



LEBANON

Without Protection

How the Lebanese Justice System Fails
Migrant Domestic Workers

HUMAN
RIGHTS
WATCH



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Executive Summary

They used to treat me like I was enslaved.

—Deposition of Kenyan domestic worker to Lebanese police, March 7, 2000.

I thought that the police are like Madagascar. When you have a problem you go there. But here, they are part of the problem.

—Malagasy worker, February 9, 2010.

On December 9, 2009, a Lebanese criminal court sentenced a Lebanese woman to 15 days in jail for repeatedly beating Jonalin Malibago, her Filipina maid, three years earlier. Lebanese newspapers hailed the case a landmark victory for the country's estimated 200,000 migrant domestic workers (MDWs), many of whom report abuse at the hands of their employers. The case illustrated the positive role that the judiciary can play in protecting MDWs, even though the sentence was lenient given the violation. But it also raised at least one significant question: was the Malibago verdict a rare instance of an employer being held to account for abuses against MDWs or was it part of a broader pattern of successful prosecutions?

This report seeks to answer that question. To do so, Human Rights Watch reviewed 114 Lebanese judicial decisions in which MDWs were either plaintiffs or defendants, and interviewed MDWs who reported abuse as well as lawyers who regularly take up their cases. It finds that the Lebanese judicial system is failing to protect the rights of MDWs, and that while Malibago's case is by no means unique in holding an employer accountable for mistreatment, too many other workers do not receive justice.

Lebanese families employ an estimated 200,000 migrant domestic workers, primarily from Sri Lanka, Ethiopia, the Philippines, and Nepal. These women typically migrate on short-term contracts and are obliged to live in the home of their employer as a condition of their work visa, sending much of what they earn to family or loved ones back home: for example, MDWs in Lebanon sent more than \$90 million overseas in the first half of 2009. The domestic worker sector is rife with complaints of nonpayment of wages, excessive working hours, forced confinement, and even physical and sexual abuse—fueled by Lebanese labor law that excludes MDWs from standard labor protections afforded to almost all other categories of workers, such as the right to a weekly day of rest, paid leave, benefits, and worker compensation. Desperate, some try to run away, often with serious consequences: Human

Rights Watch documented an alarming number of deaths of domestic workers, primarily from suicide or from risky escape attempts from high stories of residential buildings. Lebanon's judiciary has both the potential and obligation to play an important role in protecting the basic rights of MDWs. However, this potential has so far remained unfulfilled, and the judicial system remains, albeit with exceptions, largely inaccessible and unresponsive. Such problems are not limited to MDWs: many Lebanese also suffer from lengthy pre-trial detentions, extended trials, and overloaded courts. However, MDWs face particular obstacles in accessing the justice system.

A number of factors mean that MDWs often do not file or pursue complaints against their employers, or else settle on unfavorable terms. These include lack of judicial support, fear of counter charges and being held in detention, and restrictive visa policies that make it hard for MDWs to see through cases that can take months –and often years– to wind through the protracted judicial process. For many, the need to earn money to support their families, and the impulse of abused workers to return home quickly, may also prompt them to withdraw their complaints rather than seek redress. A Human Rights Watch review of 13 criminal cases that MDWs brought against employers found they took an average of 24 months to be resolved, while MDW complaints for unpaid wages filed in civil courts lasted between 21 and 54 months. Complaints brought before labor courts, which are supposedly faster than regular civil courts because their procedures are simpler, lasted 32 months on average.

At the center of the judicial failure to protect MDWs is the country's *kafeel*, or sponsorship system that ties a migrant worker to his or her specific employer. MDWs lose their legal status if their sponsor terminates their contract, or if they decide to leave their employers (even if they have legitimate reasons to quit, such as non-payment of wages or abuse). Accordingly, a MDW who leaves an employer and files a complaint against him or her loses the right to work and faces potential detention and deportation. Some MDWs can seek refuge in shelters run by NGOs or embassies while their case is pending but places in shelters are limited and immigration laws restrict their freedom of movement. Lebanese courts have on occasion allowed MDWs to return home while their lawyers follow-up on the criminal case against abusive employers. However, such cases remain limited, especially since many MDWs do not have a lawyer.

Another obstacle for MDWs seeking redress is a lack of accessible mechanisms, such as telephone hotlines where MDWs could report abuse, and units within the Ministry of Labor or security forces that specialize in such cases. In a welcome move, the Minister of Labor on June 1, 2010, announced a new hotline at the ministry to receive complaints from MDWs and other workers. However, as of July 7, 2010, it had yet to receive a single call from a domestic

worker, possibly because the Ministry has not disseminated information about the hotline within communities of MDWs.

Even if they do complain, MDWs often face official inaction on the part of police and judicial authorities, which have failed to treat certain allegations as potential crimes, dealt with some complaints meekly, or else ignored them entirely. Human Rights Watch did not find any example amongst the 114 cases it reviewed of authorities prosecuting employers accused of overworking workers, locking them inside homes, confiscating passports, or denying food. In one example, a Kenyan domestic worker told the police that her employer locked her in the house when she would leave—which the employer admitted doing in her police deposition. However, rather than filing charges for the offense of “deprivation of liberty” (Art. 569 of Penal Code), the prosecutor simply told the police to “obtain an undertaking from the employer to prepare all the paperwork of the maid and to pay her salary, and not exact revenge against the worker.”¹

In cases where MDWs complained about employers failing to hand over passports or other identity papers, the courts dismissed the complaint, or simply asked the employer to return the document. Even then, there was little follow-up to ensure compliance, and no employer was prosecuted for his or her behavior in any case that Human Rights Watch reviewed. Accepting the argument of employers that it is legitimate to hold an employee’s passport to prevent her from running away, judges have rejected attempts by activists and lawyers to challenge passport withholding on the grounds that it amounts to “deprivation of liberty” (*Hajez Huriyat*). In 2001, an investigative judge in Beirut dismissed a complaint brought by two women from Madagascar against their recruitment agency for “confiscation of passport,” reasoning that “it is natural for the employer to confiscate the maid’s passport and keep it with him, in case she tries to escape from his house to work in another without compensating him.”²

Even violence against MDWs—including beating, slapping and punching—often fails to garner the attention of police and prosecutors, who only prosecute extreme physical violence when it is backed up by extensive medical reports. In December 2005, for example, the Pastoral Committee for Afro Asian Migrants (PCAAM), a domestic worker rights group, received information that a Sri Lankan domestic worker was being beaten, denied wages, and locked in the house by her employer. PCAAM informed the prosecutor’s office, which referred the complaint to police, who took 21 days to begin an investigation. In her

¹ Beirut Police Report, No. 302/198 (Damascus Road Branch), March 7, 2000 (on file with Human Rights Watch).

² Decision of the Investigative Judge in Beirut, No. 11/1167, September 2, 2001 (on file with Human Rights Watch).

deposition, the Sri Lankan worker said her employer owed her seven months-worth of wages (\$670), and beat her regularly. Confronted by police, the employer agreed to pay outstanding wages, but faced no charges for the beatings.

Also deterring MDWs from filing complaints against employers for ill-treatment is the fact that they may end up facing countercharges of theft, months in pre-trial detention, and trials in which international standards of due process and fairness are not always respected. Human Rights Watch reviewed 84 cases where MDWs were accused of a crime: in most (61 out of 84), the employer accused the MDW of theft. Other accusations included prostitution, violence against the employer or third parties, or carrying false identification papers. At least 76 percent of the accused MDWs (64 out of the 84 cases) were detained before trial, even when accused of stealing small amounts, often less than \$1,500. Most MDWs who were eventually found not guilty had been detained during trial for an average of three months before being released, although at least four had spent more than eight months in jail before a court found them not guilty.³

For the most part, a MDW must face the legal system without either adequate legal representation or translation. Of the 84 criminal cases against MDWs reviewed, 37 (44 percent) did not have a defense lawyer. That number rises to 50 percent if one excludes felony cases (*jinnayat*) in the Criminal Court, where a defense lawyer is usually mandatory and court-appointed.

Most MDWs (at least 57 of 84 cases) also face police and court proceedings without the help of certified translators—despite the fact that many do not speak fluent Arabic and are unlikely to understand the vocabulary used in a police interrogation or trial.⁴ Human Rights Watch reviewed a number of police reports where the MDW indicated that she only speaks “a little Arabic,” yet police proceeded with the interrogation anyway without an interpreter. Even when translation is available, it is often ad hoc in nature: of 11 cases where court documents and police reports clearly indicate an interpreter was present, three were official sworn translators, one was a passerby, one was another migrant, three were provided by the MDW’s embassy, two by the employer, and one by Caritas Migrant, a nongovernmental organization (NGO). Interpreters were rare even in cases where the MDW was accused of a serious crime: only seven out of 13 cases where the worker was accused of a felony had an interpreter.

³ In our sample, 18 out of the 61 MDWs accused of theft were found not guilty by the court. Of those 18, 15 of them were held in pretrial detention for an average of three months before being released.

⁴ Only in 11 cases did the court documents and police reports clearly indicate the presence of an interpreter. In the other 16 cases, it was unclear from the court documents if there was an interpreter.

Human Rights Watch interviewed many MDWs, as well as embassy officials, who complained that courts often favor the employer and convict workers purely based on the employer's testimony. Human Rights Watch research indicates that Lebanese courts have a mixed record in this area. Out of the 61 cases reviewed where the employer accused a MDW of theft, the court found the MDW innocent in 18 of the cases for lack of evidence. In a positive development in 2002, the Court of Appeal in the Metn district found Jenet Teklo, an Ethiopian domestic worker whose employer had accused her of theft, not guilty because the accusation "has to be supported with external evidence like fingerprints, witnesses, or finding the stolen goods, which are not present in this case."⁵

However, the standard set in the Teklo case has not been followed consistently. In a number of reviewed cases, the courts convicted the worker solely based on the employer's accusation, even if it was weak or vague. For example, on December 29, 2006, a Beirut judge sentenced a Sri Lankan worker to six months in jail for stealing \$5,000 worth of money and jewelry from the employer—a charge the worker denied. The employer did not give details about the stolen items in his initial complaint, did not bother to attend any of the trial sessions, and did not request civil compensation. None of the allegedly stolen goods were recovered.⁶ In many cases, the court often took the fact that a worker "ran away" from the employer to be circumstantial evidence in furtherance of the accusation of theft, even when other legitimate reasons for leaving, such as unpaid wages or ill-treatment, were given.

It is possible to provide domestic workers with accessible legal remedies, as Singapore, Hong Kong, and other places that host large numbers of MDWs have shown. For example, Singapore has taken vigorous action to monitor MDW abuse, prosecute cases, and publicize their outcomes as a deterrent. In the Middle East, Jordan has amended its labor law to include domestic workers, guaranteeing protections such as monthly payment of wages into a bank account, a weekly rest day, paid annual sick leave, and a ten-hour workday. Bahrain mandates no more than two weeks between hearings, so that most cases are resolved in about three months, if there are no appeals.

Despite recent pronouncements by Lebanese officials, including the Ministers of Interior and Labor, that they want to improve the treatment of MDWs, the government has so far limited itself to only narrow reform initiatives, such as a compulsory standard employment contract for MDWs introduced in January 2009, and has failed to follow through by setting up

⁵ Decision of the Appeals Court of Misdemeanors (Jdeideh district), Case No. 857/2002, June 12, 2002 (on file with Human Rights Watch).

⁶ Decision of Penal Court of First Instance (Baabda district), Case No. 2831/2006, December 29, 2006. Deposition of employer at General Security, No. 1749, June 10, 2006 (on file with Human Rights Watch). The MDW did not have a lawyer.

effective mechanisms for inspection. Lebanese authorities should undertake a number of specific reforms to ensure the rights of MDWs, such as setting up monitoring mechanisms to detect cases of MDWs abuse; making Lebanese laws more responsive to the vulnerable situation of MDWs; reforming an inherently abusive sponsorship system; and setting up quick and simplified dispute resolution mechanisms to settle salary disputes between employers and migrant workers.

Recommendations

To the Lebanese Ministry of Justice, and the Judiciary

- Develop a national plan to increase the percentage of cases concluding in convictions when crimes are committed against MDWs, including physical and sexual abuse, forced confinement, forced labor, and trafficking.
- Organize trainings about the rights of MDWs with judges and prosecutors.
- Provide access to legal aid and certified interpreters for MDWs who are victims of abuse.
- Publish statistics and information on the number of complaints received from and against MDWs, the average length of time to resolve them, and their outcome.

To the Lebanese Ministry of Labor

- Raise awareness about the existence of the complaints hotline in MDWs' communities by distributing pamphlets describing the hotline and explaining its uses in the migrants' languages to arriving workers at Beirut International Airport as well as making available fliers about the hotline in locations commonly frequented by MDWs.
- Create a labor inspection unit tasked with monitoring working conditions for MDWs and enforcing the standard contract.
- Amend the standard employment contract for MDWs to address some shortcomings in the current draft, particularly (i) recognizing a MDW's right to leave her employer's house during her time-off, and (ii) addressing the current inequality between the employer and the MDW when it comes to the basis on which each party can break the contract.
- Strengthen regulations and monitor employment agencies more rigorously. Create a new accreditation body that includes representatives from employment agencies, domestic workers' rights organizations, and the Ministry of Labor.
- Set up a blacklist of employers who violate MDWs' rights and prohibit them from hiring other migrant workers.

To the Lebanese Ministry of Interior

- Implement training programs for police officers and immigration officials to identify and respond to MDWs' abuse complaints. The police should have a protocol for handling abuse cases, including immediate health care and social service referrals.
- Instruct the police to investigate criminal violence against domestic workers, including physical abuse, sexual abuse, forced labor, and trafficking. Establish mechanisms to ensure prompt treatment of cases involving migrants.

- Publish statistics and information related to the number of investigations into alleged abuse of MDWs, and alleged crimes committed by MDWs.
- Convey a consistent message to employers that withholding workers' passports is illegal, because it restricts a person's movement and amounts to confiscation of someone else's property.
- Permit migrant domestic workers to work while awaiting the outcome of legal proceedings.

To General Security

- Return passports to MDWs when they enter the country, rather than handing them over to employers.
- Screen detained MDWs to identify those with complaints about unpaid wages or abuse, and make the appropriate referrals.

To the Lebanese Ministry of Social Affairs

- Provide services to MDWs who are victims of abuse, such as shelters, hotlines, access to legal aid, interpreters, and counseling.

To the Lebanese Parliament:

- Extend labor protections in national law to domestic workers and introduce additional protections to address the specific nature of domestic work, such as intermittent working hours, living accommodations, and food provision.
- Amend the penal code to explicitly criminalize withholding workers' passports, forced confinement of domestic workers, and food deprivation.
- Enact legislation that sets up a quick and simplified dispute resolution mechanism to settle salary disputes between employers and migrant workers.
- Reform the visa sponsorship system so that workers' visas are no longer tied to individual sponsors, and they can terminate employment without sponsor consent.
- When necessary, grant migrant workers temporary visas for pending legal procedures.

To the Lebanese Government

- Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention).
- Support the creation of an International Labor Organization (ILO) convention establishing global labor standards on domestic work, and ratify such a body.
- Cooperate with labor-sending governments to receive and respond to complaints, and to pursue legal proceedings once a worker has returned to his/her country.

Methodology

This report is based on an analysis of 114 judicial decisions concerning migrant domestic workers in Lebanon, either as plaintiffs or as defendants. These were collected through two channels. First, a Lebanese lawyer hired as a consultant by Human Rights Watch went directly to court registries in Beirut and Baabda (an active court center since it handles all court cases arising in the Mount Lebanon governorate, one of Lebanon's most populous regions), and photocopied all the cases we found where nationals of MDW-sending countries appeared as plaintiffs or defendants from 2007-2008 (a total of 238 cases).

Since the focus of this report is on the justice system's handling of disputes between domestic workers and employers/agencies, we excluded from our initial sample of 238 cases the numerous cases that dealt solely with immigration-related matters and only retained the cases dealing with labor issues (e.g., non-payment of wages, lack of day off) and criminal matters (e.g., theft, violence, sexual assault).⁷ Second, we contacted lawyers who regularly represent MDWs and asked them for copies of cases on which they had worked.

Our analysis includes a review of police reports and, where available, records of the interrogations before the investigative judge. In addition to examining the substance of claims, we reviewed cases for procedural violations, especially whether the MDW had access to an interpreter or a lawyer.

The resulting sample of 114 cases is dominated by cases before criminal courts (107 out of the 114), and where MDWs are defendants (84 out of the 114). More than half (61 out of 114), involve an employer accusing the MDW of theft. This overall distribution, and particularly the low percentage of cases in which MDWs were plaintiffs, is not due to the methodology. Rather, as this report shows, it reflects a justice system that remains largely inaccessible to MDWs.

⁷ We did however keep the cases where the residency status of the MDW, and notably the issue of renewal of residency papers, was part of a broader dispute between an employer and a MDW.

The tables below summarize the main characteristics of the cases:

Table 1. Distribution of Cases by Nationality of MDW

1.	Sri Lanka	45
2.	Philippines	32
3.	Ethiopia	19
4.	Kenya	6
5.	Bangladesh	4
6.	Mauritius	2
7.	Nigeria	2
8.	Congo	1
9.	Ghana	1
10.	Madagascar	1
11.	Sierra Leone	1
	Total	114

Table 2. Distribution of Cases by Judicial Instance Deciding Case

Criminal	Criminal Court (for felonies)	14
	Penal Court of 1st Instance	80
	General Prosecutor	7
	Investigation Judge	5
	Military Court	1
Civil	Civil Court of 1st Instance	1
	Labor Court	5
	Magistrate of Summary Justice	1
	Total	114

Table 3. Geographic Distribution of Cases

Location	Baabda	Beirut	Keserwan	Metn	Other
Civil	4	2		1	
Criminal	28	47	11	18	3

Table 4. Type of Case

Type of Case	Number of cases	Percentages
MDW as Plaintiff against Employer	20	18%
MDW as Defendant	84	74%
MDW as Plaintiff against Agency or Third Person	10	8%

HRW researchers also conducted interviews with 25 MDWs who sought shelter at embassies or with friends in Lebanon, and alleged abuse by their employer; 11 diplomats from embassies and consulates representing the largest groups of MDWs in Lebanon; six lawyers who regularly represent MDWs in Lebanese courts; six migrants who act as informal community leaders for MDWs in Lebanon and regularly visit and follow up on their cases; and representatives of nongovernmental organizations providing services to MDWs. Apart from the interviews with Filipina workers, which were conducted in English, interviews with other workers were conducted in the native language of interviewees and translated with the help of interpreters. Some of the MDWs quoted in this report are not referred to by name but by initials that do not necessarily correspond to the interviewees' real name to protect their identity as they have expressed a fear that their employers will retaliate against them.

The report also builds on interviews and other research that Human Rights Watch has conducted over the last three years on the situation of MDWs in Lebanon, including interviews conducted in Sri Lanka in late 2006 with MDWs who had returned from Lebanon, as well as on other published studies on MDWs in Lebanon.⁸

Many Lebanese employers complain that MDWs exaggerate claims of ill-treatment or lie about their experience in Lebanon. Human Rights Watch interviews with MDWs were designed to gather enough factual detail to assess the consistency and credibility of both the interviewee and the information they provided. When an MDW complained about unpaid wages or ill-treatment, researchers asked questions to determine the exact circumstances of the abuse. Claims that remained vague or unsubstantiated were disregarded. In addition, researchers reviewed police reports and court judgments, and were able to compare MDWs' testimonies with information they gave the police. Overall, researchers found the MDWs interviewed to be highly credible and forthcoming with information.

More importantly, the report's findings are not solely based on individual testimonies, but rather rely on trends or patterns based on information from multiple sources, including MDWs, lawyers, court reports, and direct observations.

⁸ Human Rights Watch has reported extensively on the abuse affecting MDWs in Lebanon. For past work see, Human Rights Watch, *Exported and Exposed: Abuses against Sri Lankan Domestic Workers in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates*, November 13, 2007, Volume 19, No. 15(C), <http://www.hrw.org/en/node/10592/>; "Lebanon: Protect Domestic Workers From Abuse, Exploitation," Human Rights Watch news release, April 29, 2008, <http://www.hrw.org/en/news/2008/04/29/lebanon-protect-domestic-workers-abuse-exploitation>; "Lebanon: Migrant Domestic Workers Dying Every Week," Human Rights Watch news release, August 26, 2008, <http://www.hrw.org/en/news/2008/08/24/lebanon-migrant-domestic-workers-dying-every-week/>

I. Background

A. Migration to Lebanon for Domestic Work

Prior to the 1970s, Lebanese households that sought domestic help usually employed young Lebanese women, mainly from poor families in rural areas, Palestinian women from Lebanon's refugee camps, Kurdish refugees, and women from neighboring Arab countries such as Syria and Egypt. Migrant women from Africa and Asia started arriving in Lebanon to work as domestic helpers in the 1970s, beginning with Filipinas in 1973, followed by Sri Lankans in 1978.⁹ However, most African and Asian MDWs began coming in earnest only in the early 1990s, following the end of the Lebanese civil war (1975-1990).

They quickly replaced Lebanese and other Arab and Kurdish women as domestic help—a shift that Nayla Moukarbel, author of a book on Sri Lankan domestic workers in Lebanon, suggests happened for three main reasons: the cheaper cost of Asian and African MDWs; their reputation for being more submissive; and tensions between Lebanon's various religious sects as well as between Lebanese and Syrian and Palestinian groups that flared during the civil war and made it more difficult to hire women from another sector of Lebanese or Arab society.¹⁰

An additional factor may be that the influx of African and Asian women lowered the social status of domestic workers and gave domestic employment a negative racial connotation, making it less attractive to Lebanese and other Arab women.¹¹

The availability of cheap domestic help, and the elevated status a Lebanese employer attains by hiring a domestic worker, led to a rapid increase in the number of migrant

⁹ For a good background on the history of migration for domestic work to Lebanon, see, Dr. Ray Jureidini, International Labour Organization, *Migrant Domestic Workers in Lebanon*, 2001, www.ilo.org/public/English/region/arpro/beirut/infoservices/report/report05.htm (accessed April 11, 2010) (According to Jureidini, which cites articles from the Lebanese daily *L'Orient le Jour*, the first recruitment agency in Lebanon to open its doors to Sri Lankan migrants was in 1978); Michael Young, *Migrant Workers in Lebanon*, preface, <http://www.lnf.org.lb/migrationnetwork/rep.html> (accessed April 11, 2010); Nayla Moukarbel, *Sri Lankan Housemaids in Lebanon: A case of 'Symbolic Violence' and 'Everyday Forms of Resistance'*, Amsterdam University Press, 2009, pp. 30-33; Unpublished report in French by Father Martin McDermott, dated October 1998 and addressed to the Committee on Pastoral Care of Afro-Asian Workers, of which McDermott is coordinator.

¹⁰ See Michael Young, *Migrant Workers in Lebanon*, Ch. 1, part 2, <http://www.lnf.org.lb/migrationnetwork/mig2.html#History> (accessed April 11, 2010); Moukarbel, *Sri Lankan Housemaids*, p. 31.

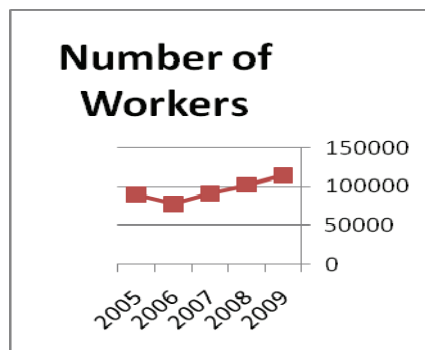
¹¹ Moukarbel notes that the Egyptian government stopped the migration of its women to Lebanon because of the social stigma associated with domestic work. She also cites the director of General Security as saying, "Egyptian authorities no longer allowed maids to come to Lebanon or to another country. It is about reputation."

domestic workers in the country.¹² According to Ministry of Labor figures, 114,933 work permits were granted to MDWs in Lebanon in 2009 (these include renewals as well as new permits). However, these figures underreport the actual number of MDWs because they only include those who have work permits, and not the large number of domestic workers who do not. Embassies and the International Labor Organization put the actual number of migrant domestic workers in Lebanon closer to 200,000.¹³

Table 5 – Breakdown by Nationality of Migrant Domestic Workers in 2009 (according to work permits)¹⁴

Nationality	Number
Ethiopians	36,638
Philippines	25,043
Bangladesh	16,429
Sri Lanka	13,587
Nepal	11,289
Madagascar	4,172
Other	7,775

Chart 1 – Number of Migrant Domestic Workers in Lebanon with Work Permits (per year)¹⁵



¹² As Michael Young notes in his book *Migrant Workers in Lebanon*, “A second motivation for hiring foreign laborers - and more specifically domestic workers, who form a substantial share of the migrant labor force - is status. One of the curious features of the postwar environment is the ease with which families, even those with limited incomes, have been able to hire domestics - from Sri Lanka, the Philippines, Ethiopia, and other countries - at competitive rates. What is flagrant, however, is that this impulse has often seemed less necessary than advantageous socially, in a society in which social status during the war years was severely shaken up.” Michael Young, *Migrant Workers in Lebanon*, preface, <http://www.lnf.org.lb/migrationnetwork/rep.html> (accessed April 11, 2010).

¹³ Of the 200,000, 80,000-100,000 are estimated to be Sri Lankans, followed by Filipinas and Ethiopians. See Nayla Moukarbel, *Sri Lankan Housemaids in Lebanon: A case of ‘Symbolic Violence’ and ‘Everyday Forms of Resistance’*, Amsterdam University Press, 2009, p. 10; International Labour Organization, Regional Office for Arab States and International Organization for Migration (ILO/IOM), 2008, *An assessment of the situation of WMDWs in Lebanon* (Beirut).

¹⁴ Source: Ministry of Labor

¹⁵ Source: Ministry of Labour. The dip in 2006 is most likely due to the July 2006 war between Israel and Hezbollah, which drove large numbers of domestic workers to leave the country for security reasons.

Remittances from MDWs are an important source of income for their families and home countries. According to statistics from the Central Bank of Lebanon, migrants electronically transferred the following amounts in the first half of 2009: \$37.5 million to the Philippines, \$27 million to Ethiopia, \$17.8 million to Sri Lanka, and \$9.2 million to Bangladesh.¹⁶

To enter Lebanon for work, a MDW has to be officially ‘sponsored’ by a Lebanese agency or individual employer. In the vast majority of cases, MDW paperwork is initially handled by an agency, of which there are currently 501 currently registered with the Lebanese Ministry of Labor.¹⁷ Labor agencies are regulated by Decision No. 1/13, issued by the Minister of Labor on January 22, 2009, which requires individuals wishing to start a labor agency to (i) deposit LBP50,000,000 (\$33,000) at the publicly-owned Housing Bank, (ii) sign an undertaking to respect the Ministry of Labor’s laws and regulations, and (iii) provide written evidence that they have at least three rooms in their premises to provide for the comfort of MDWs who are “returned” by their employers.¹⁸ In practice, these recruitment agencies receive very little state supervision. When Human Rights Watch wrote to the Ministry of Labor on April 14, 2010, requesting information on the number of blacklisted agencies, it was told that the information was not available.¹⁹

To recruit MDWs to work in Lebanon, Lebanese agencies usually collaborate with counterparts in migrants’ countries, or sometimes rely on their own representatives to recruit the workers themselves.²⁰ The Lebanese agencies then prepare small dossiers that include details about the prospective worker, and a photo to present to the prospective employer.

Once an employer selects a MDW, the first step is to get pre-work authorization from the Ministry of Labor. This requires the employer to have a photocopy of the MDW’s passport, and to deposit LBP1,500,000 (\$1,000) at the (government-controlled) Housing Bank to guarantee payment of government taxes and an airline ticket to enable the MDW to return

¹⁶ Source: Central Bank. As reported in *Le Commerce du Levant*, No. 5603, April 2010, p. 26.

¹⁷ Human Rights Watch phone conversation with Ministry of Labor official, April 21, 2010. The number of licensed agencies has increased dramatically over the last decade. According to Moukarbel, in 1997, there were only twelve licensed agents with over 100 conducting business illegally. Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 35.

¹⁸ Decision No. 1/13, issued by Minister of Labor on January 22, 2009, art. 2 http://www.labor.gov.lb/pages.asp?Page_ID=137 (accessed June 10, 2010).

¹⁹ Letter from Human Rights Watch to Ministry of Labor, April 14, 2010. Reply was by phone.

²⁰ For a good description of the actual mechanics of the selection process and migration, see Young, *Migrant Workers in Lebanon*, Ch. 2, part 2; Reem Haddad, “A Modern-Day ‘Slave Trade’: Sri Lankan Workers in Lebanon,” *Middle East Report*, Summer 1999, pp.39-41; Marie-Odile et Xavier Favre, “Trafic de ‘servantes’ à Beyrouth,” *Le Monde Diplomatique*, June 1998, p. 20.

home.²¹ In practice, this money is never used to pay the MDW's return ticket, and is refundable when the MDW's contract ends.²²

After the Ministry of Labor issues a pre-work authorization, General Security—the security agency that controls the entry, presence, and exit of all foreigners in Lebanon—gives a three-month residency visa with the name of the sponsor stamped on the visa. This initial period is designed to give sponsors enough time to determine whether they want to extend the MDW for a longer term, and if so, to proceed with the paperwork needed to obtain one-year residence and a working permit. The sponsor must give General Security and the Ministry of Labor: (i) the MDW's passport stamped with the port of entry (which, under General Security regulations, must be Beirut airport), (ii) a health certificate stating the MDW is in good health following a medical check-up that tests for HIV/AIDS, hepatitis, sexually transmitted diseases, tuberculosis, and pregnancy (test results from sending country laboratories are not recognized in Lebanon), and (iii) one-year medical insurance. In addition, the MDW is required to sign a contract, drafted in Arabic, in front of a notary public. Since January 2009, the Ministry of Labor has introduced a standard employment contract that MDWs and employers must sign; the ministry has distributed this contract to notary publics (see Section I.B for more on the standard contract).²³ Lebanon does not recognize the initial contract that workers sign in their home country.

Agency fees in the country of origin are usually paid by the women wishing to migrate. These fees vary from country to country. For example, some MDWs from Madagascar told Human Rights Watch they paid no agency fees in Madagascar, while Sri Lankan domestic workers regularly pay fees of around \$200—and sometimes as much as \$315—to Sri Lankan agents.²⁴ Many of these women do not have this sum, so borrow money from lenders in their home country to finance their trip, leaving them in debt before they even start work in Lebanon.

²¹ Requirements listed on website of Lebanese Ministry of Labor, http://www.labor.gov.lb/pages.asp?Page_ID=82 (accessed May 20, 2010). Licensed agents are required to lodge a LBP50,000,000 (~\$35,000) bond with the Housing Bank to do business. This amount entitles them to obtain up to 100 pre-work authorizations for MDWs per year. Decision No. 1/13 issued on January 22, 2009 to regulate Recruitment Agencies of Migrant Domestic Workers, Arts. 2, 12.

²² Human Rights Watch has asked a number of officials at General Security and the Ministry of Labor why the deposited \$1,000 cannot be used to pay the airline ticket of detained MDWs waiting to go home. To date, we obtained no answer.

²³ The website of Lebanon's General Security outlines the required documents for the three-month visa, <http://www.general-security.gov.lb/Arabic/Stay/Pages/maid.aspx> (accessed May 20, 2010).

²⁴ Human Rights Watch interviews with A.S. and M.M., Malagasy domestic workers, Beirut, March 10, 2010. For agency fees in Sri Lanka, see Human Rights Watch, *Exported and Exposed*, p. 23. See also, Reem Haddad, "A Modern-Day 'Slave Trade'," *Middle East Report*, pp. 39-41.

Agencies in Lebanon are paid by the Lebanese employer. Their fees can vary between \$1,200 and \$2,600, depending on the nationality of the MDW; for example, fees associated with hiring a Filipina domestic worker may amount to \$2,600, while those for hiring someone from Bangladesh or Madagascar are between \$1,200 and \$1,500.²⁵ These fees cover the cost of airfare, the initial three-month residency visa, and agency commissions. In addition, the employer must pay separately for the residency and work permits, as well as notary fees and insurance (all of which must be renewed annually), which total \$550 to \$600.

When a MDW finally arrives in Lebanon, General Security requires that she stay in the airport until the sponsor personally comes to meet her. MDWs routinely end up waiting for hours in the airport while General Security processes their papers. When the sponsor finally picks up the MDW, General Security generally hands the MDW's passport directly to the sponsor, who usually holds onto it (see Section II on withholding of the passport of MDWs).

B. Legal Framework for Migrant Domestic Workers in Lebanon

The Lebanese Labor Code, enacted in 1946, excludes domestic workers, both Lebanese and foreign, from its provisions.²⁶ This exclusion means that MDWs are not guaranteed protections that other workers enjoy, such as Lebanon's minimum monthly salary of LBP500,000 (\$333), a maximum number of working hours per day, or a minimum of 15 vacation days. It also means they have no guaranteed accident or compensation for unfair termination of employment.

In the absence of protection under labor laws, the primary mechanism for outlining employers' and workers' rights and obligations are contractual arrangements, notably the employment contract between the employer and the MDW. MDWs generally sign a contract with the agency in their country of origin, outlining salary, duration of employment, numbers of days off, and other terms. However, this first contract is not recognized in Lebanon, where MDWs sign a second contract, almost always written in Arabic, upon arrival. This usually has more stringent terms, and often compels the MDW to work at a lower monthly salary than originally promised by the agency at home. One Malagasy worker told Human Rights Watch

²⁵ Human Rights Watch interview with Lebanese Agent Ibrahim [last name withheld at request of interviewee], Beirut, May 1, 2010.

²⁶ Labor Code, Act of 23 September 1946, Art. 7(1). This exclusion applies to all those who work inside the private home of individuals, such as cooks, be they Lebanese or foreigners. For a more detailed discussion of the exclusion of domestic workers from Lebanese law, see Adeeb Zakhour, *The Legal Situation of Foreigners*, 2004, pp. 151-159 (in Arabic).

that her employer told her to “tear up” the contract she had signed in Madagascar since it had “no value” in Lebanon, and made her sign a new contract for a lower salary.²⁷

In January 2009, the Lebanese Ministry of Labor finally introduced a compulsory standard contract that clarifies certain terms and conditions of employment for MDWs that every employer must sign with migrant domestic workers.²⁸ The standard contract is a step forward in protecting MDWs because it outlines the responsibility of the employer to: pay the full salary on a monthly basis with receipts of payment; provide a 24-hour rest period each week and paid sick leave; buy health insurance for employees; and allow workers to correspond with their family. It also restricts the maximum number of daily working hours, and prevents employers from compelling MDWs to work in more than one house.

However, the Lebanese authorities have so far not put in place any mechanism to enforce the contract. Officials at the Philippines embassy told Human Rights Watch that complaints it sent the Ministry of Labor about violations to the contract remain unanswered.²⁹ The Ministry of Labor has two divisions that have the power to investigate labor violations, including those affecting migrants: the Division of Inspection, Prevention, and Safety and the Division of Investigation and Labor Matters. However, Human Rights Watch is not aware of cases where either of these divisions has examined violations involving MDWs. The current Lebanese Minister of Labor, Boutros Harb, announced on June 1, 2010 that his ministry set-up an office to receive complaints from MDWs and other workers. However, when Human Rights Watch contacted the hotline on July 7, the operator informed us that they had yet to receive a single call from a domestic worker. This is probably due to the fact that the Ministry has not disseminated information about the existence of the hotline within communities of MDWs.³⁰

The standard contract leaves vague or omits certain key issues. For example, while it recognizes the MDW’s right to a weekly day of rest, as well as annual holidays, the MDW’s right to leave the house on her days off remains subject to employer consent.³¹ The standard contract also fails to address the issue of an employer confiscating MDWs’ passports.

²⁷ Human Rights Watch interview with Malagasy worker M.I., March 11, 2010.

²⁸ The standard contract is available on the website of the Ministry of Labor at http://www.labor.gov.lb/pages.asp?Page_ID=136.

²⁹ Human Rights Watch interview with official at Philippines embassy, Beirut, February 8, 2010.

³⁰ “A complaint office and a guidebook for foreign workers” (in Arabic), *al-Akhbar* newspaper, June 2, 2010, <http://al-akhbar.com/ar/node/192002> (accessed June 10, 2010).

³¹ Art. 12 of Standard Contract.

In addition, the standard contract is heavily slanted in favor of the employer when it comes to the conditions under which the contract can be broken. Article 16 allows an employer to break a contract if the domestic worker “commits a mistake, acts negligently, commits an act of aggression against the employer, or endangers or harms the employer’s interest or one of his family members.” In such a case, the contract specifies that the domestic worker will have to pay the cost of her own return airfare. It does not set any threshold or define what may constitute a mistake or a negligent act.

There is a stark contrast between the vagueness of this article and Article 17, which outlines the strictly limited basis on which a MDW can break a contract without penalty. According to Article 17, a domestic worker can break the contract only “if the employer or a member of the household beat or sexually harassed her and the act was proved in medical reports by a forensic doctor and in investigative reports from the police or the ministry of labor.”³² Most domestic workers who are victims of violence or sexual harassment are isolated and rarely have timely access to a forensic doctor or the police. In addition, the contract does not allow a domestic worker to break the contract in the event of other types of mistreatment by her employer, such as food deprivation, verbal abuse, a workload that exceeds limits set in the contract, or sexual harassment that does not amount to physical assault. Nor has the standard contract been translated into languages that the workers speak. Most workers interviewed by Human Rights Watch since the contract’s enactment said they were not aware of the contents of what they signed since it was in Arabic, which they could not read.³³

The MDW’s employment contract, like all contracts, is subject to the general law regulating contractual obligations, known as the General Contractual Obligations Law of 1932 (*Kanun al-Mujabat wa al-`ukud*). According to a number of legal analysts, there are provisions in this general law that can be used to fill some of the legal vacuum created by the exclusion of domestic workers from the Labor law; notably the obligation of the employer to pay for the medical care of a worker living in his/her household (Art. 645 of General Contractual Obligations Law of 1932), and the obligation of the employer to provide a healthy working environment (Art. 647 of General Contractual Obligations Law of 1932).

In his book that focuses on the legal situation of foreign workers in Lebanon, Adeeb Zakhour cites a number of judicial precedents from the 1960s where Lebanese civil courts faulted an employer for not providing a domestic worker with adequate care and ordered him to pay

³² Art. 17(b) of Standard Contract.

³³ According to Article 20 of the standard contract, it should be in English, French, and Arabic. However, the vast majority of MDWs speak none of these languages.

compensation.³⁴ However, according to Human Rights Watch's research, these precedents have not been applied to African and Asian domestic workers in Lebanon.

Migrant domestic workers are at risk not only because they are excluded from labor laws, but because of highly restrictive immigration policies that rely on sponsor-based visas. As described in Section I.A, migrant workers' visas are tied to employers, or "sponsors." A MDW cannot change employers unless he or she agrees to sign a release waiver ("*tanazu*") before a notary public, and Lebanese authorities allow the 'release' to take place.³⁵ Employers can easily abuse this requirement and coerce workers into accepting poor working conditions or delayed payment of wages by refusing to provide their consent to change jobs.

³⁴ See Adeeb Zakhour, *Legal Situation of Migrant Workers*, pp. 180-181, citing for example Decision No. 428, of Beirut Appeal Court for Civil Matters (*Mahkamat Isti'naf Beirut al-Madaniyya*), April 18, 1962 (where court found that an employer had to pay compensation to a domestic worker who got sick at her employer's house and the employer did not take necessary medical precautions nor did he provide her with proper care or sufficient money to get treated.)

³⁵ For a review of the conditions governing a *Tanazu*, see website of General Security, <http://www.general-security.gov.lb/Arabic/News/Pages/tanazol.aspx> (accessed May 20, 2010).

II. Abuses against Domestic Workers

Accounts of abuse against MDWs in Lebanon have become commonplace in newspapers and human rights reports. Human Rights Watch interviewed many MDWs who complained of abuse by their employers and sought shelter at their embassy, or with friends in Lebanon. The most common complaints related to non-payment of wages, excessive working hours, forced confinement in the workplace, lack of time off, inadequate living conditions, confiscation of identity documents, exploitation by labor agencies, and verbal, physical, and sexual abuse.

This report examines how Lebanon's legal and regulatory system handles allegations of abuse from domestic workers, and the options for redress it provides. Human Rights Watch makes no claims based on these interviews regarding the prevalence of such abuse among domestic workers in Lebanon—a task that is difficult given the lack of reporting mechanisms, the private nature of work, and restrictions on domestic workers' freedom of movement and communication. Despite these challenges, some patterns emerge.

Unpaid and Underpaid Wages

Non-payment or delayed payment of wages is one of the most common problems that MDW face.

A Malagasy domestic worker who acts as an informal community leader told Human Rights Watch, “The problems often start when they [the MDWs] ask for their salary. The employer then says, “Why do you want your salary? I will keep it for you and give it to you later.” Then the tensions begin. Eighty percent of problems are salary-related.”³⁶ Officials at the Ethiopian consulate and the Philippines embassy concurred that non-payment of salaries is very common.³⁷ A former labor attaché at the embassy of the Philippines told Human Rights Watch that 75 percent of the cases they received “often include a complaint about non-payment of wages.”³⁸ In her study of Sri Lankan domestic workers in Lebanon, which relies

³⁶ Human Rights Watch interview with Malagasy Activist, Beirut, February 9, 2010.

³⁷ Human Rights Watch interview with a former labor attaché at the Philippines embassy, Beirut, July 31, 2008; Human Rights Watch interview with official at Ethiopian consulate, Beirut, December 19, 2007, both of whom requested that their name remain anonymous.

³⁸ Ibid.

on interviews with 90 Sri Lankan women in Lebanon, Nayla Moukarbel found that 60 percent of interviewees complained about non-payment of wages.³⁹

Non-payment of wages is a leading cause for MDWs to leave their employer: in Moukarbel's sample, 73 percent of the Sri Lankan domestic workers interviewed said it was the reason they had left their employer.⁴⁰

Officials at embassies of MDWs told Human Rights Watch that when they confront employers about withholding the wages of MDWs who seek shelter at their embassy, many justify their actions by arguing the worker will leave them to seek other opportunities if they pay their salary on time.⁴¹ As detailed later in this report, obstacles and gaps in the settlement of labor cases make it difficult for MDWs to claim unpaid wages, and interviews conducted in Sri Lanka with domestic workers who had worked in Lebanon in the past show that many of those who complained of unpaid wages never received the full payments due or, in many cases, any payment at all.⁴²

Confiscation of Passports, Forced Confinement, and Restricted Communication

Other common tactics used by many employers to “control” MDWs include withholding their passport and physically confining them to the house. In a study based on interviews with over 600 MDWs in Lebanon, Jureidini found that over 85 percent of live-in domestic workers reported not being in possession of their passport.⁴³ This percentage was equally high for freelancers—MDWs who have a nominal sponsor but in practice live independently and work for multiple employers. In Moukarbel's sample, only 29 percent of the Sri Lankan domestic workers interviewed said that they had their passport with them. Similarly, Human Rights Watch researchers rarely interviewed a MDW who was in possession of her passport or other papers.⁴⁴ In most cases, passports were either with the first sponsor, the agency, a Lebanese

³⁹ Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 183.

⁴⁰ Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 183.

⁴¹ Human Rights Watch interview with a former labor attaché at the Philippines embassy, Beirut, July 31, 2008; Human Rights Watch interview with official at Ethiopian consulate, Beirut, December 19, 2007, both of whom requested that their name remain anonymous.

⁴² Human Rights Watch, *Exported and Exposed*, Section IV.

⁴³ See Ray Jureidini, *Profile of Female Migrant Domestic Workers in Lebanon, Selected Survey Findings*, June 2006.

⁴⁴ The withholding of passports by employers is a worldwide phenomenon and is found across many sectors, such as domestic work, sex work, and agriculture. Kalayaan, an NGO working on domestic workers' rights in the UK, noted in a 2003 report that “an average of 49% of migrant domestic workers, entering the UK legally, have their passports taken by

person who had promised to arrange their papers, or had somehow gotten lost in the process.

Some employers go further in their attempts to control the movement of MDWs, physically confining them to the house where they work. “When Madame would leave, she would lock me in the house,” a Filipina worker said, mirroring what many others said.⁴⁵ For many MDWs, employers would only allow them to go out to buy groceries, or if they accompanied them. In certain cases, employers would even lock the MDW in a room as a form of punishment. “After I insisted on getting paid, Madame yelled at me and locked me in my room,” recalled a Nepali worker who eventually escaped by climbing down from the balcony of the room to which she had been confined.⁴⁶ In her study, Moukarbel found that 60 percent of the 90 Sri Lankan domestic workers were ‘locked in’ (meaning the employers locked the household door when they left the house).⁴⁷

Some employers try to control who MDWs speak to, in order to prevent “other workers from spoiling them.” One Ethiopian worker told Human Rights Watch that her employer punched her after discovering that she had a cell phone.⁴⁸ Many Sri Lankan women also said their employers cut their hair against their will, a practice that may be particularly humiliating given cultural norms in many Sri Lankan communities. When the Sri Lankan embassy called one employer to ask about this behavior, the employer simply said, “Yes, I cut her hair, this is the style in Lebanon.”⁴⁹ Another MDW reported that as soon as she got to the house of her new employer, “Madame,” cut her hair and applied a lice-killing medication to her scalp, explaining, “Your hair is dirty and I don’t want you to get the children dirty.”⁵⁰

Employers defend controlling actions such as passport confiscation, withholding wages, and confining a MDW to the workplace, by arguing that they need to protect their households and the ‘financial investment’ they made when they paid initial recruitment fees. “How can I guarantee that she won’t open the door to strangers?” one employer said in a phone call to Human Rights Watch.

employers.” See Kalayaan, *Migrant Workers’ Rights: The Passport Issue*, July 2003, <http://www.kalayaan.org.uk/documents/kalayaan%20passport%20report.pdf>.

⁴⁵ Human Rights Watch interview with Filipina worker P.P., Beirut, February 11, 2010.

⁴⁶ Human Rights Watch interview with Nepali worker N.N., Beirut, March 4, 2008.

⁴⁷ Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 195.

⁴⁸ Human Rights Watch interview with Ethiopian worker M.N., suburb of Beirut, May 23, 2008.

⁴⁹ Human Rights Watch interview with Sri Lankan worker K.K., Baabda, December 18, 2007.

⁵⁰ Human Rights Watch interview with Sri Lankan worker H.H., Baabda, December 18, 2007.

Heavy Workload, Food Deprivation, and Inadequate Living Conditions

Other complaints by MDWs centered on working conditions such as hours worked, living quarters, and food deprivation. Of the 154 Filipina domestic workers present at the Philippines embassy shelter on December 1, 2009, 24 reported they “ran away” because they were overworked, and eight because of bad conditions, such as inadequate food or sleeping quarters. One worker told Human Rights Watch “I only had one meal a day. If I eat from the fridge without asking, Madame would shout.”⁵¹ Another Ethiopian worker recounted how her employer would tell her, “This food is for Mister. You eat rice.”⁵² In Moukarbel’s sample, 73 percent of the MDWs interviewed reported they had sufficient food, but more than 66 percent complained that they were fed mostly leftovers and were not free to eat when they were hungry.⁵³

Psychological, Physical, and Sexual Abuse

Employers regularly yell at workers, and psychological abuse and threats are common. A Filipina worker told Human Rights Watch, “Madame called me a *sharmouta* [whore] because I did not clean the cupboard properly.” The worker left her employer the next day and sought refuge at her embassy.⁵⁴ She was not alone. Out of the 159 Filipina workers at the embassy refuge in December 2009, 13 had run away because of verbal abuse by employers.

Many MDWs also reported that employers hit them, slapped them and pushed them, usually after employers blamed them for a work mistake. A 24-year old Filipina worker told Human Rights Watch, “Madame pulled my hair the first time because I took the garbage out and got stuck outside after the door closed behind me.” The same worker told us that a few months later, “Mister slapped me three times on the face because I had not changed the baby’s diapers properly.”⁵⁵ A worker from Madagascar reported that her employer slapped her because she forgot to put on gloves while making the *tabboulé*, a traditional Lebanese salad. Her employer yelled at her, “Stop! You are dirty,” and slapped her, she said.⁵⁶ A Nepali domestic worker told Human Rights Watch that her employer forced her head into the toilet

⁵¹ Human Rights Watch interview with Filipino worker M.M., Beirut, February 11, 2010.

⁵² Human Rights Watch interview with Ethiopian worker M.N., Beirut, May 23, 2008.

⁵³ Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 188.

⁵⁴ Human Rights Watch interview with Filipino worker S.S., Beirut, February 11, 2010.

⁵⁵ Human Rights Watch interview with Filipino worker S.S., Beirut, February 11, 2010.

⁵⁶ Human Rights Watch interview with Malagasy worker M.M., Beirut, March 11, 2010.

because he found that she was not cleaning them properly.⁵⁷ A 50-year-old Malagasy worker reported the first time her employer hit her:

I was too tired and sick and could not take care of the baby. I asked the other domestic worker in the house to take care of him that night but Madame was not happy. At 7 a.m. in the morning, she took a plate and hit me with it. After that, she pulled my hair and left. A minute later, her husband arrives and he gives me a kick on the neck. I started crying. A few minutes later, he comes in saying, “If you cry any more, I will kill you.” They locked me in. After three hours, they took me with them to their parents.⁵⁸

Nayla Moukarbel found that over one-third of her sample of 90 Sri Lankan domestic workers reported physical abuse, usually by the “Madame” of the house.⁵⁹

Human Rights Watch interviewed a number of MDWs who complained of severe physical violence, although these incidents are rarer. A 27-year-old Filipina reported that her employer started hitting her six months after she started working in 2004. “Madame would slap my face, and take my head and push me into the wall.” The abuse worsened over time: Her employer hit her with a baseball bat and locked her in a room. She escaped by climbing down from the third-floor apartment, but when she went to the police, they returned her to her employers. On November 15, 2009, the employer hit her with a baseball bat on her hips, hands, and legs, the domestic worker said. She finally succeeded in escaping to her embassy, which appointed her a lawyer. Human Rights Watch saw photos of the bruises (which supported the allegations made by the worker)

Domestic workers also complain of sexual harassment. Seven of the 159 Filipina workers at their embassy shelter in December reported being sexually harassed, while 11 percent of Moukarbel’s sample complained of sexual harassment.⁶⁰ A 24-year-old Filipina told Human Rights Watch that “my ‘baba’ [male employer] would touch my butt. He would also sometimes call me to the bathroom to bring him his things and he would be there naked or in the bath.”⁶¹ A 32-year-old Filipina had been working for a year and eleven months when her married male employer, who is 47, started telling her that he loved her. One day he

⁵⁷ Human Rights Watch interview with Nepali worker N.N., Beirut, November 21, 2008.

⁵⁸ Human Rights Watch interview with Malagasy worker P.P., Beirut, February 16, 2010.

⁵⁹ Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 174.

⁶⁰ Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 180.

⁶¹ Human Rights Watch interview with Filipino worker F.F., Beirut, February 11, 2010.

showed her pornographic pictures. “Whenever Madame was not in house, he would try to harass me. In December [2009], I was taking my shower, when he asked me to open the door. I refused, and he eventually left me alone but he said, “Next time, I want to make ‘no good with you.’”⁶² The worker ran away to the embassy the following day.

Human Rights Watch interviewed three MDWs who claimed they were raped by their employers. All three cases show the psychological control that employers exert on domestic workers. A 32-year-old domestic worker told Human Rights Watch how on December 5, 2009,

Mister came to my room and he hugged me. He told me “I want you.” I said, “No sir, it’s not good. Why you want me?” I wanted to shout but he put his hand on my mouth. I tried to push him. But I could not and he raped me. Ten days later, Madame left the house to go to a party. I go to veranda on the kitchen, and he came to veranda and raped me there. I was unable to scream. I was very afraid.⁶³

After this incident, she ran away to the embassy on December 25, 2009.

A 35-year-old Malagasy woman had a similar story to tell. She had come to Lebanon in June 2009. On certain afternoons, her female employer would visit relatives and she would stay home with the male employer, who is 60. “Mister would put a porn movie on the TV and would call me and force me to look at the movie. At the beginning, he would force me to watch, but later he said ‘you have to do the same.’” He did that five or six times.” When Human Rights Watch asked her why she did not run away earlier, she replied, “I was afraid.” Eventually, she ran away to the agency and told her story to the agents, as well as to the female employer, who denied that it was possible. The agency then told her, “if you are lying, you will go to prison for 10 years.” Afraid, the worker did not press charges, nor did the agency try to follow up or investigate; it simply tried to find her a new employer, as did the Malagasy consulate.⁶⁴ In such cases, abusive employers are free to hire a new domestic worker who is then at risk of similar abuses.

A third MDW also shared her story of rape. According to her, the employer’s son-in-law had offered to take her to church, but told her that he first needed to go to the gas station where he works to pick up his boss’s car. Once there, he took her to a room on the first floor where

⁶² Human Rights Watch interview with Filipino worker S.S., Beirut, February 11, 2010.

⁶³ Human Rights Watch interview with Filipino worker M.M., Beirut, February 11, 2010.

⁶⁴ Human Rights Watch interview with Malagasy worker A.A., Beirut, March 10, 2010.

he pushed her and pulled down her pants. She kept saying, “No sir, no sir.” He touched her, saying that this was the first time he had a Malagasy woman, and then raped her. He later dropped her off at church. She informed her two sisters, who live in Lebanon. When she reported the rape to police she was asked, “What do you decide. Do you want to go to Madagascar or stay in Beirut?” She said she preferred to go to Madagascar. She was finally deported weeks later, after spending two weeks in jail because she lost her legal status in Lebanon when she left her employer.⁶⁵ Her alleged rapist was never detained and no charges were brought against him.

Abuse by Agency

Human Rights Watch collected a number of accounts from workers who alleged abuse by their recruitment agencies. A 23-year-old Filipina arrived in Lebanon on April 1, 2009. After two months, her first employer sent her back to the agency because she said she no longer wished to work. “The work was too hard. The house very big,” the worker said.⁶⁶ According to her, the owner of the agency “slapped me and pulled my hair into the wall.”⁶⁷ He then allegedly kept her at his house for three weeks. “They would give me only bread to eat,” she said. After things did not work out with another employer, the owner of the agency again took her back and beat her, she said.

A Nepali domestic worker recounted that the second time her employer brought her to the agency, the agency owner beat her. The employers had complained that they had problems communicating with her as she did not speak English, and that she had no experience in operating appliances.⁶⁸ Agency staff may punish or threaten workers who return to the agency because they have to bear the cost of providing the employer with a “free” replacement if the return takes place within the first three months of the contract.

The frequency of abuse by employers and agencies has led Ethiopia, Nepal, and the Philippines to ban their nationals from coming to work as domestic workers in Lebanon. However, this ban has not stopped their workers from coming: Human Rights Watch interviewed a number of Filipina and Ethiopian workers who had arrived after the ban was

⁶⁵ Human Rights Watch telephone interview with Malagasy worker M.B., March 16, 2010.

⁶⁶ Human Rights Watch interview with Filipina worker H.I., February 11, 2010.

⁶⁷ Human Rights Watch interview with Filipina worker H.I., February 11, 2010.

⁶⁸ Human Rights Watch interview with Nepali worker N.M., Beirut, November 21, 2008.

imposed, including one Filipina worker who said she had circumvented restrictions by taking a flight from Manila to Bangkok, then to Bahrain, and finally to Beirut.⁶⁹

Table 6 – Other Studies’ Findings of Abuse of MDWs in Lebanon

	<i>Sri Lankan House maids in Lebanon, Nayla Moukarbel</i>	<i>Profile of Female Migrant Domestic Workers in Lebanon, Dr. Ray Jueidini</i>
Sample size	90	610
Sample description	Live-ins, freelancers, and “runaways”	Live-ins, freelancers, and “runaways”
Nationality of MDW	Sri Lanka	Sri Lanka, Philippines, Ethiopia
Unpaid and Underpaid Wages	About 60 percent (complained about wages not being paid)	Not Available
Psychological Abuse (yelling, constant criticism)	About 50 percent claimed to “have not been treated right,” (excluding physical abuse)	52 percent reported employers yelling at them
Physical Abuse by Employers	Over one third	14 percent
Physical Abuse by Agency	15 percent	Not Available
Sexual Harassment	11 percent	7 percent
Heavy Workload and Excessively Long Work (over 12 hours a day)	MDWs in sample worked an average of fifteen hours per day	56 percent
Food Deprivation	73 percent say they were not deprived of food. But 2/3 claim they were mostly given leftovers and didn’t have freedom to eat whenever they wanted.	<i>Not Available</i>
Absence of private space (own room)	Not Available	40 percent
Absence of Regular time off	90 percent said they had no days off per week	34 percent
Confiscation of Passports	- 52 percent of passports were confiscated by the employer - 10 percent confiscated by the agency - 29 percent are in possession of their passport	<i>Live-ins</i> - 85 percent confiscated by employer - 14 percent by others - 1 percent not confiscated <i>Freelancers:</i> - 37 percent by employer - 59 percent by “others” - 4 percent not confiscated
Day off	About 90 percent had no day off.	Not Available
Forced Confinement	80 percent were not free to leave the house of their own accord and could do so only when accompanied by a member of the household or to buy things from the neighborhood store	31 percent were not allowed to leave the house

⁶⁹ Human Rights Watch interview with Filipina worker H.I., Beirut, February 11, 2010.

III. Obstacles to Justice

Despite the frequency of abuse outlined in Part II, few MDWs file complaints against their employers: MDWs were plaintiffs in only 21 of the 114 cases where Human Rights Watch examined the court files.

A domestic worker sheltered by the Philippines embassy claimed her employer owed her \$3,800 and had repeatedly beaten her. She said that she wanted to get her salary and go back to the Philippines but “I don’t want to go to court.”⁷⁰ This sentiment was echoed in many interviews that Human Rights Watch conducted with workers who had sought refuge in their embassies. As one worker said, “Lebanon was a bad experience. I just want to go back to Sri Lanka.”⁷¹

The many obstacles facing workers who seek redress dissuade most from bringing their claim to the attention of the authorities, or lead them to drop claims in return for a return airline ticket home and payment of, at best, a portion of wages owed.

One obstacle that many MDWs deal with is lack of information about their rights. There is currently no official information pamphlet outlining the rights and obligations of MDWs, although the Minister of Labor announced on June 1, 2010, that an information booklet for MDWs was finally ready for publication.⁷² This had still not been done as of July 20, 2010. As a result, for example, many MDWs are unaware of their rights under the standard contract, which was adopted in January 2009 and guarantees them a weekly day off. Many workers said employers had simply told them that they had no right to such a day.⁷³

A second obstacle is that restrictions on movement and communication that many employers impose on MDWs make it difficult for them to contact the authorities or otherwise provide information about their situation. In Moukarbel’s study on Sri Lankan domestic workers (see above, Section II), 80 percent of interviewees told her that they were not allowed to go out on their own accord. In addition, the Ministry of Labor has not yet publicized its hotline for workers’ complaints amongst communities of MDWs. Agencies—the

⁷⁰ Human Rights Watch interview with Filipina worker G.M., Beirut, February 11, 2010.

⁷¹ Human Rights Watch interview with Sri Lankan worker D.A., Baabda, December 18, 2007.

⁷² “A complaint office and a guidebook for foreign workers” (in Arabic), *al-Akhbar* newspaper, June 2, 2010, <http://al-akhbar.com/ar/node/192002> (accessed June 10, 2010).

⁷³ For example, Human Rights Watch interview with Filipino workers M.A. & E.V., Beirut, February 11, 2010.

entities mostly likely to have contact with MDWs and their employers—could play an effective role in relaying complaints made by MDWs, but many do not want to alienate the Lebanese employers who are their clients. As a result, many fail to report cases of abuse that come to their attention.

The isolation imposed on MDWs means that one of the few ways that distressed MDWs can communicate with the outside world is with neighbors of their employers, across balconies, through windows, or from behind closed doors. This can put these neighbors in the difficult position of jeopardizing neighborly relationships if they decide to help the MDW. In an encouraging sign, Human Rights Watch has received an increasing number of calls from Lebanese who wanted to report that a neighbor was mistreating a domestic worker. Caritas Migrant, which runs a shelter and is the largest legal aid program for MDWs in Lebanon, has also noticed a similar trend.⁷⁴ However, when neighbors report abuse, it is often difficult to get the police to act because they are reluctant to enter a private residence without evidence stronger than a neighbor's comments or observations.

The attitude of the security forces is often itself an obstacle to MDWs seeking redress. Many MDWs who go to the police to complain about abuse end up being detained for not having legal residency papers, or because the employer has filed countercharges of theft. One Malagasy worker said, "I thought that the police are like Madagascar. When you have a problem you go there. But here, they are part of the problem."⁷⁵

A number of domestic workers who sought police help told Human Rights Watch that the police 'returned' them to their employer. A 27-year-old Filipina escaped from her employers after they had hit her severely. She climbed down from the third floor and a passerby picked her up and dropped her at a police station, where she said that her employer was beating her. After making her wait for two hours, the police then called her employer, who came and took her back after promising to arrange for her to travel back to the Philippines.⁷⁶ However, this commitment was not kept, and late 2009, the maid fled to her embassy after her employers beat her again.

⁷⁴ "Caritas safe house fights for rights of migrant workers," *Daily Star*, April 26, 2010, http://dailystar.com.lb/article.asp?edition_id=1&categ_id=1&article_id=114201#axzzomAx9NLvO (accessed April 26, 2010) (quoting a Caritas representative saying that "what is most important is that we are noticing a change in the Lebanese mentality and attitude towards migrant workers. Most of our callers lately have been Lebanese who are concerned about the fate of migrant workers they know from their neighborhoods or workplaces").

⁷⁵ Human Rights Watch interview with Malagasy worker A.A., Beirut, February 9, 2010.

⁷⁶ Human Rights Watch interview with Filipina worker G.M., Beirut, February 11, 2010.

The problem is exacerbated when employers threaten to punish MDWs if they call the police. One Nepali worker, who said the agency and two separate employers had abused her, tried to kill herself. When HRW asked if she had considered going to the police, she replied that she was convinced that “if I run away and they find me, they will shoot me.”⁷⁷ When asked who gave her this idea, she said, “Madame told me.”

A fourth obstacle is that MDWs do not have legal residency or the right to work when their complaint is being processed. Under Lebanon’s restrictive *kafee*/system, migrant workers lose their legal status if their sponsors terminate their contract or if they leave their employers—even in cases when there are legitimate reasons to quit, such as non-payment of wages or abuse. Accordingly, they risk detention and cannot legally seek other employment. As further elaborated in Section IV, a Human Rights Watch review of 13 criminal cases brought by MDWs against employers, found that it took an average of 24 months from the time the case was filed to when it was resolved. Complaints before civil courts lasted even longer. A labor attaché at the Philippines embassy described the frustration of resorting to courts: “It would take years and she would have to stay here. But no one wants to stay here the whole time. When we explain the process to a worker, she immediately backs away.”⁷⁸ Migrants are particularly sensitive to the length of time these cases take because they usually have families in their home countries that depend on their remittances.

The difficulty for MDWs is compounded by the fact that they do not always have a safe place to reside while they wait for their case to be resolved. If they stay with friends or look for their own accommodation, they risk being detained due to lack of proper legal status. The embassies of the Philippines and Sri Lanka, as well as the consulate of Ethiopia, have on-site shelters, but these only offer a short-term solution because General Security requires embassies to transfer MDWs to its custody so it can determine whether to deport the MDW.⁷⁹

For MDWs who are nationals of countries without embassies in Lebanon – such as Nepali, Bangladeshi, and Malagasy workers – the situation is even harder because they have access to fewer services. Honorary consulates for these countries, namely consulates run by Lebanese nationals typically serving on a volunteer service, do not have the ability to shelter

⁷⁷ Human Rights Watch interview with Nepali worker N.E., Beirut, November 21, 2008.

⁷⁸ Human Rights Watch interview with Labor Attache, Jeff Salik from Philippines embassy, Beirut, July 31, 2008.

⁷⁹ General Security issued standing orders, signed by the then-head of General Security, Jamil al-Sayyed, that were communicated to the Public Prosecutor and to the embassies of the MDWs, that any worker who seeks shelter at the embassies should be referred to the retention facility of General Security to allow the head of General Security to determine whether they should stay in Lebanon or be deported to their country. Letter from General Pierre Abou Hanna to Head of Public Prosecution in Beirut Joseph Maamari, March 24, 2005 (on file with Human Rights Watch).

migrants or offer them any legal representation. While preparing the report, Human Rights Watch was contacted by a Lebanese national who reported that a Bangladeshi working as a domestic worker at her neighbor's house had escaped to her apartment after her employers beat her repeatedly. The neighbor said the worker went to the honorary Bangladeshi consulate, which promptly sent away the worker, telling her to go "get her passport and clothes from the employer and come back."⁸⁰

In 2005, Caritas Migrant, an NGO working for MDW rights, established a shelter for MDW victims of abuse. Its opening was accompanied by a memorandum of understanding between Caritas Migrant and General Security that states victims may stay at the shelter for up to two months. According to Caritas, the number of MDWs at the safe house ranges from five to 30, depending on the number of cases at any given time.⁸¹

Another common obstacle is that MDWs who leave their employers or file complaints may face spurious countercharges of theft. According to a former Philippines labor attaché, employers often threaten to file a complaint for theft against domestic workers who try to sue them.⁸² The MDW might face months in pre-trial detention, even if she eventually wins in court. Once detained, the MDW faces intense pressure to reach a settlement with her employer.

A final obstacle is the cost of legal action. Lebanon's code of civil procedure requires a plaintiff to appoint a lawyer in order to file most types of civil claims.⁸³ Lawyers are expensive in Lebanon, especially for MDWs who have probably not been paid for months. Embassies of MDWs, all of whom come from generally poor countries, rarely have the means to hire lawyers for them. Of the embassies in Lebanon, only that of the Philippines pays for a lawyer to represent some of the domestic workers who seek shelter there. Civil society has tried to fill the gap, including Caritas Migrant, which since the early 2000s has operated a sizeable legal aid program. This fills an essential gap in legal representation, but efforts from civil society alone cannot cover all MDWs who seek to file complaints.

⁸⁰ Human Rights Watch phone interview with Z.Z., April 20, 2010.

⁸¹ "Caritas safe house fights for rights of migrant workers," *Daily Star*, April 26, 2010, http://dailystar.com.lb/article.asp?edition_id=1&categ_id=1&article_id=114201#axzzomAx9NLvO (accessed April 26, 2010).

⁸² Human Rights Watch interview with Labor Attache, Jeff Salik from Philippines embassy, Beirut, July 31, 2008.

⁸³ See Article 378 of Lebanese Code of Civil Procedure.

IV. Judicial Response to Violations

Human Rights Watch reviewed 13 criminal cases that MDWs brought against employers for ill-treatment and found that each case took an average of 24 months to conclude from the time the complaint was made. Complaints before civil courts lasted even longer. Human Rights Watch's review of seven civil complaints that MDWs filed against their employer for unpaid wages shows these cases lasted between 21 to 54 months. Even complaints brought before labor courts, which are supposedly faster than regular civil courts due to their simpler procedures, lasted an average of 32 months. One case before the Civil Court of First Instance for unpaid wages took 27 months—even though the employer admitted owing the money.

Table 7. Length of Time for Criminal Cases or Complaints against Employers

Case	Court	Location	Duration of Case (by months)
Case no. 611/1999	Penal Court of 1 st Instance	Kesrouan	27.09
Case no. 768/1999	Penal Court of 1 st Instance	Kesrouan	14
Case no. 703/2003	Penal Court of 1 st Instance	Metn	17
Case No. 660/2003	Penal Court of 1 st Instance	Metn	52
Case no. 2715/2000	General Prosecutor	Beirut	8
Case no. 64/2003	Penal Court of 1 st Instance	Beirut	36
Case no. 1280/2004	Penal Court of 1 st Instance	Beirut	10
Case no. 22544/2005	General Prosecutor	Beirut	1
Case no. 28041/1999	General Prosecutor	Baabda	1.09
Case no. 804/2005	Penal Court of 1 st Instance	Beirut	17
Case no. 344/2005	Penal Court of 1 st Instance	Metn	36
Case no. 316/1999	Criminal Court	Beirut	13

Table 8. Length of Time for Civil Cases against Employers

Case Name	Court	Location	Duration of Case (by months)
Case no. 328/2007	Labor Court	Baabda	54
Case no. 612/2003	Labor Court	Baabda	35
Case no. 610/2002	Labor Court	Beirut	27.13
Case no. 226/2002	Labor Court	Beirut	21
Case no. 258/1998	Civil Court of First Instance	Baabda	27
Case no. 226/1998	Magistrate of Summary Justice	Metn	25
Case no. 261/2008	Labor Court	Baabda	24

In the past, legal commentators have criticized the Lebanese judiciary for generally being slow to resolve all judicial disputes. However, Human Rights Watch research shows that when it comes to disputes between MDWs and employers, the courts are even slower when MDWs are the plaintiffs, and that they resolve cases where employers are the plaintiffs more quickly. For example, in the Penal Court of First Instance (also referred to as the Sole Penal Judge), cases from our sample take an average of 24 months to conclude when an employer is prosecuted, but just over eight months when a criminal case is brought against an MDW based on an employer's complaint.

Research also revealed many instances where the police and the prosecutor's office ignored, or dealt extremely leniently, with MDWs' allegations of abuse. In the sample 114 cases reviewed, Human Rights Watch found no case where the authorities prosecuted employers for locking workers inside their homes, confiscating passports, denying food, or overwork—even though there were at least nine cases in the sample where the MDW complained to the police or investigative judge of such an abuse. While Human Rights Watch cannot determine if the MDW's complaints in these cases was warranted, a review of police reports shows the police did not conduct a serious investigation into the claims to see if further action was required.

A. Unpaid Wages

As detailed in Section II, non-payment of wages is one of the most common problems facing MDWs in Lebanon, and a leading reason that MDWs leave their employer. Under Lebanon's code of civil procedure, MDWs seeking to file a claim for unpaid wages, similar to any claim arising from a contractual dispute, are required to hire a lawyer and pay court fees, both of which are expensive in relation to the small amounts generally claimed by MDWs.

Accordingly, very few workers file claims before the first instance Civil Court (*Mahkamat al-Daraja al-Ula*). Only in one of the sample 114 cases had an MDW filed a claim against the employer before the First Instance Civil Court. The case, however, was quite exceptional in that the MDW claimed \$7,000 in unpaid wages, a very large amount given that MDW wages are around \$150-\$200 per month. The case took 27 months, but the court ended up forcing the employer to pay the \$7000, plus interest.

Due to the required time and cost of filing cases before the First Instance Civil Court, lawyers representing MDWs started filing complaints for unpaid wages before the Labor Court (*Majles al-Amal al-Tahkim*). The Labor Court's main advantage is that there are no court or filing fees. While MDWs are not covered by Lebanon's Labor Code, the Labor Court accepts cases affecting MDWs because a law dated October 21, 1980, (executed by Decree No 3572)

expanded the Labor Court's jurisdiction to any conflict that emanates from a relationship that fits the definition of work according to article 624 (1) of the Law on Obligations.⁸⁴ This would apply to domestic work situations. However, in such cases, the Labor Court applies the general law on contractual obligations and not the laws of the Labor Code. Despite the 1980 law expanding the jurisdiction of Labor Courts, a lawyer working for Caritas Migrant, told Human Rights Watch that "there are still labor courts that say they don't have jurisdiction over MDW cases. For example, I had a case in Zahle [a city in the Bekaa Valley] where the Labor Court deemed it did not have jurisdiction because domestic work is not covered by the Labor Code."⁸⁵

Human Rights Watch reviewed five MDW cases before the Labor Court.⁸⁶ While the Labor Court is supposed to operate faster than other civil courts due to its simplified procedure, the cases still took a long time: the shortest 21 months, and the longest 54 months. These delays are not unique to cases involving MDWs: officials and news accounts have criticized the slowness of Lebanon's Labor Courts in general, due to the high number of complaints and the low number of courts.⁸⁷ A judge who heads one of Beirut's five Labor Courts (but preferred to remain anonymous since he did not have permission to speak to Human Rights Watch) described "a big shortage in the number of judges and court clerks at the Labor court." He added that he had to work in two courts, and consequently was compelled to divide his weekdays between both. He also complained that the court clerk was not present every day, also causing delays.⁸⁸

Labor Court cases are quite straightforward. The court has to determine if the wages were paid and, if not, how much money is owed. In some cases, the Labor Court clearly put the onus of proof on the employers to show that they had actually paid. For example, in the case

⁸⁴ See for example, acceptance of this reasoning by Labor Court, Beirut, Third Chamber (president Osta), Case No 226/2002, Labor Court, Mount Lebanon, First Chamber, Case No. 328/2007. For more information on Labor Courts, see introduction to the courts on Lebanon's Ministry of Justice website, www.justice.gov.lb/CP/HTML_iFrame.aspx?id=146&language=1# (accessed on May 20, 2010).

⁸⁵ Human Rights Watch interview with Joseph Aoun, May 28, 2010, Beirut.

⁸⁶ We do not know how many complaints by MDWs are handled by Labor Courts across the country. Human Rights Watch wrote to Lebanon's Higher Judicial Council on May 27, 2010, asking for the numbers of complaints filed by MDWs before the Labor Courts for the years 2008-2010. We received an answer only from the five Labor Courts based in Beirut. They indicated that they handled in total for 2008-2010 seven cases of complaints by MDWs. Caritas Migrant shared with Human Rights Watch a list of 104 judgments they obtained in cases where they represented MDWs. Only two of the cases were cases that were decided by Labor Courts.

⁸⁷ See for example, "Labor Courts: 15 Courts and Hundreds of Cases," *An-Nahar*, October 14, 2008, "Labor Courts are Not Working," *al-Akhbar*, October 22, 2007. On April 27, 2010, the Council of Minister agreed to prepare a Decree to increase the number of Labour Courts in Lebanon, and notably in the Mount Lebanon governorate. Summary of the Council of Ministers Meeting, April 27, 2010, as reported by the news website Now Lebanon, <http://www.nowlebanon.com/arabic/NewsArchiveDetails.aspx?ID=164089> (accessed May 27, 2010).

⁸⁸ Human Rights Watch interview with Labor Court judge, June 16, 2010, Beirut.

of Jenet Kidane, an Ethiopian domestic worker, the Labor Court argued that it was the employer who had to prove that he had paid since article 362 of Law on Obligation and Contract states that “whoever says that he is creditor, has to show that, and once he does, it is for the person who is the debtor to show that he has performed.” The court found that the MDW proved that she had worked, but that her employer had not proved she had paid the salary at the end of each month.⁸⁹

However, in another case, the Labor Court found against Lilibeth Magaleem, a Filipina domestic worker who claimed \$4,360 in unpaid wages. In a decision issued on June 1, 2002, almost three years after the complaint was filed, the Labor Court ruled against the MDW on the basis that the worker had not proved that she was owed the money.⁹⁰

The Labor Court has also tackled the question of salary amount, given a discrepancy in many cases between the sum stipulated in the contract that the worker signed before departing for Lebanon, and the contract signed upon arrival. The court’s answer has been to systematically rely on the (lower) salary that the Lebanese employer agreed to with the agency in Lebanon. For example, Faith Karanja, a Kenyan worker, came to Lebanon in October 1998 after an agent in Kenya signed a contract with her informing her that she would be paid \$150/month. Her employer did not pay her, and the Labor Court eventually ruled in her favor in 2002. However, it calculated the employer owed her \$125/month, because that was the amount her employer had agreed to in writing with the agency in Lebanon.⁹¹

One challenge for MDWs, even after they win their claim of unpaid wages before the Labor Court, is enforcing the judgment against employers who refuse to pay in the hope that MDWs will grow weary of pursuing justice. In such cases, the MDW can file a criminal case against the employers accusing them of the misdemeanor of “refusing or delaying the execution of a decision by the Labor Court” (Article 344 of Penal Code). This is what Faith Karanja, the Kenyan worker discussed above, ended up doing. After the 2002 Labor Court’s judgment in her favor, the employer refused to pay, forcing Karanja to file a criminal case against him under Article 344. On February 28, 2005, the sole penal judge, Hani al-Hajjar, found Karanja’s employer guilty of “refusing to execute the Labor Court’s decision” and sentenced him to two months in jail and a fine of 600,000LBP (\$400). In all, it had taken three years for Karanja to see her initial court victory enforced.

⁸⁹ Case no. 328/2007, Labor Court of Mount Lebanon (First Chamber).

⁹⁰ Case no. 612/2003, Labor Court of Mount Lebanon.

⁹¹ Case no. 226/2002, Labor Court of Beirut (Third Chamber).

Given the cost, duration, and challenges of filing claims for unpaid wages in civil courts, lawyers and activists for MDWs have tried to collect unpaid wages through criminal courts by arguing that the employer had committed the crime of “*abus de confiance*”[‘abuse of trust’] (article 670 of Penal Code) by holding the MDW’s wages in trust. The advantage of filing criminal claims is that the MDW can obtain damages, and employers are likely to be more responsive to a case where they could face a prison sentence.

Lebanese criminal courts have often rejected such claims on the basis that the issue is contractual in nature and should be referred to a civil court. However, some criminal tribunals have shown willingness to accept that certain cases of unpaid wages can be considered cases where the employer has failed to return wages deposited with him/her in trust. Notably, on October 25, 2000, the Appeal Court for Misdemeanors in Jdeide overruled the Criminal Court of First Instance by holding that the employer had “abused the trust” of Jamilet Pirou, an Ethiopian domestic worker in his household, by not paying her wages which she thought were being held by him in trust. The court ordered the employer to pay Pirou \$400 in damages, but did not order repayment of the unpaid wages since it deemed that the matter should be decided in a civil court.⁹²

A subsequent ruling in 2005 refined the court’s approach by noting that criminal cases can be brought in cases of unpaid wages, but “there has to be proof that the worker deposited the money with the employer.” In that case, Adis, an Ethiopian domestic worker had filed a criminal case against her employer under article 670 (“*abus de confiance*”) for not paying her salary since March 1997. The court found that a civil court should resolve the case because Adis did not provide proof that she had deposited the money with her employer.⁹³

Since 2005, Caritas Migrant—which provides free legal representation—has won at least four cases before the criminal court when MDWs claimed unpaid wages from their employers on the basis of article 670 (“*abus de confiance*”).⁹⁴

B. Violence against Migrant Domestic Workers

The 114 sample cases included only five cases where charges were filed against an employer for violence against an MDW. In four of these, it was the MDW who filed the initial complaint,

⁹² Case no. 768/1999, Sole Penal Judge in Keserwan.

⁹³ Case no. 344/2005, Sole Penal Judge in Metn.

⁹⁴ List of cases that Caritas shared with Human Rights Watch. Case no. 172/2008, Sole Penal Judge in Saida; Case no. 210/2008, Sole Penal Judge in Saida; Case no. 114/2006, Sole Penal Judge in Amioun; Case no. 228/2005, Sole Penal Judge in Metn.

while in the fifth case it was the prosecutor who independently filed charges against the employer. Human Rights Watch found five additional cases where MDWs alleged to the police, while being interrogated for accusations of theft, that employers had beaten them, but neither the police nor the prosecutor acted on this information (see Section V.E below).

In cases of violence against MDWs, Human Rights Watch found that police and prosecutors often ignored allegations of physical violence, including slapping, punching, or pushing, and will only pursue and prosecute extreme forms of beating that are documented with extensive medical reports. In addition, many MDWs who filed complaints against employers for ill-treatment ended up facing countercharges of theft that take up much of the police investigation's effort.

The following cases illustrate the police and the public prosecutor's timid reaction to employers beating MDWs.

Case 1

The Pastoral Committee for Afro Asian Migrants (PCAAM), a group working for domestic workers, received information that the employer of K.A. (not her real initials), a Sri Lankan domestic worker, had locked her in his house, was beating her, and had not paid her wages.⁹⁵ PCAAM informed the prosecutor's office, which referred the complaint to the police on December 5, 2005. It took the police 21 days to investigate. When police eventually took K.A.'s deposition, she told them that her employer owed her seven months-worth of wages, and beat her regularly—including once with a cane on her right hand, for which she got an x-ray. Confronted by the police, the employer agreed to pay K.A. the \$670 he owed her in wages. However, the prosecutor, without providing any reason, did not press charges against the employer for beating K.A.

Case 2

In another case, an MDW left her employer and sought shelter at Caritas Migrant, which informed General Security on September 11, 2006, that the MDW's employer used to beat her each time she demanded her salary, and that she consequently suffered pain in her ears. The employer answered the claim by accusing her of theft. The prosecutor did not bring any charges against the employer, and the only trial that took place was against the MDW on the theft charge, for which the MDW was eventually exonerated. While the court noted in its judgment that "the defendant suffered from the harshness of her employer and her

⁹⁵ Police report no. 22544/2005, Beirut Police, Musaytbe branch (December 26, 2005).

employer owed her \$1,700, which represented unpaid wages for over a year,” the prosecutor’s office did not file charges against the employer.⁹⁶

Case 3

M.A. (not her real initials), a Filipina worker, left her employer on September 18, 2005, and immediately went to her embassy, where she reported her employer had “slapped her in the face twice and held her neck,” and owed her wages for one-and-a-half months. She also reported that her female employer regularly threatened to throw her out of the building. The employer immediately accused her of theft. The Philippines embassy referred the case to General Security.⁹⁷ During the investigation, M.A. informed General Security that she had been beaten, but a review of the General Security’s investigation file does not show any examination of the allegations.⁹⁸ In his decision on February 8, 2006, the investigative judge, did not mention the allegations and simply referred M.A. to trial on charges of theft.⁹⁹ No reasons were noted as to why no charges were brought forward. General Security ended up detaining M.A. for 13 months, until it released her on November 24, 2006, on LBP150,000 bail (\$100). Human Rights Watch was unable to obtain information on the outcome of the trial for theft.

Courts did convict employers of violence against MDWs in cases of egregious violence backed by strong forensic evidence, but they imposed penalties that were not commensurate with the gravity of the crime: for example, the maximum penalty imposed by the court was a 15-day sentence for physical assault. One lawyer who works for Caritas Migrant and regularly represents MDWs told Human Rights Watch that there had been “some evolution in court receptiveness.” Previously, he said “in cases of beating, an MDW would only get monetary compensation because the judge would exchange the prison term with money. But now, we see a few cases where employers are sentenced to jail.”¹⁰⁰ However, courts are still extremely lenient on employers convicted of serious violence.

Case 4

R.U. (not her real initials), a Filipina national, accused her employer on July 7, 1997, of beating and intentionally hurting her. She asked for her unpaid wages (dating back more

⁹⁶ Case no. 89/2007, Sole Penal Judge in Keserwan.

⁹⁷ Letter from the Philippines embassy to General Security, on October 18, 2005 (on file with Human Rights Watch).

⁹⁸ General Security Investigation with M.A., October 18, 2005 (on file with Human Rights Watch).

⁹⁹ Case no. 55/2006, Decision of Investigative Judge in Mount Lebanon.

¹⁰⁰ Human Rights Watch interview with Joseph Aoun, May 28, 2010, Beirut.

than two years), a ticket back to the Philippines, and damages of \$10,000. Two months later, on September 3, 1997, B.E. (not her real initials), an Ethiopian domestic worker who worked for the same employer, at the same time, filed a similar complaint against the employer and her husband. The court joined the two cases. In his testimony, a forensic doctor described “a large bruising on the left eye [of B.E.], and traces of burns on her hands, neck, right shoulder and other parts.” The court determined that “the employer started beating both workers since they came to work for her, and would burn them on different parts of their bodies.” It found her guilty of a misdemeanor under Art. 554, and ordered her to pay LBP3 million (\$2,000) to R.U., and another LBP3 million (\$2,000) to B.E. The court then sentenced the employer to one month in jail and a fine of LBP 100,000, but ended up replacing the prison sentence with an LBP500,000 (\$333) fine. The court ordered the male employer, a physician, who had also participated in the beating, to pay an LBP200,000 (\$133) fine.¹⁰¹

Case 5

In another case, M.G. (not her real initials), a Filipina domestic worker, escaped to a shelter run by PCAAM. She had burn marks on her back and informed Sister Amelia, who oversaw the facility, that her female employer had burned her with an iron during a dispute they had on May 22, 1999. M.G. also reported that her female employer regularly slapped her on the face and that her male employer had slapped her once after she asked to be returned to the agency that brought her to Lebanon. M.G. filed charges. During the trial, a forensic doctor testified that she had “second degree burns going back three days.” Another doctor who treated M.G. for her wounds told the court that “the burns were of the first degree and resembled an iron someone put on her back.” M.G. left Lebanon for the Philippines on December 17, 1999, and the case proceeded without her. On September 30, 2003, 52 months after the case was started, the judge found the employer guilty of violence (article 554 penal code), sentenced her to 15 days in jail, and ordered her to pay a fine of LBP50,000 (\$33) and LBP1,500,000 (\$1,000) in damages. Maria had asked for LBP37,500,000 (\$25,000) as damages.¹⁰² Human Rights Watch does not know if M.G. received the damages since she had already returned to the Philippines.

Case 6

Another case is that of Jonalin Malibago, whose victory in court made headlines in December 2009. The case dates back to the July 2006 war between Israel and Hezbollah, when Jonalin’s employer, Fayruz Sfeir, brought her to the Philippines embassy so that she could be

¹⁰¹ Case no. 611/1999, Sole Penal Judge in Keserwan.

¹⁰² Case no. 660/2003, Sole Penal Judge in Metn

repatriated. Within sight of the embassy, Fayruz Sfeir started beating Jonalin to push her to walk faster while carrying her luggage. Jonalin fainted and was taken to a hospital. In the hospital, the doctors saw signs of beating on her body, as well as black, blue and yellow bruises.¹⁰³ On December 9, 2009, a criminal court in Batroun sentenced the employer to 15 days in jail, a fine of LBP50,000 (\$33), and LBP10,000,000 (\$6,666) in damages to Jonalin.

Caritas Migrant shared with Human Rights Watch a summary of 104 cases (from 2002 to 2009) where it has represented MDWs in court. It shows that lawyers from Caritas Migrant won at least four cases against employers who beat their MDW, and that two employers were sentenced to jail for beating an MDW.¹⁰⁴

Sentences that Lebanese courts impose are very lenient, both compared to the gravity of the offense, and also the sentences that other countries impose on employers who beat MDWs. In Singapore, in March 2009, a district court sentenced Tong Chew Wei to 20 months imprisonment for hitting and scalding a domestic worker, while another sentenced Loke Phooi Ling and her mother Teng Chen Lian to eight months and four weeks in jail respectively for beating a domestic worker and banging her head against a wall.¹⁰⁵ In Malaysia, a court sentenced an employer to 18 years imprisonment, (later reduced to 12 years in December 2009), for severely beating an Indonesian MDW and repeatedly burning her on the breasts and back with an iron.¹⁰⁶

C. Restrictions on Movement

In cases where MDWs complained about the employer “locking them” in the house, the Public Prosecutor’s office and the courts dismissed the complaint or simply asked the employer to allow the MDW to seek shelter elsewhere. The following two cases illustrate the judicial indifference to forced confinement of MDWs, even though forced imprisonment is a crime under Lebanese law.

¹⁰³ Case No. 09/126/530; Dec 12, 2009 (on file with Human Rights Watch).

¹⁰⁴ Case no. 280/2009, Appeals Court of Misdemeanors in Metn (employer convicted of beating domestic worker but only sentenced to monetary compensation); Case no. 244/2007, Appeals Court of Misdemeanors in Mount Lebanon, (employer ordered to pay LBP4,000,000 (\$2,666) in fines and sentenced to jail; Case no. 737/2006, Sole Penal Judge in Baabda, (employer ordered to pay LBP2,000,000 (\$1,333) in fines and sentenced to jail), Case no. 961/2005, Sole Penal Judge in Baalbeck (employer ordered to pay compensation).

¹⁰⁵ Elena Chong, “Jailed for maid abuse,” *The Straits Times*, March 13, 2009 available at http://www.straitstimes.com/Breaking%2BNews/Singapore/Story/STISStory_349679.html (last accessed June 30, 2009) and Elena Chong, “Jailed for maid abuse,” *The Straits Times*, March 31, 2009 available at http://www.straitstimes.com/Breaking%2BNews/Singapore/Story/STISStory_356827.html (last accessed April 1, 2009).

¹⁰⁶ “18-year jail term for abusing maid slashed,” *Agence-France Presse*, December 3, 2009.

S.N. (not her real initials) and A.D. (not her real initials) were two Filipina nationals accused by their employer of theft. During their interrogation, they informed the investigative judge that their employer used to beat them and would regularly lock them in the house. The investigative judge accepted their allegations, noting that “prior to the theft, the employer started having suspicions about the employees and started treating them harshly and under great surveillance and would lock them in when she would travel.”¹⁰⁷ Despite this recognition, the investigative judge did not launch an investigation against the employer, and simply charged the two MDWs with stealing money.

Faith Karanja, a Kenyan domestic worker who escaped from her employer because of unpaid wages and ill-treatment, told the police that her employers would lock her in when they left the house, which they only let her leave in order to buy basic goods at the local store.¹⁰⁸ When interviewed by the police, the employer acknowledged locking Faith at home, but said she was allowed to “to go out to buy things and [to] come out with us when we would go out.”¹⁰⁹ Informed of this by police, the prosecutor told them to “leave the employers free and to obtain an undertaking from employer to prepare all the paperwork of the maid, pay her salary, and not exact revenge against the worker.” Faith, who was instructed to return to her employer, refused to go. The prosecutor eventually allowed her to go with Tina Naccache, the activist who had initially brought the case to their attention.

D. Withholding Passports and Identity Papers

In cases where MDWs complained about the employer withholding their passports or other identity papers, the courts dismissed the complaint or simply asked the employer to return the document. In none of the cases reviewed by Human Rights Watch did the court prosecute the employer for this act.

There is no existing legislation in Lebanon criminalizing passport retention. Activists and lawyers representing MDWs have tried to challenge withholding passports, arguing that doing so amounts to “forced confinement” (*hajez huriyat*), which is a crime.

In 2001, an investigative judge in Beirut examined a case where two Malagasy women had filed complaints against their agency for abuse of trust, fraud, and passport confiscation. The investigative judge found that the passport had been handed to the employer, who is

¹⁰⁷ Decision of Investigative Judge in Beirut, June 19, 2000 (on file with Human Rights Watch).

¹⁰⁸ Investigation in the case of Faith Karanja, Beirut Police (Damascus Road branch), March 7, 2000 (on file with Human Rights Watch).

¹⁰⁹ Ibid.

responsible for the domestic worker, and that it was “natural” for the employer to confiscate and keep the maid’s passport “in case she tries to escape from his house to work in another without compensating him.”¹¹⁰

In another case, a Filipina worker, A.N. (not her real initials), filed a criminal complaint against her employers asking them to return her passport and other identity papers. A.N. had ‘run away’ from her employers after she claimed that they owed her \$2,085 in unpaid wages. The employers argued that they held the passport “to guarantee her rights and ensure that the employee executes the contract.” The judge held that the court did not find “a criminal intent” in the employers’ confiscation of the passport.¹¹¹

Two sisters from Ghana also filed a complaint against their employer for “forced confinement and confiscation of passport and other identity papers,” and non-payment of salaries. The sisters claimed their employer fired them and kicked them out of his house without paying them \$1,580 in wages or returning their passports.¹¹² The Ghanians’ lawyer argued that holding their identity papers constituted the crime of “forced confinement” because it prevented them from traveling within Lebanon for fear of arrest. When the police called the employer, he was traveling and they spoke to his son, who simply said that the sisters had run away. When the police called the prosecutor to inform him of the phone conversation, he instructed them to stop the investigation and no subsequent charges were filed. Human Rights Watch does not know if the two sisters received their passports.

In a troubling decision in June 2000, an investigative judge accused two Filipina workers of stealing “their identity papers,” as well as gold and money from their employers’ house.¹¹³ In the court file the judge does not explain how the workers could steal their own property, suggesting that at least some members of the judiciary share the impression that many employers have ‘ownership’ rights over domestic workers and their property. Such a view in turn contributes to abuse and exploitation.

E. Cases of Non-Renewal of Residency

As previously discussed, a high percentage of agencies and employers (more than 85 percent by some estimates) confiscate passports and other identity papers belonging to

¹¹⁰ Case no. 11/2001, Decision by Investigative Judge in Beirut.

¹¹¹ Case No. 703/2003, Sole Penal Judge in Metn.

¹¹² Investigation in the case of Kyere and Linda Ababbio, Antelias Police, July 19, 1999 (on file with Human Rights Watch).

¹¹³ Decision of Investigative Judge no. 95/5085, June 19, 2000 (on file with Human Rights Watch).

MDWs. A common problem that MDWs face is that many employers or agencies do not renew their residency papers, thus exposing them to arrest for being in Lebanon illegally, even though they are likely to have not been in possession of the residency papers, and may not even know they broke Lebanese law.

Article 36 of the Foreigners Law makes it illegal to reside in Lebanon on an expired residency unless one has an “acceptable excuse.” However, Lebanese courts have been reluctant to recognize the confiscation of a passport as a valid excuse for not renewing one’s papers. For example, S.H. (not her real initials), a Sri Lankan domestic worker was accused by her employer of theft. During the course of the investigation, the police noticed that S.H.’s residency had expired. While the police investigation established that S.H.’s papers were in her employer’s possession and they had failed to renew the papers, they detained S.H. and a court sentenced her for being in violation of immigration laws.¹¹⁴ No charges were brought against the employers for failing to renew the papers.

In other cases, the judge held both the MDW and the employer guilty of violating immigration laws, even though the MDW had no control over her papers. On January 9, 2003, a criminal judge in Beirut found Faith Karanja, a Kenyan domestic worker, and her Lebanese employer, guilty under article 36 of the Foreigners Law and article 220 of the Penal Code (this article punishes an accomplice without whom a crime would not have occurred) after determining that “[Faith] neglected to renew her residency papers on Lebanese soil due to interference of her employer.” Both were sentenced to prison for one week and a fine for LBP10,000 (\$6). The court’s decision correctly recognizes that Faith’s illegal situation was due to her employer’s “interference,” but fails to find that Faith had an “acceptable excuse” for her illegal situation (as per article 36 of Foreigners Law). However, the facts of the case leave no doubt about Faith’s ability to renew her papers, which she had not had since arriving in Lebanon on August 28, 1998. Locked in the house by her employers, she had been unable to move freely and could only go out with them, or to purchase basic goods.

The broader issue is that in many cases the court does not examine or give sufficient (if any) weight to the circumstances that led the MDW to be without valid residency papers. By punishing the MDW for a situation beyond her control, the court is not only failing to protect, but also contributes to the abuse. For example, the police detained J.E. (not her real initials), an Ethiopian domestic worker, on January 11, 2002, because she did not have residency papers and because there was a pending “search warrant” for theft filed against her by her employer. J.E. told the police that she had fled her employer in December 2001, after he had

¹¹⁴ Case no. 983/2000, Sole Penal Judge in Metn.

tried to strangle her, and that he still had her papers.¹¹⁵ Six months later, the court of appeal eventually found her not guilty of theft, but guilty of violating immigration rules. However, there was no investigation to determine the circumstances that led to her escape and no investigation of the allegation that the employer tried to strangle her.¹¹⁶

The courts have ruled in other cases that an MDW cannot be held liable for her employer's negligence. On January 19, 2000, the police detained J.N. (not her real initials), a Kenyan domestic worker, because she did not have residency papers. At trial, the judge found her guilty of illegal residence in Lebanon (article 36 of Foreigners Law), even though her sponsor had failed to regularize her status as he had committed to doing. The Appeals Court overturned the judgment, holding that J.N. should not be held liable "for her sponsor not doing what is needed."¹¹⁷

F. Complaints against Agencies

Many MDWs told Human Rights Watch agents had hit them, and in some cases had forcefully detained them. According to Nayla Moukarbel's study, 15 percent of domestic workers interviewed reported that staff members from their agencies had struck them.¹¹⁸ Despite these complaints, Human Rights Watch's review of 114 cases of MDWs found no cases where the authorities prosecuted or took disciplinary measures against agencies. In her book, Moukarbel recounts a particularly severe case of brutality and physical abuse perpetrated by a Lebanese agent against a Sri Lankan domestic worker. The Sri Lankan ambassador personally complained to the Minister of Labor, resulting in the suspension of the agent's license for three months, after which he resumed operations. No charges were brought against him.¹¹⁹

Human Rights Watch sent a letter on April 14, 2010, to the Ministry of Labor to inquire about how many agencies had been blacklisted for such behavior, but did not receive an answer.

¹¹⁵ Police report dated January 11, 2002 (on copy with Human Rights Watch).

¹¹⁶ Case no. 195/2002, Appeals Court of Misdemeanors in Jdeideh.

¹¹⁷ Case no. 154/2000.

¹¹⁸ Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 176.

¹¹⁹ Moukarbel, *Sri Lankan Housemaids in Lebanon*, p. 177.

G. Deaths of Migrant Domestic Workers

In August 2008, Human Rights Watch released a study showing that MDWs were dying at a rate of more than one per week in Lebanon.¹²⁰ It found that between January 2007 and August 2008, at least 95 migrant domestic workers died in the country. Of these, 40 were classified by the migrants' embassies as suicide, while 24 others were caused by workers falling from buildings, often while trying to escape employers. By contrast, only 14 domestic workers died because of diseases or health issues. The others died because of car accidents and suffocation due to carbon monoxide caused by improper heating. Two were murdered.

Lebanese police generally investigate death cases, but interviews with lawyers representing domestic workers and officials working at the migrants' embassies, as well as a review of investigators' notes in five separate police investigations, reveal many flaws. First, police reports reveal that police do not always investigate when an employer mistreats an employee. When they do, they limit themselves to general questions and accept the employer's testimony without cross-checking their statements with information from neighbors, or the family of the domestic worker. Most of the cases are classified as suicides, and no further action is taken with respect to the employer. Second, in cases where the domestic worker survives a fall, police often interview her without an interpreter, and generally ignore the motives that prompted the escape.

In only one of the 114 cases that Human Rights Watch reviewed was an employer prosecuted for killing or contributing to the death of an MDW. D.I. (not her real initials), a Sri Lankan domestic worker, died on August 8, 1998, at her employer's house. According to the police investigation, the employer regularly beat D.I. The medical examiner performed x-rays on D.I.'s corpse and found that she had "broken disks in her neck, additional broken bones, and blood clotting at the level of her neck." The autopsy confirmed that the cause of death was a broken neck. The court found that the employer had severely beaten D.I. on her body and her neck "to force her to work." It found her guilty of "unintentional homicide" (article 550 of Penal Code) because her intent "was not to kill but to beat the domestic worker to force her to work." The court gave the employer a sentence of one-and-a-half years in prison, even though the minimum sentence under article 550 is five years on the basis that there were mitigating circumstances in that the employer was "hysteric and over sensitive."¹²¹

¹²⁰ "Lebanon: Migrant Domestic Workers Dying at a Rate of More than One per Week," Human Rights Watch news release, August 26, 2008, <http://www.hrw.org/en/news/2008/08/24/lebanon-migrant-domestic-workers-dying-every-week>.

¹²¹ Case no. 316/1999, Felony Court of Beirut (8th Chamber).

V. Criminal Cases against Migrant Domestic Workers

Human Rights Watch reviewed 84 cases where the MDW was accused of a crime—61 of which dealt with accusations of theft. The analysis does not include cases where the migrant was guilty solely of violating immigration rules, and revealed numerous violations of international standards of due process and fairness.

A. Frequent Pre-trial Arrests

At least 64 of the 84 MDWs (76 percent) who were accused of a crime were detained prior to trial. Deprivation of liberty pending trial must be an exceptional measure to preserve the principle of presumption of innocence.¹²² However, a review of judicial records shows that the Public Prosecutor's office regularly orders the detention of MDWs even when the evidence against them is weak. This practice increases the danger that MDWs are presumed guilty before a court finds them innocent, rather than the other way around.

Of the 18 MDWs in the sample who were eventually found not guilty, 15 (83 percent) were detained during trial.¹²³ On average, these workers spent three months in detention before a judicial decision for their release was issued; however, in four cases, they spent at least eight months in jail before the court found them not guilty.¹²⁴ MDWs were held pre-trial even in cases where they were accused of stealing money or goods valued at less than \$1,500.

However, these MDWs are likely to have stayed even longer in jail because MDWs, like all foreigners, are referred to General Security at the end of their sentence, even if they are found not guilty and have valid residency papers. We do not know how long they would have spent at General Security, since the court documents do not reflect this.¹²⁵ In our sample,

¹²² Article 9(3) of the International Covenant on Civil and Political Rights, which Lebanon ratified on November 3, 1972, notes that "It shall not be the general rule that persons awaiting trial shall be detained in custody." The Human Rights Committee has consistently held that "pre-trial detention should be the exception and that bail should be granted, except in situations where the likelihood exists that the accused would abscond or destroy evidence, influence witnesses or flee from the jurisdiction of the State party." Communication No. 526/1993, *M. and B. Hill v. Spain* (Views adopted on 2 April 1997), UN doc. GAOR, A/52/40 (vol. II), p. 17, para. 12.3.

¹²³ This percentage is based on the fact that of the 18 cases where the court found the MDW innocent of any accusation of theft, 15 of them had been detained during trial.

¹²⁴ Case no. 1398/2006, Sole Penal Judge in Beirut (8.21 months), Case no. 322/2007, Sole Penal Judge in Keserwan (9.03 months), Case no. 482/2005, Investigative Judge in Mount Lebanon (9 months), Case no. 323/2002, Felony Court of Beirut (10 months).

¹²⁵ For example, in a number of cases, there was a specific request from General Security to the court to transfer the custody of a worker to General Security even after the court found the person not guilty. See for example, decision of Judge Nazem al-

there were only two cases where the judge explicitly asked that the jailed domestic worker be released instead of being referred to General Security.¹²⁶

Pre-trial arrest was particularly lengthy in felony cases before the Criminal Court (*Mahkamat al-Jinayaa*). Human Rights Watch reviewed 13 cases of MDWs accused of a felony and detained. On average, the worker spent 21 months in pre-trial detention.

B. Abuse during Interrogation

Research for this report focused on reviewing court documents, rather than investigating how MDWs are treated during interrogation. However, in the course of research, a number of testimonies were collected from workers who alleged they were abused during interrogation.

A Filipina woman whom police interrogated in July 2009 about a robbery at her employer's house told Human Rights Watch:

They took me to the police station. Every question they would slap me. Madame and Mister were in the room, as well as two investigators. Then the police took me to another room and they started beating me with a plastic stick on my hand and feet. The police man would say, "I will count till five" and then slap me. At one point they threatened to beat me with an iron rod. They made me see it but did not use it. When I kept denying, they said, "If you don't answer, I will put my cigarette in your eyes." The interrogation lasted 30 minutes. They kept me in the police station for three days and then took me back to my employers.¹²⁷

The Lebanese Center for Human Rights (CLDH) conducted interviews in May 2009 with 82 migrant women in Lebanon's Tripoli jail. Two interviewees said police had beaten them during interrogation, while a third said that a policeman had raped her.¹²⁸

Khoury, March 20, 2006, agreeing to transfer the passport, work permit to General Security. In other cases, there is a standing order from general security asking that all cases of foreigners be referred to them.

¹²⁶ Case no. 2047/2000, Sole Penal Judge in Beirut, Case no. 387/1998, Investigative Judge in Mount Lebanon. In the case of Arlinda Sakbibit, from the Philippines, accused by employer of theft of antique piece, the investigative judge decided to drop the charges due to lack of proof and ordered her release without being referred to General Security.

¹²⁷ Human Rights Watch interview with Filipina worker E.V. (not her real initials), February 11, 2010.

¹²⁸ E-mail from CLDH to Human Rights Watch, April 23, 2010.

C. Lack of Defense Lawyers

Of the 84 MDWs accused of a crime in our sample, 37 (44 percent) did not have a defense lawyer.

This percentage is even higher if we exclude cases before the Criminal Court dealing with felonies, where a defense lawyer is mandatory. Human Rights Watch reviewed 66 cases before the First Instance Criminal Court (also known as the Sole Penal Judge). MDWs did not have a lawyer in 32 of those cases, and Human Rights Watch could not verify 10 other cases—meaning MDWs lacked a lawyer in at least 48 percent of cases before the First Instance Criminal Court.

D. Access to Interpreters

The majority of MDWs arrive in Lebanon with either limited or no Arabic language skills. While many eventually learn enough Arabic to get by in their daily work, most are not fluent and are unlikely to understand the vocabulary used in a police interrogation or trial. MDWs rely on ad hoc arrangements for interpretation in police stations and court proceedings. In at least 57 of the 84 cases that Human Rights Watch reviewed, the MDW did not have access to a certified translator. Court documents and police reports clearly indicate that an interpreter was present in only 11 cases.¹²⁹ Of those, three were official sworn translators (certified by the court); one a passerby; and one a migrant. Three were provided by the embassies of the MDW; one by Caritas, an NGO helping MDWs; and two by the employer.

Interpreters were rare even when the MDW was accused of a serious crime. Human Rights Watch reviewed 13 cases where the worker was accused of a felony: only seven had an interpreter present.

According to Lebanese criminal procedure, anyone is entitled to a translator during interrogation (article 81 of Code of Criminal Procedure).¹³⁰ This requirement is even printed on the forms used during interrogation. But in practice, many MDWs do not have access to interpreters and, in many cases, investigators simply record that the worker understood enough Arabic for the interrogation to proceed. In reality, few migrant workers master the language to the point where they feel comfortable responding to an investigator's questions.

¹²⁹ In the other 16 cases, it was unclear from the court documents if there was an interpreter.

¹³⁰ Article 14(3) of the International Covenant on Civil and Political Rights, which Lebanon ratified on November 3, 1972, recognizes the right of everyone to “have the free assistance of an interpreter if he cannot understand or speak the language used in court.”

Human Rights Watch reviewed a number of police reports where the MDW indicated that she only speaks “a little Arabic,” yet police proceeded with the interrogation without an interpreter. For example, P.V. (not her real initials), a Sri Lankan domestic worker was accused by her employers of theft. The police did not request a translator, even after P.V. stated, “I understand Arabic a little and I can only answer a few things in Arabic.”¹³¹ P.V. had only been in Lebanon for eight months when she was interrogated, making it highly unlikely that she understood enough Arabic to comprehend the details of the case against her. Her confessions in the initial deposition were eventually used to convict her of theft. The court sentenced her to three months in jail and ordered her to pay back her employer LBP1,500,000 (\$1000) in restitution for the jewelry taken.¹³² In another case involving a Sri Lankan worker accused of theft, the police contacted the Sri Lankan embassy to ask for a translator only at the end of the interrogation, for reasons that were unclear in the police report.¹³³

When translators are provided, the arrangement is often ad hoc and problematic. In one case, the police relied on a Sudanese national to translate the interrogation of an Ethiopian migrant worker, M.W. (not her real initials), accused of theft by her employer. Since M.W. spoke no Arabic, the Sudanese national translated the questions into English, which she spoke only a little.¹³⁴ In at least two other cases, the police relied on a translator provided by the employer in cases where the employer was accusing the worker of committing a crime. In both cases, the courts eventually recognized the conflict of interest inherent in relying on such an interpreter, but not before the worker had spent time in jail based on the initial translation.

The employer of D.A. (not her real initials), 26, a Filipina migrant worker, accused her of stealing jewelry from his house. During D.A.’s interrogation, the police relied on the lawyer of the employer, as well as a friend of the employer, to translate D.A.’s deposition. In her preliminary investigation, D.A. confessed to the theft. However, in subsequent interrogations, D.A. was able to obtain her own translator, and called for her first confession to be put aside because she claimed after it had been made, the police beat her. In its decision, the court stated that “the translation of the defendant’s testimony by the accuser’s lawyer and personal friend, both of whom are not neutral or objective, leads the court to put aside this

¹³¹ Police Report, August 21, 2005 (on record with Human Rights Watch). The irony is that the paper on which her deposition was noted, has a standard language that the person being questioned has the right to a certified translator.

¹³² Case no. 2212/2005, Sole Penal Judge in Beirut.

¹³³ Police Report no. 152/302 (*Mafrizat Istiksa’ Jabal Lubnan*), December 21, 2006 (on record with Human Rights Watch).

¹³⁴ Case no. 2374/2007, Sole Penal Judge in Beirut.

confession.” In the absence of any other material evidence, the judge found D.A. innocent.¹³⁵ Despite a positive final outcome, the worker spent nine months in pre-trial detention.

In another case, with more serious charges, the police relied on a worker employed in the household of the employer’s friend to translate the deposition of a domestic worker accused of attempting to murder the employers’ children. The first instance Criminal Court found the domestic worker guilty of attempted first degree murder and sentenced her to four years in jail. The lawyer at Caritas Migrant successfully brought an appeal to have a retrial, during which the accused worker had the services of a sworn translator. She was acquitted.¹³⁶

E. Evidentiary Burden

Human Rights Watch interviewed many MDWs, as well as officials at the embassies of MDW-sending countries, who complained that courts favor the employer, and convict workers on the basis of nothing more than the employer’s testimony.

In fact, Lebanese courts have a mixed record. While the courts convicted the MDW based solely on the employer’s accusation in a number of cases, in others the court required further evidence. Out of the 61 cases reviewed where the employer accused an MDW of theft, the court found the MDW innocent in 18 of the cases because of lack of evidence.

A positive precedent was set in 2002 when the Court of Appeal of the Metn district found Jenet Teklo, the Ethiopian domestic worker accused by her employer of theft, not guilty because the charge of theft “has to be supported with external evidence like fingerprints, witnesses, or finding the stolen goods, which are not present in this case.” However, the standard outlined in the Teklo case has not been followed widely. In a number of cases reviewed, the courts convicted the worker solely based on the employer’s accusation, even in certain cases where it seemed weak or vague. For example, on December 29, 2006, a penal judge in Beirut sentenced a Sri Lankan worker to six months in jail for stealing \$5,000 worth of cash and jewelry from the employer. The worker, who had escaped from her employer, consistently denied stealing anything. The employer did not give any details about the stolen jewelry or money in his initial complaint, did not bother to attend any of the trial sessions, and did not request any civil compensation.¹³⁷

¹³⁵ Case no. 1398/2006, Sole Penal Judge in Beirut.

¹³⁶ Email from Caritas Migrant detailing case.

¹³⁷ Case no. 2831/2006, Sole Penal Judge in Baabda. Deposition of employer at General Security June 10, 2006 (on file with Human Rights Watch). The MDW did not have a lawyer.

In many cases, the court treated the fact that a worker “ran away” from the employer as evidence supporting the accusation of theft, even though the MDWs often advanced other legitimate reasons for leaving their employers. For example, a penal court judge sentenced S.U. (not her real initials), a Sri Lankan worker, to 45 days in jail for stealing from her employer. In his decision, the judge relied heavily on the fact that the migrant worker had “escaped” from her employer, an act he saw as evidence that she had something to hide—even though the worker told the court the employer had owed her four months of unpaid wages and had refused to let her travel to Sri Lanka when her husband died.¹³⁸

Some cases show how easily certain employers accuse workers of theft. In one case, the employer accused the worker of running away and stealing a gold ring worth \$300. The court initially tried the MDW *in absentia* and sentenced her to three months in jail. It then emerged that the ring had been missing three months before the worker left her employer. After she was detained, the court re-tried the MDW and found her not guilty for lack of evidence.¹³⁹ In another case, employers accused their MDW of theft only after learning she intended to file a complaint before the Labor Court for unpaid wages.¹⁴⁰ The employers accused the MDW of stealing \$2,650 and jewelry worth \$1,500. The court found the MDW not guilty for lack of evidence.

¹³⁸ Case no. 2427/2007, Sole Penal Judge in Beirut. The employer told the court that the agency had informed them that the worker was lying in stating that her husband had died.

¹³⁹ Case no. 3265/2003, Sole Penal Judge in Beirut.

¹⁴⁰ Case no. 2117/2007, Sole Penal Judge in Baabda.

VI. Lebanon's International Obligations

International human rights law protects a spectrum of workers' rights, and notably rights related to just and favorable conditions of work. The Universal Declaration of Human Rights (UDHR) provides that everyone has the right to rest and leisure, including reasonable limitation of work hours and periodic holidays with pay, as well as the right to just remuneration to ensure "an existence worthy of human dignity."¹⁴¹ The International Covenant on Economic, Social, and Cultural Rights (ICESCR), which Lebanon acceded to in 1972, reiterates these rights in recognizing the right of all persons to just and favorable conditions of work.¹⁴²

Lebanon has also ratified two ILO conventions that are relevant to the protection of migrant workers: (i) Convention No. 105 on the Abolition of Forced Labor (ratified by Lebanon in 1977), (ii) and Convention No. 111 concerning Discrimination in Respect to Employment and Occupation, which prohibits discrimination on the basis of sex with respect to access to employment and conditions of employment (ratified by Lebanon in 1977).

In addition, Lebanon's exclusion of domestic workers from many legal protections extended to other categories of workers violates the principle of non-discrimination enshrined in international law. International human rights law prohibits discrimination on the basis of such distinctions as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.¹⁴³ Laws, regulations, policies, and practices that are superficially neutral can be deemed discriminatory if their impact is such.

The exclusion of domestic workers from Lebanon's labor law, while seemingly neutral in its focus on a form of employment, may not be discriminatory in intent; but it has a disproportionately negative impact on women since the overwhelming majority of domestic workers (97 percent) are female according to Lebanese Ministry of Labor statistics.¹⁴⁴ Accordingly, the lesser protection extended to domestic work reflects discrimination against

¹⁴¹ UDHR, Arts. 23 and 24.

¹⁴² ICESCR, Art. 7.

¹⁴³ UDHR, art. 2; ICCPR, art. 2(1); CEDAW, art. 1; CRC, art. 2; International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), 660 U.N.T.S. 195 (entered into force January 4, 1969), art. 1

¹⁴⁴ Out of 114,933 MDWs with official working permits in Lebanon in 2009, 111,945 (97%) are women. Source: Ministry of Labor, *Statistics on Work Permits Given to Foreigners in 2009*.

a form of work usually performed by women and that involves tasks associated with traditional female domestic roles such as cleaning, child care, and cooking.

CEDAW, which Lebanon acceded to in 1997, obligates state parties to ensure "the right to equal remuneration [between men and women], including benefits, and to equal treatment in respect of work of equal value."¹⁴⁵ The CEDAW Committee, tasked with monitoring state party's compliance with its obligations under the convention, expressed "concern at the abuse and exploitation of women employed as domestic workers in Lebanon" and recommended that Lebanon "establish procedures to monitor and safeguard the rights of women domestic workers and adequately prosecute and punish abusive employers." It also called upon Lebanon to "provide domestic workers with viable avenues of redress against abuse by employers," and "ensure that domestic workers are aware of their rights and legal protections and have access to legal aid."¹⁴⁶

Lebanon has not given any legitimate reason to justify excluding domestic workers from the provisions of the labor law, meaning that the unequal protection of domestic workers under Lebanon's national labor law constitutes impermissible discrimination on the basis of sex as well as national origin, since the vast majority of domestic workers in Lebanon are foreigners.

In addition, the International Covenant on Civil and Political Rights (ICCPR), which Lebanon ratified on November 3, 1972, requires Lebanon to guarantee that "all persons are equal before the courts and tribunals" (article 14(1) of ICCPR). This includes the right of any person facing a criminal charge to "have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it" (article 14(3)(d) of ICCPR) and "to have the free assistance of an interpreter if he cannot understand or speak the language used in court" (article 14(3)(f) of ICCPR).

¹⁴⁵ CEDAW, Art. 11(d).

¹⁴⁶ Lebanon, Concluding observations of the Committee on the Elimination of Discrimination against Women, February 1, 2008, CEDAW/C/LBN/CO/3, paras. 30-31.

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Without Protection

How the Lebanese Justice System Fails Migrant Domestic Workers

Lebanese families employ an estimated 200,000 migrant domestic workers (MDWs), primarily from Sri Lanka, Ethiopia, the Philippines, and Nepal. These workers regularly complain about nonpayment of wages, excessive working hours, forced confinement, and in some cases physical and sexual abuse.

This report examines the role of Lebanon's judicial system in protecting MDWs and holding abusive employers accountable. It is based on a review of 114 Lebanese judicial decisions affecting MDWs and interviews with MDWs who reported abuse, as well as with lawyers who regularly take up their cases.

The Lebanese judicial system generally fails to protect the rights of MDWs. Often, a combination of factors dissuade MDWs from filing or pursuing complaints against their employers, or lead them to settle on unfavorable terms. These include lack of accessible complaints mechanisms, fear of countercharges for “theft” and being held in detention, and restrictive visa policies that make it hard for MDWs to remain in Lebanon to the end of their cases that drag on for months –and often years.

Even when MDWs file complaints, police and judicial authorities often do not treat certain allegations, such as forced confinement and passport withholding, as potential crimes. Even violence against MDWs—including beating, slapping and punching—often does not prompt a serious response from police and prosecutors, who tend to prosecute only extreme physical violence when it is backed up by extensive medical reports.

Despite recent pronouncements by Lebanese officials, including the ministers of Interior and Labor, that they want to improve the treatment of MDWs, the government's proposed reforms have so far been modest and poorly implemented. Lebanese authorities should set up monitoring mechanisms to detect cases of MDWs abuse; make Lebanese laws more responsive to the vulnerable situation of MDWs; reform an inherently abusive sponsorship system by reducing employer control over visa status of workers; and establish quick and simplified dispute resolution mechanisms to settle salary disputes.

*A Sri Lankan woman washes the windows
of her employers' home in Beirut.*

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