,000 into this fund, which has to date covered the expenses of 38 stranded Bangladeshi workers who sought repatriation after the factory in which they were employed closed down.¹¹¹

In Kuwait, the Government has operated a shelter for women migrant workers since 2007. With a total capacity of 59 beds, it has offered refuge and assistance to more than 3,000 women.¹¹² Even so, this shelter has not been able to respond to the needs of all migrant workers who require protection. As a result, a number of embassies have opened their own shelters to respond to the needs of their citizens. The Sri Lankan Embassy alone sheltered 300 domestic workers in 2011.¹¹³ The Government decided in 2007 to build a larger shelter with a budget of 3,000,000 KWD (US\$10,700,000). At the time of the researchers' visit in March 2012, the Government reported that the shelter's doors would open in 2012 and that it will have a capacity of 700 beds and will provide a more comprehensive set of services including, legal, social, psychological and medical support.¹¹⁴ However, this new shelter had still not opened in March 2013.¹¹⁵

¹⁰⁸ Interview with an official from the Ministry of Social Development, Jordan, 15 Nov. 2011.

¹⁰⁹ Tamkeen: *Between a rock and a hard place*, p. 7.

¹¹⁰ Interview with an official from Tamkeen, 15 Oct. 2012. Tamkeen collaborated with the Jordanian Women's Union and Caritas to provide food, medical and other relief services to these domestic workers. Ultimately, these women were able to return home to Sri Lanka.

¹¹¹ US Department of State: "Jordan: Victims Assistance Fund", in *Trafficking in Persons Report 2009: Commendable initiatives around the world*, <http://www.state.gov/j/tip/rls/tiprtf/2009/123130.htm> [accessed 24 Nov. 2011].

¹¹² Four staff members at the government-run shelter provide psychological, social and basic medical support.

¹¹³ ITUC: Annual survey of violations of trade union rights: Kuwait 2012, <http://survey.ituc-csi.org/Kuwait.html?lang=en> [accessed 15 June 2012].

¹¹⁴ B. Shaban: "The new expatriate workers' shelter could accommodate 700 workers", in *Al-Anba*, 14 Feb. 2012, <http://www.alanba.com.kw/absolutenmnew/templates/local2010.aspx?articleid=267259&zo-neid=14&m=0> [accessed 16 June 2012].

¹¹⁵ Email correspondence with the ILO Office in Kuwait, 28 Feb. 2013.

4.2.5. Strengthened interregional cooperation

Interregional trade union cooperation and training

Workers' organizations have developed interregional agreements between countries of origin and destination to better protect migrant workers. In recent years, trade unions in Bahrain, Kuwait and Oman have taken action to protect migrant workers through interregional trade union cooperation and training activities. In May 2009, the first three bilateral cooperation agreements on the protection of the rights of migrant workers were signed in Colombo, Sri Lanka.¹¹⁶ The signatories were leaders of the three national trade union centres in Sri Lanka and their counterparts in Bahrain, Jordan and Kuwait. More recently, in January 2012, bilateral agreements were signed between the General Federation of Nepalese Trade Unions and the trade unions of Bahrain and Kuwait.

Efforts have also been made to address the complaints of migrant workers in a more forthright and effective manner. For instance, the KTUF opened an office to process migrant workers' complaints in 1994. Since then, it has been gradually increasing the support it provides to migrant workers in various ways, including following up cases that are pending at the Ministry of Labour and ensuring that workers receive proper compensation.¹¹⁷ Recently, the President of the KTUF wrote to the Ministry of Social Affairs and Labour regarding the recent decision made by the Ministry of Interior to arrest 2,000 people accused of violating the residency laws, asking to be told where they were being detained and to be allowed to visit the detained migrant workers to "look into the reasons and conditions of their detention and provide them with the best possible humanitarian assistance".¹¹⁸

Global trade unions have also let the way to enhance the promotion and protection of the rights of migrant workers. The Building and Wood Workers' International (BWI), for instance, launched a campaign on migrant workers rights following its 2nd World Congress in 2009. The crux of the campaign is on recruiting and organising migrant workers into trade unions and promoting their rights regardless of their migration status.¹¹⁹ Its campaign has already recorded a number of achievements, including the recruitment of 5,000 migrant workers based in Asia and the Middle East. Through its actions, it supports efforts of its affiliates in countries to reduce the vulnerability of workers to exploitation, and to provide services to those in need.

Partnerships with international institutions

Another interesting model of collaboration has involved the National Human Rights Committee (NHRC) in Qatar and the American Solidarity Center.¹²⁰ A Memorandum of Understanding (MoU) was signed in 2009, renewed in 2011, to promote cooperation

¹¹⁶ ILO, MIGRANT: *Bilateral trade union agreements on migrant workers' rights between Sri Lanka and Bahrain, Kuwait and Jordan*, 2009, http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=32 [accessed 24 Aug. 2011].

¹¹⁷ Interview with an official of the KTUF, Kuwait, 27 Mar. 2012.

¹¹⁸ KTUF, letter to the Ministry of Social Affairs and Labour in Kuwait, No. 210/2012, 25 Sep. 2012.

¹¹⁹ For more information on this global campaign, see BWI Connect: <http://connect.bwint.org/>

¹²⁰ Interview with an official of the American Solidarity Center, Qatar, 18 Oct. 2012.

between the two institutions with the aim of furthering the work of the NHRC to improve the living and working conditions of workers in Qatar. An exchange programme was established by the two organizations with countries of origin (Nepal, Sri Lanka and the Philippines) to raise awareness and build bridges between national human rights institutions, trade unions and NGOs. The American Solidarity Center also carried out training of trainers in partnership with the NHRC, using the *Workers' rights* booklet that the NHRC had developed to raise awareness about the rights of migrant workers in Qatar. The objective of this partnership is to deepen collaboration and explore new possible initiatives to be pursued jointly. The NHRC has also signed an MoU with Migrant Forum Asia to work together to advance workers' rights in the state of Qatar and to prevent trafficking of persons in countries of both origin and destination.¹²¹

Collaboration between countries of origin and destination

Many government interviewees spoke of the cyclical nature of migration, involving actors in countries of both origin and destination. With the aim of strengthening interregional cooperation, the UAE launched the Abu Dhabi Dialogue in 2008 to promote a collaborative approach between countries of origin and destination towards development based on temporary expatriate labour. To enhance this collaboration in practice, several pilot projects have been launched with sending countries to limit exploitation of workers. For instance, the UAE Government has worked closely with India and the Philippines since 2009 to create a multilateral framework determining the rights and duties of temporary contractual workers. A number of initiatives are being tested, including a contract validation system linking labour departments in countries of origin and destination to monitor recruitment procedures more closely.¹²²

4.2.6. Public outreach, advocacy campaigns and involvement of civil society

Both governments and civil society actors have sought to raise awareness about labour exploitation and the recourse of victims to justice. In the UAE, the Ministry of Labour launched awareness programmes on the issue of trafficking through campaigns, brochures and films translated into 12 languages, with the objective of informing migrants about their rights at work.¹²³ The NCCHT launched a media campaign in the Abu Dhabi and Al Ain international airports, including an informative billboard and distribution of pamphlets in six languages.

In Jordan, the Ministry of Labour collaborated with NGOs engaged in raising awareness about labour trafficking through advertisements on billboards and public service announcements in the print media and on the radio. The Ministry also published a guidebook on protecting foreign domestic workers.¹²⁴ The Adaleh Centre for Human Rights studies has launched an advocacy campaign on migrant workers' rights and building the capacity of local actors to protect workers. These programmes have focused

¹²¹ Email correspondence with an official of Migrant Forum Asia, Philippines, 12 Nov. 2012. The MoU was signed between the National Human Rights Committee and Migrant Forum Asia on 16 May 2012 and is to remain in effect for two years.

¹²² UAE, National Committee to Combat Human Trafficking: Combating human trafficking in the UAE: Annual Report 2011–2012, pp. 25–26.

¹²³ Ibid., p. 22.

¹²⁴ Interview with an official from the Ministry of Labour, Jordan, 15 Nov. 2011.

on the protection of domestic workers from abuse and trafficking. The group CARAM Asia has entered into partnership with the Adaleh Centre in a campaign for better legal protection, rights to redress and access to justice for migrant workers in countries of origin and destination.¹²⁵

In Lebanon, the feminist collective Nasawiya has raised awareness on issues of particular relevance to female migrant workers in Lebanon, including racism and xenophobia, through interactive blogs, street campaigns and videos. Its most recent advocacy work centred on discrimination at beaches following the adoption in April 2012 by the Ministry of Tourism of Circular No. 5, which obliges establishments with swimming pools to ensure equality of treatment and non-discrimination towards all clients, regardless of their race, gender, nationality or disability.¹²⁶ Nasawiya surveyed a sample of establishments in Lebanon, and showed through social media the persistent discrimination against migrant domestic workers, and the non-enforcement of the new circular by the authorities.¹²⁷ It also established a Migrant Community Centre in 2011 to provide a space where migrant workers, including domestic workers, can access computers and organize meetings, community events and vigils for fellow migrant workers who have died in the country.

Also in Lebanon, the Danish Refugee Council has overseen the development of a common advocacy campaign by five NGOs to sensitize the general public about the sponsorship system. This campaign is significant as it is the first time that all civil society actors have worked together to further the protection of migrant workers in the country. Also, in July 2010, the Counter-Trafficking Working Group (CTWG), consisting of Alef, Caritas Lebanon Migrant Centre, Heartland Alliance, KAFA and World Vision, was created to put human trafficking on the policy agenda, build better coordination between NGOs dealing with the topic, and create information materials on the crime of trafficking. Among other activities, the CTWG analysed how the proposed draft law on trafficking in persons measured up against UN and other international standards and principles, and developed a comprehensive set of recommendations on the proposed legislation, comprising amendments, additions and suggestions for additional legislation, some of which were taken notice of by policy-makers.

In Kuwait, the Kuwaiti Association of the Basic Evaluators for Human Rights (KABE) has tried to raise awareness about the need for civil society to be more involved in issues relating to migrant workers' rights and discrimination against them. It launched a campaign based on the Prophet's saying: "Give the worker his salary before his sweat dries."¹²⁸ Joint advocacy initiatives involving NGOs in countries of origin and countries of destination have emerged. At the regional level, the Diplomacy Training Programme in collaboration with Migrant Forum Asia and the ILO has recently organized a capacity-building programme on the protection of low-skilled migration workers, aiming to build alliances and strengthen collaboration between workers' organizations, NGOs, and national human rights institutions from countries of origin and destination.¹²⁹

¹²⁵ Interview with an official of Adaleh Center, Jordan, 15 Nov. 2011.

¹²⁶ Lebanon Ministry of Tourism: Circular No. 5 on swimming places, 25 Apr. 2012.

¹²⁷ Interview with an official from Nasawiya, Lebanon, 24 Sep. 2012.

¹²⁸ Interview with an official from KABE, Kuwait, 1 Apr. 2012.

¹²⁹ The first training programme took place in Lebanon in May 2012 and the second in Qatar in Oct. 2012.

CHAPTER 5: A WAY FORWARD

This chapter sets out suggestions for technical cooperation among ILO constituents and partners to respond to the phenomenon of trafficking and forced labour in the Middle East. The recommendations presented below are tentative and will be discussed at the ILO regional tripartite conference in April 2013.

Comprehensive reform detailed below will only be possible if all Governments in the Middle East allow for social dialogue and representation of both national and migrant workers. The absence of the right to freedom of association in certain countries of the region currently denies workers adequate representation and prevents them from representing themselves and ensuring that their voices and interests are heard. Governments should allow for freedom of association and collective bargaining as a prerequisite for creating a more viable and just society.

5.1. IMPROVING LABOUR MIGRATION GOVERNANCE

An ambitious, but essential, element of a reform programme to combat human trafficking is a rethinking of labour migration governance in the major countries of destination in the Middle East. Reforming the *kafala* system would lead to better protection of the human and labour rights of migrant workers, as the current system leaves work and residency permits in private hands, thereby granting undue power over workers to employers. Human trafficking in the region is mostly linked to a process of “labour migration gone horribly wrong in our globalized economy”.¹ A viable alternative to the *kafala* system is to empower ministries of labour to oversee the recruitment process in coordination with countries of origin, acting as a clearing house for complaints by migrants and employers, verifying allegations of mistreatment and ensuring appropriate action is taken. A department to oversee temporary contractual labour could be set up by the Ministry of Labour which employers could approach for the recruitment of workers. Governments could also consider mandating ministries of labour to take responsibility for promoting and developing the welfare of all workers, including domestic workers, and ensuring respect for work-related benefits and rights.

Governments and social partners could use the relevant ILO Conventions – the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) – in formulating national frameworks that comprehensively define the rights of migrant workers, and ensure the principles of equal treatment, equality of opportunity and non-discrimination. The 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has further elaborated and expanded on these rights. Together, these three Conventions define a comprehensive charter of migrant rights and provide a legal basis for national policy and practice on migrant workers. Policy reformers may also draw upon the non-binding ILO Multilateral Framework on

¹ J. Chuang: “Beyond a snapshot: Preventing human trafficking in the global economy”, in *Indiana Journal of Global Legal Studies* (2006, Vol. 13, No. 1, Winter), p. 138.

Labour Migration – a unique compendium of principles, guidelines and good practices on migration negotiated by ILO’s tripartite constituents – in designing and improving their policies for better governance and protection of migrant workers.²

5.2. EXTENDING LEGAL COVERAGE OF VULNERABLE GROUPS

The ILO stands ready to provide technical support to constituents and social partners to improve legislative coverage. Currently there is a major coverage deficit, as certain categories of workers, such as domestic and agricultural workers, are excluded from the labour law. Moreover, in many countries where migrant workers are covered under the labour law, they do not benefit from the same rights as national workers. By addressing this type of discrimination in employment and occupation, governments and social partners would ensure the wider observance of principles of equal treatment and equal opportunity.

To better protect all migrant workers, and in parallel with reform of the labour law (although not as a substitute for legal reform), governments and social partners could also consider revising the standard employment contracts in order to conform more closely with international standards. Model employment contracts can be an effective mechanism to protect migrants and prevent exploitation. Good contracts will make explicit reference to all minimum standards that apply with respect to minimum wages, hours of work, leave entitlements, benefits provided, safety and health, and right of representation. As highlighted in this study, standard employment contracts currently used in the Middle East lack important provisions, such as the right to legally terminate a contract after the probation period, and therefore it is important to consider revising them in line with international standards.

Mechanisms for setting a minimum wage remain relatively undeveloped in the Arab region, yet they are essential to overcome asymmetries in bargaining power or the lack of effective collective bargaining.³ In the words of the Minimum Wage Fixing Convention, 1970 (No. 131), one of their main objectives is to protect “disadvantaged groups of wage earners” against “unduly low wages”. Governments in the Middle East reiterated their commitment to set up a study on the establishment of a minimum wage in the region at the tripartite meeting on wage policies in Amman in 2012.⁴ Fixing sectoral minimum wages for vulnerable workers, that do not discriminate between nationals and migrant workers, would help protect those workers at the bottom of the wage distribution from further exploitation.

In putting these measures in place, special attention needs to be paid to avoiding undervaluation of certain sectors, including domestic work, as there is the risk that

² ILO: *Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration* (Geneva, 2006).

³ In the region, only Lebanon and Jordan have a statutory wage floor.

⁴ ILO: *Summary and conclusions*, Regional tripartite meeting on wage policies in the Arab countries, convened by the ILO under the patronage of the Minister of Labour of the Hashemite Kingdom of Jordan, Amman, 17–20 Sep. 2012.

minimum wages will be set systematically lower for female-dominated sectors than for male-dominated sectors with similar skill profiles.⁵ The adoption of minimum wages for all sectors would reduce discrimination against migrant workers based on national origin, and would also reduce competition between countries of origin, some of which have sought to retain their competitive edge in overseas labour markets by failing to regulate the wages of their migrant workers. It would further avoid compartmentalization, especially of domestic workers, ensuring that policies are developed on the basis of a basic package of entitlements for all migrant workers.

In dealing with the labour law deficit pertaining to domestic workers, governments and social partners can refer to ILO Domestic Workers Convention, 2011 (No. 189), and the accompanying Recommendation (No. 201), in developing their own normative framework on domestic work. Improving working conditions in the sector would have broader ramifications for greater gender equality, as the ILO estimates there are 2.1 million domestic workers in the Middle East, and that one in five women workers in the region are domestic workers.⁶ In October 2012 the ILO organized a high-level regional tripartite conference on decent work for domestic workers, at which it was agreed with ILO constituents from the region that existing national protection mechanisms should be expanded to include domestic workers.⁷

Discussions are also under way regarding the development of a unified standard contract for domestic workers in the GCC countries, providing policy-makers throughout the region with a golden opportunity to align this model contract with the provisions of Convention No. 189 on terms and conditions of employment, including those regarding remuneration, hours of work, paid annual leave, daily and weekly rest periods, food and accommodation, as well as those relating to the termination of employment and repatriation.

5.3. IMPROVING PREVENTION MECHANISMS

Over recent years there has been a growing recognition of the importance of measures to prevent forced labour, with the objectives of reducing vulnerability to such exploitation, addressing the demand for forced labour, and strengthening law enforcement and deterrent measures.⁸

5.3.1. Increasing awareness through research

One important prevention measure is data collection. The research for this study has underscored the need for quantitative studies that measure the scale and prevalence of

⁵ ILO: *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva, Jan. 2013), pp. 78–79.

⁶ Ibid., p. 31.

⁷ Many of the conference materials can be found at <http://www.ilo.org/public/english/region/arpro/beirut/what/events/2012/c189/index.htm> [accessed 7 Mar. 2012].

⁸ ILO: Report for discussion at the Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No. 29), Geneva, Feb., p. 25.

human trafficking in each country of the Middle East. A special focus on children is also required, to determine whether they are subject to the same processes identified in this study as applying to adults, or whether other processes apply specifically to children. The ILO is ready to provide technical assistance to design and implement comprehensive national surveys that will provide policy-makers with a clear picture of the current problem that will enable them to better target their interventions. It has already carried out such quantitative assessments in Armenia, Georgia, Moldova, Sri Lanka and Zambia. Additional research on the political economy of sex work could also pave the way for a better understanding of human trafficking as it relates to forced sexual exploitation.

5.3.2. Taking measures to reduce vulnerability to forced labour

Prevention measures could include actions to reduce the vulnerability of groups at particular risk of forced labour. In the case of migrant workers, these measures could include improving recruitment systems, monitoring recruitment agencies, strengthening the legislative framework and providing more training.⁹ Countries in the Middle East could consider establishing a standardized system of licensing or certification for PEAs, based on the provisions of the ILO Private Employment Agencies Convention, 1997 (No. 181). It would then become a duty of employers to use only accredited PEAs in their own countries, and in their counterpart dealings with countries of origin to use only accredited agencies that have the stamp of approval in those countries. There is an important role for interregional cooperation in formalizing the recruitment process, to harmonize standards between countries of origin and destination and to strengthen cooperation between law enforcement agencies. This would help to uncover and sanction those who abuse the system and promote migration that can be tantamount to human trafficking.

Moreover, while PEAs can play a legitimate role in the labour market, and many of them provide high-quality services, a lack of adequate government oversight and competition between agencies has fostered an illegal market where deception and abuses are rampant. Those agencies that play a critical role in the recruitment process of migrant workers need to be held to account if they fail to abide by national legislation. Governments and civil society actors that provide support to migrant workers seeking legal redress should prosecute those agencies that charge fees to migrant workers and assume responsibilities beyond the limits laid down in legislation. Convictions in the courtroom would be a strong deterrent to others in the same field. The “joint liability clause” adopted in the Philippines holds PEAs in countries of origin and destination jointly liable for transgressions. Similar joint liability clauses could be promoted and used in all employment contracts, to ensure that no recruitment agency can shrug off its responsibilities. In order to ensure that strategic litigation is possible, legal aid clinics need to be established to provide pro bono legal assistance to support migrant workers who are under the threat of deportation, have limited mobility, and face financial and communication barriers to accessing justice in court. Governments, social partners and other key stakeholders could also consider exploring alternatives to PEAs. For example, the establishment of cooperatives for migrant

⁹ Ibid., p. 26.

workers, including domestic workers, could be considered as a means of employment intermediation.¹⁰ These cooperatives could facilitate an orderly, formal recruitment process without going through the hands of recruitment agents.

Policy-makers in the Middle East could also envisage strengthening their national legal frameworks by adopting non-punishment provisions that enable victims to be exempted from penalties for involvement in unlawful activities to the extent that their involvement was compelled. Such progressive provisions are included in article 26 of the Council of Europe's Convention on Action against Trafficking in Human Beings (2005). In addition, the OHCHR principles and guidelines also provide some guidance on this issue in recommending that trafficked persons are not detained, charged or prosecuted for their illegal entry into or residence in countries of transit or destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.

5.3.3. Increasing the efficiency of labour inspectorates

Labour inspectorates can make a key contribution to worksite monitoring, education and awareness-raising to prevent labour exploitation in the countries of the region. Given their access to workplaces, they can provide early warning and take action before situations degenerate into forced labour. However, to discharge these functions effectively, they need to be given adequate human and material resources so that they can cover the whole of the national territory, including remote areas, where for example agricultural workers or animal herders are more vulnerable to exploitation. Some countries in the region have established labour inspection units with special responsibility for combating human trafficking, and others have created joint inspection units involving collaboration between the ministries of labour and interior. The preventive role of labour inspection in combating forced labour is particularly important in relation to PEAs, which are usually regulated under the labour code, as abusive practices by such agencies can lead to situations of forced labour.¹¹

The ILO can provide technical assistance to governments to build up and improve the capacity of labour administration. A particular focus is required on industries such as construction, fishing and agriculture, which involve hazardous occupations that currently employ many migrant workers, to ensure that workers are properly trained and protected from abuses. Special attention also needs to be given to live-in domestic work: provision for inspection visits by labour inspectors in homes should be envisaged, in parallel with the establishment of appropriate legal frameworks to respect the inviolability of the home. ILO is currently developing guidance to provide technical advice on the inspection of domestic

¹⁰ According to the Promotion of Cooperatives Recommendation, 2002, No. 193, the term “cooperative” means “an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled enterprise”.

¹¹ ILO: Report for discussion at the Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No. 29), Geneva, Feb., p. 26.

work. Action could also be taken to ensure that the entertainment and tourism industries are adequately regulated and monitored in order to guarantee a safe working and living environment.

5.4. ENSURING VICTIMS HAVE ACCESS TO JUSTICE AND COMPENSATION

If victims of forced labour are to be effectively protected, they need to be able to complain to the competent authorities, have access to justice and obtain compensation for harm suffered. Governments in the Middle East could look at the possibility of adopting further legislative provisions to overcome the difficulties encountered by victims in gaining access to justice, for example by affording victims special protection or temporary residence permits (for those in an irregular situation); or by making authorities liable to sanctions if they fail to follow up allegations brought to their attention.¹²

Obtaining compensation for the material and moral damages suffered is an important component of the rehabilitation of victims, as it facilitates the reconstruction of their lives outside the framework of dependence in which they have lived. Governments in the region that do not have yet an effective compensation system could explore the feasibility of different mechanisms, such as setting up a state fund or strengthening provisions in their specific anti-trafficking laws to recover compensation from offenders.¹³

5.5. STRENGTHENING A WORKERS' AND EMPLOYERS' ALLIANCE AGAINST FORCED LABOUR AND TRAFFICKING

5.5.1. Workers' organizations

Trade unions are central partners in the fight against forced labour. ILO assistance for the activities of a global trade union alliance against forced labour and trafficking, led by the ITUC, has steadily raised awareness of forced labour and the role of trade unions in combating it. This work could increasingly cascade down to trade union activities in the Middle East, including legal advocacy, capacity-building activities, and support for designated trade union focal points with specific responsibility for forced labour and trafficking. It could also promote effective trade union participation in bodies such as the various national committees on human trafficking in countries of the Middle East.

Trade unions could help ensure that the existing legal framework provides appropriate protection to all affected workers.¹⁴ They could also have a clear role to play, in cooperation with government agencies and specialized NGOs, in ensuring that the appropriate labour inspection and regulatory systems are identifying those who are being subjected to forced labour.¹⁵ Trade unions should be supported in their efforts to monitor conditions of

¹² Ibid., p. 38.

¹³ ILO: *Conclusions of the Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation*, Geneva, 15 Feb. 2013, p. 4.

¹⁴ ITUC: *How to combat forced labour and trafficking: Best practices manual for trade unions* (Brussels, 2010), p. 18.

¹⁵ Ibid., p. 22.

recruitment and employment, particularly in locations and sectors where the risk of forced labour and trafficking is serious, and where these conditions may escape the attention of labour inspection services. The ILO can provide technical assistance to trade union officers and their members who may need specific training, in order to identify and document cases of abuse, file complaints, and seek redress from the appropriate authorities.

In addition, ILO programmes in the Middle East can strengthen the capacity of trade unions to organize those workers most at risk of forced labour, including in the agricultural, construction, domestic work and entertainment industries, and support their efforts to bargain collectively. Programmes could be developed in collaboration with the respective Global Union federations. Good practices have been identified in cooperation between trade unions in Middle Eastern countries and their counterparts in countries of origin, including countries that send many domestic workers to the region. Trade unions in the Middle East could promote these reciprocal arrangements, through which migrant workers affiliated to trade unions in their country of origin can also receive the benefits of union membership in the destination country.

Trade unions are ideally placed to raise awareness, as they are mass membership organizations with direct access to the workforce. Trade unions in the Middle East could develop and disseminate tools adapted to each country in order to raise awareness on forced labour and human trafficking. Partnerships to raise awareness have already been signed in the region to combat debt bondage and trafficking among thousands of migrant workers who travel to work in these countries. Through these partnership agreements, trade unions exchange information and good practices. They also ensure that migrant workers are provided with information on their rights before they leave their home countries, and can access assistance once they arrive in the destination countries.¹⁶

Finally, trade unions, together with other specialized agencies, could look into possibilities for providing counselling and vocational training opportunities that can empower victims of forced labour and allow them to return home with new skills, which will make it easier for them to find employment and restart their lives. Links established between unions in sending and receiving countries can facilitate the reintegration of migrant workers, creating a continuing support structure on which they can draw when they return home.

5.5.2. Employers' organizations

Employers' organizations are equally important players in the efforts to eliminate forced labour. With support from the International Organisation of Employers (IOE), business actors have become progressively engaged in action against forced labour. The 2008 ILO handbook for employers and business on combating forced labour sets out guiding principles for action, and also provides practical advice on ways to remedy problems.¹⁷

¹⁶ Ibid., p. 24.

¹⁷ ILO: *Combating forced labour: A handbook for employers and business* (Geneva, Special Action Programme to Combat Forced Labour, 2008).

In the Middle East, employers' organizations could lobby for the elimination of forced labour; engage in tripartite dialogue on the issue, providing advice on legislation and encouraging governments to take measures to tackle the issue of human trafficking and forced labour; assist member companies in understanding national issues to enable them to be more involved in addressing that specific country's legal and regulatory requirements; encourage members to be more aware of the policies of their suppliers; and provide a platform for members to discuss and share issues of interest, challenges and successes.¹⁸

Companies operating in the Middle East are obliged to comply with the specific national legislation to combat trafficking and national provisions prohibiting forced labour applying in each country. Legally, employers are responsible for their own hiring and employment practices. However, businesses are inextricably linked in supply chains, and those firms that are closer to the consumer are increasingly demanding that their suppliers respect certain standards. Many international buyers will now purchase only from businesses that respect and can provide proof of their observance of specific criteria, including the non-use of forced labour.¹⁹

Employers' organizations could help companies to ensure that recruitment practices are free from debt bondage, excessive recruitment fees and other forms of deception and coercion. To that end, the ILO can support more in-depth research and case studies on recruitment systems in the Middle East, examining the factors that contribute to forced labour and human trafficking, and formulating recommendations on means by which employers can prevent their incidence.²⁰ Providing employees with clear, written contracts detailing the requirements of the job is also a good means of avoiding misunderstanding and risk of exploitation.

Employers should comply with codes prohibiting forced labour and adopt formal statements containing ethical principles that govern their conduct, including an explicit commitment to the non-use of forced or compulsory labour. Such statements could apply to the whole supply chain, ensuring that recruitment is carried out in an ethical way throughout, free

of deception and coercion. These provisions can be a condition for doing business with suppliers and a reason to terminate a contract with a non-compliant supplier.²¹

Employers should have the capacity to assess whether their enterprises, and those of their suppliers, are free from forced labour. Such assessments can be carried out by conducting interviews, inspections and audits to check on current practices. Training of supervisors so that they understand the issue of forced labour and trafficking is beneficial for both business activities and workers.

¹⁸ IOE: *Forced labour: Why it is an issue for employers*, Sep. 2010, p. 8.

¹⁹ Ibid., p. 4.

²⁰ ILO: *The cost of coercion: Global report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, Report I(B), International Labour Conference, 98th Session, Geneva, 2009 (Geneva), p. 80.

²¹ IOE: *Forced labour: Why it is an issue for employers*, p. 5.

ANNEX. List of States parties to key international conventions

COUNTRY	ILO Convention No. 29	ILO Convention No. 105	Palermo Protocol
Bahrain	11 June 1981	14 July 1998	7 June 2004
Egypt	29 November 1955	23 October 1958	5 March 2004
Iran	10 June 1957	13 April 1959	
Iraq	27 November 1962	15 June 1959	9 February 2009
Israel	7 June 1955	10 April 1958	23 July 2008
Jordan	6 June 1966	31 March 1958	11 June 2009
Kuwait	23 September 1968	21 September 1961	12 May 2006
Lebanon	1 June 1977	1 June 1977	5 October 2005
Oman	30 October 1998	21 July 2005	13 May 2005
Qatar	12 March 1998	2 February 2007	29 May 2009
Saudi Arabia	15 June 1978	15 June 1978	20 July 2007
Syria	26 July 1960	23 October 1958	8 April 2009
United Arab Emirates	27 May 1982	24 February 1997	21 January 2009
Yemen	14 April 1969	4 April 1969	

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This regional study sheds light on the situation of trafficked adult workers in the Middle East, both women and men. It analyses the complex processes by which vulnerable migrant workers are tricked and trapped into forced labour in various types of work in the region, and the constraints that prevent them from leaving. It also examines the responses to human trafficking put in place by national governments, employers' and workers' organizations, and other key stakeholders, and makes recommendations as to how the effectiveness of their actions might be enhanced in the future.

“The information provided therein is new and I believe it will be of benefit to all of us who are working on the issue of human trafficking in the Middle East.”

Dr. Mohamed Mattar, Executive Director of the Protection Project

