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Essential yet Invisible: Migrant Domestic Workers in the GCC

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Abstract: This paper presents an overview of the labour market for migrant domestic workers in the Gulf Co-operation (GCC) countries. It discusses how current recruitment practices and working conditions contribute to the vulnerability of these workers to exploitation and abuse. The paper shows that although international conventions of the United Nations and the International Labour Organisation could provide frameworks for improved national legislation to protect the rights of domestic workers, GCC countries appear reluctant to ratify or implement conventions specific to migrant workers or domestic workers. Public pressure has led to alternative national legislation in some GCC countries, which is an improvement from a situation of limited or no legislative protection for MDWs; however there are several gaps that render this legislation weak. The paper concludes with policy recommendations to ensure more robust protection is extended to MDWs in the GCC.

Keywords: Domestic workers, Female employment, Recruitment, Work Conditions, Laws and Regulations, Policy Implementation

The Labour Market for Migrant Domestic Workers in the GCC

Since the 1970s, domestic workers constitute a substantial proportion of the temporary, contract migrant labour workforce in the six countries of the Gulf Cooperation Council (GCC). While both men and women may be employed as domestic workers (men are employed as cooks, gardeners, drivers, and security guards), the majority tend to be women. Official records indicate over a million migrant domestic workers (MDWs) are employed in the GCC (see Table 1).

Table 1: Official number of Migrant Domestic Workers in the GCC

Country	Year	Total MDWs	Women MDWs
Bahrain	2011	83,198	51,811
Kuwait	2010	569,536	310,402
Oman	2009	94,592	69,256
Qatar	2009	80,342	48,147
Saudi Arabia	2009	777,254	506,950
United Arab Emirates	2008	236,545	146,075*

Source: Kerbage and Essim 2011 and * Schwenken and Heimeshoff 2011: 25

However, accurate information on the number of MDWs is unavailable, as official records do not reflect the numbers of irregular, undocumented migrants. Estimates by other organisations suggest significantly higher numbers of MDWs. Illustratively, a Human Rights Watch report in 2010 estimated 1.5 million MDWs in Saudi Arabia alone, and 660,000 in Kuwait,¹ figures that are respectively double and triple the official figures for those countries.

Post the Gulf Wars, the strategic shift to non-Arab migrant labour workforces in the GCC (Kapiszewski 2001) resulted in the increasing employment of MDWs from Asian and African countries. MDWs from the Philippines, Indonesia, Sri Lanka, India, and Ethiopia have dominated this sector, though more recently, Nepal, Bangladesh, and Madagascar are providing cheaper sources of labour. Women MDWs often represent a major share of the total migrant worker population of their countries. For instance, in 2009, 70 per cent of the 1.8 million Sri Lankan migrant workers were women, and 80 per cent of them were employed in Saudi Arabia, Kuwait, Qatar, and the UAE.²

The high demand for MDWs in the GCC is attributable to the affluent lifestyles supported by oil-rich states, rather than the shift to a dual wage earner economy as has been the case in OECD countries. That is, the demand persists despite low levels of GCC women's participation in the labour force, and despite stated policies of nationalisation of the labour force.³ The labour of MDWs is crucial for the social reproduction of households in the GCC by providing a low-cost, privatised alternative to the state provision of care services for children, sick, disabled or elderly members of households.⁴

Equally, the supply of MDWs from developing countries remains steady due to the lack of employment opportunities in sending countries, such that the meagre salary (between \$100-\$300) per month MDWs receive is still considerably more than they would earn in their home countries. States and households of the sending countries also benefit from the overseas employment of MDWs. The remittances sent by MDWs provide income support for their families and are a source of investment. Asian and African governments actively pursue labour emigration policies as a strategy for generating foreign exchange, relieving domestic unemployment, and simultaneously reducing the need for the state to resource social welfare policies.

Recruitment, Placement, and Conditions of Work

The segmented labour markets of the GCC states necessitate an important role for migration intermediaries such as registered employment agencies (in source and destination countries) irregular brokers, as well as social networks⁵ to make the employment match. Another major reason to institutionalize registered, licensed brokers was that demand for workers in the GCC far exceeded the government's capacity to organise and control such movement. Prospective migrants in the source countries will approach (or be approached by) agents and brokers and pay a fee ranging from \$100-\$1000 to be placed. Often, women pay exorbitant fees either through ignorance or because they wish a speedy placement. The source country agencies and brokers liaise with placement agencies in the destination countries and send them the photograph and profile details of the prospective domestic worker. Prospective employers select an applicant and pay recruitment fees ranging from \$1,500-\$3,500 to cover her airfare, health insurance, and the agency charges. Pre-departure, the source country agent organises mandatory health checks for TB, HIV, and pregnancy for the MDW, and draws up an employment contract. This contract has no legal validity at the destination, where prior to placement usually a new contract with the employer will be drawn up by the destination country agent. Once the MDW has been placed, the employer has to arrange for the legal residence of the migrant worker through the kafala, the prevalent migrant labour sponsorship system in the GCC (and in the Middle East more widely). The employer has to obtain residence papers (iqama), usually from the Ministry of the Interior. The iqama binds the migrant worker to the kafeel (sponsor-employer), giving the latter powers to cancel the worker's residency at will and prevent workers from leaving or changing employment without their consent. The kafeel effectively ensures this by confiscating the passport of the MDW. Should the worker 'abscond' or leave employment without permission, they are subject to criminal penalties and/or deportation. The kafala is an effective mechanism by which the state externalises and privatises its surveillance function, passing on to citizens the responsibility of policing the vast force of immigrant labour within the country.⁶

Some MDWs may be satisfied with their employers and working conditions; however, numerous studies have consistently reported high levels of exploitation and abuse by employers.⁷ Economic exploitation includes the non-payment or under-payment of agreed wages, over-working the MDW beyond the hours specified in the contract without compensation, and coercing the MDW to undertake work in more than one household or work not specified in the contract (for instance, agricultural work). The source of this economic exploitation is in part attributable to the power over migrant workers that employers exert as kafeels. In part, it is attributable to the high cost of hiring a MDW. The ILO estimates that the full cost of employing a live-in MDW (including recruitment fees, work and residence permits, and the cost of food and accommodation) is between two to three times the annual salary of the MDW. The high cost borne by employers is then socially perceived as giving them the entitlement to command the labour, time, and even the being of the MDW.

The employer's power over the MDW can also be exerted through physical, verbal, and psychological abuse. Alarming reports of MDWs being beaten, tortured, and sexually abused regularly appear in the media. Employers may deprive the MDW of food, health care, and adequate rest time and sleeping arrangements; they may also forbid the MDW from communicating with their families or friends, restrict their mobility outside the household, and verbally insult and humiliate them (often on racial or religious grounds).

Sources of MDW Vulnerability

There are five important sources of MDWs' vulnerability that are specific to their position as domestic workers and migrant workers and to their employment within the GCC. First, their economic dependence as migrant workers on the source of income: they have left their own countries due to the absence of employment opportunities, and they know they cannot simply leave their jobs because their family members are dependent on this income. Further, to pay the high placement fees, many MDWs borrow money at exorbitant interest rates from local moneylenders or are offered 'loans' against their salary by agents. This debt burden makes it difficult for MDWs to leave or report working conditions that are exploitative or abusive.

Second, the devaluation of unpaid domestic work is key to the devaluation of paid domestic work, accounting for the low wages and low social status of domestic workers and the feminisation of this work (usually undertaken by women within households). Thus, a serious obstacle to ensuring the rights of MDWs is the absence of social and legal recognition of paid domestic workers as workers with the same entitlements as other categories of workers.

Third, in the GCC (and the Middle East more generally), this view of the domestic worker as 'khedm' or servant rather than worker with rights is further reinforced by the strong Arabian cultural value of the sacrosanct privacy of the home.⁸ Since it is culturally unacceptable for homes to be subject to official inspection as workplaces, domestic workers are typically excluded from labour law protections.

Fourth, as previously discussed, the kafala is a unique labour control mechanism by which MDWs and other migrant workers are controlled. MDWs are particularly vulnerable within the kafala, as they are isolated within homes, often with little access to the outside world. Finally, MDWs are also vulnerable as migrant workers within an international system that has few if any effective mechanisms to enforce international legislation that protects their rights. The power asymmetry between the poor sending countries and the rich receiving countries further weakens sending countries' ability to take action to protect their citizens (beyond ineffective bans on migration).

International Legislative Frameworks

Two sets of international legislative frameworks are relevant to MDWs: the International Labour Organisation (ILO) conventions, and the United Nations (UN) conventions on Human Rights and against Transnational Organised Crime.

ILO Conventions

Among the ILO conventions (summarised in Table 2), the most significant for MDWs is the ILO Convention 189 on Domestic Workers adopted in 2011. For the first time, measures to ensure fair terms of employment and working conditions have been extended to domestic workers, a hitherto invisible, unregulated and vulnerable group of (primarily female) workers. The preamble to this convention recognises that many domestic workers are migrants, and articles 8 and 15 explicitly extend protections to

migrant domestic workers. Article 15 enjoins member states to “effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices.” Although Arab delegates (including representatives from the GCC) supported the adoption of this convention, they have yet to ratify and implement its provisions.⁹

Table 2: Status of GCC ratification of ILO conventions

GCC country	Forced Labour		Right to Organise		Migrant Worker		Discrimination		PEAs	Domestic Workers
	C29	C105	C87	C98	C97	C143	C100	C111	C181	C189
Bahrain	Ratified 11/06/81	Ratified 14/07/98	No	No	No	No	No	Ratified 26/09/00	No	No
Kuwait	Ratified 23/09/68	Ratified 21/09/61	Ratified 21/09/61	Ratified 09/08/07	No	No	Under review	Ratified 01/12/66	No	No
Oman	Ratified 30/10/98	Ratified 21/07/05	No	No	No	No	No	No	No	No
Qatar	Ratified 12/03/98	Ratified 02/02/07	No	No	No	No	No	Ratified 18/08/76	No	No
Saudi Arabia	Ratified 15/06/78	Ratified 15/06/78	No	No	No	No	Ratified 15/06/78	Ratified 15/06/78	No	No
United Arab Emirates	Ratified 27/05/82	Ratified 24/02/97	No	No	No	No	Ratified 24/02/97	Ratified 28/06/01	No	No

Adapted from Kerbage and Essim 2011: 14-15.

The next most relevant conventions are those pertaining to migrant workers: ILO Convention 97 on migration for employment and ILO Convention No. 143 on migrant workers. It may be noted here that there is a provision in Convention No. 143 which states that migrant workers should not be considered illegal merely by the loss of their employment, a provision that the kafala system contravenes. Significantly, none of the GCC countries (or for that matter, any migrant receiving wealthy countries) are signatory to these migrant worker conventions. Obstacles cited by countries to the ratification of migrant worker conventions are the lack of state capacity to implement and enforce the legislation, given that contemporary migration is characterised by large flows of irregular migrants, the feminization of migration and temporary migration, and dominated by private sector agents facilitating migration for employment.¹⁰

Also of particular relevance to MDWs is ILO Convention 181 on Private Employment Agencies (1997). This convention recognises the reduced role of public employment agencies in a neoliberal era and the concomitant need for better regulation of private employment agencies.¹¹ Importantly, article 8 of this convention provides protection for migrant workers.

Other ILO conventions pertaining to forced labour, the right to organise and against discrimination have been ratified by many of the GCC countries. However, for MDWs the question is often not the existence of the law, but the extent to which they are able to access its protections.

UN Conventions

The most important UN Convention for MDWs is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRMW) of 1990. The objective of this convention is to guarantee the rights and equality of treatment of migrants and nationals – not only as workers, but as human beings. Importantly, the convention emphasises that rights of undocumented migrants must also be protected. Here too, as with the ILO migrant worker conventions, none of the GCC states have ratified this convention (see Table 3), despite being major migrant receiving states. In striking contrast to the international resistance to ratify conventions on migrant workers, a stronger international consensus has been generated around the criminalisation of trafficking and smuggling of persons across borders. This legislation came into force in 2003 through the two Palermo Protocols of the United Nations Convention against Transnational Organised Crime (UNCTOC): the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereafter, PTP), and the Protocol against the Smuggling of Migrants by Land, Sea and Air (hereafter, PSM). These two UNCTOC protocols criminalise smugglers and traffickers who facilitate the irregular transborder movement of people, but both Protocols explicitly state that the person being smuggled or trafficked should not be criminalised. Within a decade, a remarkably high number of countries have signed up to them: 117 countries are signatories as of June 2012. Within the GCC, Kuwait, the UAE and Saudi Arabia have ratified, while Bahrain, Oman and Qatar have accepted the UNCTOC protocols (see Table 3).

Two other UN conventions that are relevant to MDWs are the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW) which came into force in 1981 and the Convention on the Elimination of All Forms of Racial Discrimination (ICERD) of 1965, both of which have been ratified by all GCC states (see Table 3).

Table 3: Status of GCC ratification of UN conventions

GCC country	ICPRMW	UNTOC	CEDAW	ICERD
Bahrain	No	Ratified 07/06/04	Ratified 18/06/02	Accepted 27/03/90
Kuwait	No	Ratified 12/05/06	Ratified 02/09/94	Ratified 15/10/68
Oman	No	Ratified 13/05/05	Ratified 07/02/06	Accepted 02/01/03
Qatar	No	Ratified 10/03/08	Ratified 29/04/09	Accepted 22/07/76
Saudi Arabia	No	Ratified 18/01/05	Ratified 07/09/00	Ratified 23/09/76
United Arab Emirates	No	Ratified 07/05/07	Ratified 06/10/04	Ratified 20/06/74

Adapted from Kerbage and Essim 2011: 11

To conclude, two observations can be made about international legislative frameworks and MDWs in the GCC. First, GCC state reluctance to implement ILO and UN conventions on migrant workers are ‘non-policies’ of considerable consequence. These conventions require higher standards for registered PEAs and better rights and conditions for MDWs and other migrant workers that would raise the cost of migrant labour. Resistance to endorsing international conventions on migrant workers thus reinforces the low cost and the exploitability of migrant labour, particularly if that labour is already vulnerable, as MDWs are.

Second, the dominance of the UNCTOC legislative framework globally positions irregular, trans-national movements of people within a criminal framework. This may be particularly problematic, as there is considerable conceptual and practical confusion in differentiating between irregular migration, smuggling, and trafficking.¹² Consequently, the exploitation experienced by irregular MDWs is often conflated with that experienced by trafficking victims.

National Legislative Frameworks

In the past decade, pressure from domestic and international organisations and the media has intensified on GCC states to improve national legislative frameworks to protect migrant workers, particularly MDWs. This has generated policy dialogue (and piecemeal changes) broadly in three domains: legislation to protect MDWs; the reform of the kafala so that the migrant worker’s immigration status is de-linked from their employment status; and improved monitoring of private employment agencies (PEAs). MDWs are explicitly excluded from labour and social security legislation in all GCC states (see Table 4). This is justified by arguments that domestic work cannot be regulated in the same manner as other work as it would violate the privacy of the home.

The alternative proposed is legislation specifically for MDWs which some GCC countries have recently enacted or are considering. A central part of such legislation is a Standard Unified Contract for domestic workers that would stipulate provisions for a weekly day off, and paid annual and sick leave. The advantage of these contracts is that they put an end to the multiplicity of contracts used by different agencies and embassies and formalize the employment relationship for MDWs, specifying the rights and responsibilities of both parties. In the absence of protection under existing labour legislation, they offer a minimal degree of protection for MDWs.

In July 2013, Saudi Arabia passed a regulation that guarantees domestic workers nine hours of rest daily, one day off a week, and one month of paid vacation after two years. However, the regulation fails to limit the number of working hours (so MDWs could be legally expected to work up to 15 hours), in contrast to labour legislation limiting other workers to 8 hours of work daily.¹³ Kuwait, Oman, Qatar, and the UAE have developed draft Standard Unified Contracts for MDWs. Neither the UAE nor Qatar have made their drafts public; however, media reports claim that although the UAE’s draft law includes some positive reforms such as guaranteeing a weekly day off, it would also impose harsh criminal sentences on those who “encourage” a domestic worker to quit her job or offer her shelter after she has left her employer.¹⁴

Thus, although these drafts are an improvement from a situation of no legislation, there are several gaps that render the legislation weak. In particular, the legislation avoids stipulating limits on working hours fails to recognize the rights of MDWs to organise in unions, and fails to recognize private homes as workplaces that can be subject to inspection.¹⁵

Table 4: Coverage of MDWs under national legislation in GCC states

GCC country	Exclusion of domestic workers from Labour Law	Specific legislation for domestic workers	Standard Unified Contract	Proposed reform of the <i>Kafala</i>	Regulation of PEAs
Bahrain	Explicitly excluded under section 2 of the Labour Code for the Private Sector No. 23 of 1976	No	No	Yes, right to change employers. Reform not inclusive of DWs	No
Kuwait	Explicitly excluded under section 2 of the Labour Code for the Private Sector No. 30 of 1995	Draft Legislation on Domestic Workers	The Standard DWs contract for Kuwait, October 2006	Yes, right to change employers. Reform not inclusive of DWs	Decision No. 1182, 2010, MoL
Oman	Explicitly excluded under section 2 of Labour Code, 2003 (Royal Decree No. 35)	No	Pilot Contract of Employment for Housemaids and Equivalents	No	No
Qatar	Explicitly excluded under section 3 of the Labour Code No. 14 of 2004	Draft Legislation on Domestic Workers	No	No	No
Saudi Arabia	Explicitly excluded under section 7(b) of the Labour Act, 2006 (Royal Decree No. M/51)	Draft Legislation on Domestic Workers	No	No	No
United Arab Emirates	Explicitly excluded under section 3 of the Federal Act No. 8 of 1980, regulating employment relationships	Draft Legislation on Domestic Workers	The Standard DWs Contract for UAE, April 2007	Yes, right to change employers	Ordinance Regulating PEA, January 2011, MoL

Adapted from Kerbage and Essim 2011

Bahrain, Kuwait, and the UAE have proposed changes to the kafala sponsorship system and taken incremental steps towards untying migrant workers' employment from their residence status. If fully implemented, these proposals would allow migrant workers the ability to change employers without affecting their residence status. Unfortunately, MDWs are explicitly excluded from the ambit of such proposed legislative changes.

The regulation of PEAs is another area of importance to MDWs, as they play an important role in the employment relationship, in negotiating wages and in resolving disputes. There are also reports of PEAs that are directly abusive or complicit in employers' abuse of MDWs. Only Kuwait and the UAE have passed legislation to regulate PEAs, but even this falls short of the standards set by the ILO convention No.181 on PEAs, particularly in the monitoring and enforcement of the legislation.

Policy Recommendations

MDWs constitute an essential component of the workforce in the GCC. Their contribution to the households and the reproduction of societies in the Gulf is undervalued, and largely invisible within the legislative domain. The absence of national legislation to protect their rights as workers and human beings has provoked extensive criticism, and consequently, the GCC states have taken small steps to address this deficit. These preliminary efforts can be strengthened by the following measures to ensure more robust protection is extended to MDWs:

- Ratify the international migrant worker conventions (ILO and UN) and the ILO Convention on Domestic Work and bring national legislation in line with these conventions.
- Extend national labour legislation to cover MDWs. This should include ensuring MDWs have the right to form an association or trade union and to collective bargaining
- Enact and/or strengthen legislation to regulate and monitor PEAs
- Reform the kafala system so that employers are not sponsors of immigration
- Extend social security legislation to MDWs
- Expand legal aid, counselling, and shelter services for MDWs who have been abused
- Take steps to prevent, investigate, and prosecute perpetrators of criminal offences against MDWs
- Promote bilateral and multilateral cooperation with labour sending countries

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1. The report does not specify if these figures represent only female MDWs or also include male MDWs. Human Rights Watch, *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East* (New York: Human Rights Watch, 2010), 8.
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About the Author



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Publication Reference : Citations and quotations should always include either the long or the short reference provided here. Generally the long reference should be used but in exceptional cases (e.g., not enough room), the short reference may be used.

Long Reference: Bina Fernandez, "Essential yet Invisible: Migrant Domestic Workers in the GCC," Explanatory Note No. 4/2014, Gulf Labour Market and Migration (GLMM) programme of the Migration Policy Center (MPC) and the Gulf Research Center (GRC), <http://gulfmigration.eu>

Short Reference: B. Fernandez, "Essential yet Invisible: Migrant Domestic Workers in the GCC," Explanatory Note No. 4/2014, GLMM, <http://gulfmigration.eu>

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