

BEYOND KAFALA: EMPLOYER ROLES IN GROWING VULNERABILITIES OF WOMEN MIGRANT DOMESTIC WORKERS

EVIDENCE FROM A MIXED-METHODS STUDY IN LEBANON

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A STUDY BEYOND KAFALA

Women migrant domestic workers (WMDWs) constitute 7.7 percent of migrant workers worldwide, of whom more than a quarter live and work in the Arab region. In Lebanon, as in other Arab countries, WMDWs are recruited through the sponsorship system, *Kafala*. Under this system, a potential migrant worker can only obtain legal residency and a work permit in the country of destination if she is sponsored by a specific employer. Once in the destination country, the worker cannot transfer to a new employer unless granted permission by the original sponsor. The system heightens the social, economic, and legal vulnerability of WMDWs and has been described as unfree or bound labor and a system of racialized servitude. Yet, *Kafala* is not a written policy but rather a collection of administrative procedures, customary practices, and socially acceptable norms that are maintained by various players throughout the migration process. The question then arises as to whether advocacy efforts that focus on abolishing *Kafala* as a legal term would mitigate employers' exploitative practices that violate the workers' rights and freedoms, particularly in a country like Lebanon.

The study on which this policy note is based was carried out under the International Labour Organization's (ILO) Work in Freedom project designed to mitigate the exploitation and forced labor of women migrating from South to West Asia to work in the domestic and garment sectors. Data for the study were gathered through a survey of 1,200 Lebanese employers of live-in WMDWs in 2015. Employers were asked about the process of hiring the live-in migrant worker, knowledge of *Kafala* and the Lebanese Standard Contract (LSC), and practices such as withholding the worker's passport and not giving her a day of rest or a day out. Employers were also asked about their agreement with a list of discriminatory attitudes towards WMDWs. In addition to the survey, 20 employers of live-in WMDWs participated in qualitative interviews to gather in-depth data on their understanding of *Kafala* and other legal obligations as well as their labor practices and their subjective rationales for engaging in these practices.

RESULTS

Lack of knowledge of *Kafala* and lack of interest in knowing

Findings from both the survey and qualitative interviews revealed that participants have limited knowledge about the legal meaning of *Kafala* in general and, in some cases, an expressed lack of interest in knowing. On average, survey participants answered three out of five *Kafala* knowledge questions correctly and only 18.8 percent answered all the *Kafala* knowledge questions correctly. Similarly, survey participants' knowledge of the stipulations in the Lebanese Standard Contract (LSC) they signed when they hired a WMDW was limited; only 4.2 percent of the sample answered all contract knowledge questions correctly. Qualitative research similarly revealed that other than the understanding that *Kafala* places the worker under the responsibility and control of the employer, participants had little knowledge of legal aspects that define the employer-worker relationship. Several stated during in-depth interviews that they have not read the contract and either seek the advice of the recruitment agent, comply with prevalent norms, or set their own rules according to what rights they think the worker deserves.

Employer practices

Employers engage in various practices that restrict the rights and freedoms of WMDWs, which are not part of *Kafala* and not in accordance with the LSC. Even though neither *Kafala* nor the LSC mention withholding the worker's passport, most of the employers surveyed reported doing so (Table 1).

Table 1 Employer practices in Lebanon

Practice	N (%)
Withholding the WMDW's passport	
Yes	94.3%
No	0.57%
Salary payment in full at end of month	
Yes	59.5%
No	40.5%
Giving the WMDW a full day off	
Yes	49.5%
No	50.5%
WMDW goes out on her day off	
Yes	47.9%
No	52.1%
Locking the WMDW inside the house	
Yes	22.6%
No	77.4%

Source: Authors.

Further, only three out of every five employers pay the worker's salary in full at the end of every month and only just under half give her a full day of rest every week, two rights which are clearly stipulated in the LSC. Of those who give the worker a day of rest, less than half allow her to go out on her own. Almost a quarter of the employers reported that they sometimes or always lock the worker inside the house.

Qualitative findings suggest clear intent by the employers to restrict the worker from exercising agency on the one hand, and infantilizing her as uneducated, gullible, and incapable of making decisions on the other hand. On the reasoning of withholding passports, employers expressed worry that if the worker possessed her own documents, this would make it easier for her to "run-away" before the conclusion of her contract, thereby causing the employer financial loss. *Kafala* was often evoked to justify restricting the worker from going out to reduce the risk of her running away. Otherwise, rationales came in the form of statements about morality, sexuality, and fear that the worker, if not restricted, would fall prey to an illegal network.

Employer discriminatory attitudes are key determinants

Employers' relatively high levels of discriminatory attitudes towards WMDWs were also evident. On average, participants agreed with five out of the seven discriminatory statements about WMDWs shown in Table 2, and a quarter of the sample agreed with all seven discriminatory statements.

Table 2 Discriminatory attitudes

	Attitude
1	DWs are never to be trusted
2	DWs are moody/difficult to please
3	DWs are not clean
4	DWs do not know how to raise children
5	DWs come to Lebanon having mental/psychological problems
6	DWs are lazy and always need to be prodded to work
7	DWs are not smart and cannot make the right decisions

Note: DWs = domestic workers.

Source: Authors.

The role of recruitment agencies

Many employers rely on private recruitment agents, rather than official government institutions, for information about the recruitment and hiring process and to resolve disputes with the worker. The mode of recruitment of the WMDW – through an agency versus personal networks – is strongly associated with the likelihood of employers engaging in practices that violate the rights and freedom of the worker: Survey participants who hired the worker through an agency were almost five times more likely to not allow her to go out on her own during her day off. During in-depth interviews, many participants who had limited *Kafala* knowledge and who have not read the LSC stated that they go back to the recruitment agent for advice whenever they encounter any problems. Through disseminating inaccurate information about *Kafala* and the contract, recruitment agents contribute to creating an environment that tolerates violating the rights of workers. For example, participants reported being (falsely) informed by the recruitment agent that there is a salary scale for domestic workers that is set according to nationality, that they can withhold the passport of the worker, or that they should restrict her movement to prevent her from “running away”.

WHAT WILL IT TAKE TO ADDRESS EXPLOITATION OF WMDWS?

A new contract and curbing the power of recruitment agencies

While recruitment agencies exercise power by disciplining workers early on during their migration journey directly and later indirectly through influencing employer practices, employers are not passive participants, but rather actively shape normative practices according to what fits their needs. For future advocacy efforts intent on ending the exploitation of WMDWs in Lebanon and improving their living and working conditions, it is more beneficial to move away from abstract calls to abolish *Kafala* and to focus instead on concrete actions. This means to shift the lens toward dismantling the entitlements of the various players that maintain *Kafala* and give it life through their practices. A key player is employers whose attitudes, values, and financial interests shape the rights and freedom of WMDWs. To reduce vulnerabilities of WMDWs, employers' knowledge about the LSC needs to be increased through awareness campaigns. The contractual language also needs to include explicit provisions about workers' right to free movement and to passport possession. A further measure to reduce WMDWs' vulnerabilities is to curb the political power of recruitment agencies in Lebanon that contribute to shaping the living and working conditions.

A broader fight against discrimination

Although enhancing employers' knowledge of the local legal framework and adjusting the contract will be of benefit, one of the main findings of the study is that discriminatory attitudes, rather than knowledge of *Kafala* or the LSC, differentiated between employers who violate the worker's rights and free movement and those who do not. Thus, the potential of any awareness-raising approach in abating employer practices without addressing employers' discriminatory attitudes, which isolate WMDWs and limit their ability to join social networks, will remain limited. Thus, a third measure to address vulnerabilities is interventions that address discriminatory attitudes toward WMDWs; that is, mobilizing the morality of employers can create new social norms and fairer working conditions for WMDWs, even under *Kafala*. Ultimately, employers are not extrinsic to *Kafala* but their practices and the social norms that these practices create are constitutive of the system.

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This policy note was developed as part of the project Gender-Sensitive Risks and Options Assessment for Decision Making (ROAD) to Support Work in Freedom 2 (WiF2). Support for this study was received by the Centre of Excellence for Development Impact and Learning (CEDIL), supported by UK aid from the UK Government.

Suggested citation: Abdulrahim, S., Cherri, Z., Adra, M. and Hassan, F. (2023). Beyond Kafala: Employer roles in growing vulnerabilities of women migrant domestic workers, CEDIL Evidence Brief 7. London and Oxford: Centre of Excellence for Development Impact and Learning. <https://doi.org/10.51744/CEB7>

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