



International
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Cooperating **OUT OF ISOLATION**

THE CASE OF MIGRANT DOMESTIC WORKERS
IN KUWAIT, LEBANON, & JORDAN



BRIEF FOR DISCUSSION

14-15 December 2014, Amman

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Introduction¹

While countries globally are moving towards recognizing domestic workers under their labour legislation, limited protection is provided to more than two million domestic workers working and living in the Middle East.² The majority of these workers are migrant women and while for many of them, migration is an enriching experience, others face a journey of fear and unfair treatment.

The different modes of regulation for migrant domestic workers are fairly consistent across the Middle East, and most countries have adopted some version of the *kafala* (sponsorship) system to contract migrant workers. This system ties foreign workers to individual sponsors and regulates their residency and employment. Migrant workers typically have no say in their contractual arrangement or working conditions and their mobility is often restricted. In the specific case of migrant domestic workers, the live-in arrangement causes further vulnerability and exploitation.

Due to the exclusion from labour laws³ and being bound by the *kafala* system, many domestic workers in the Middle East live and work in isolation. Their representation in trade unions or other forms of organizations is not sufficient enough to promote agency and raise their collective voice to claim their labour and human rights. Such limitations are due to several compounding factors which are legal, social, cultural, gender, racial and linguistic in nature. In many Arab states, migrant workers are not entitled to

¹ This Brief has been produced under the Migration and Governance Network - MAGNET Programme funded by the Swiss Development Cooperation. It has been prepared by Emanuela Pozzan and Tina H. Oulie, with inputs from Carla Chan Unger, Guy Tchami, Satoko Horiuchi, Simel Esim and Susan Bvumbe and it is an extract from the ILO Working draft (c) publication, *Cooperating out of isolation: the case of migrant domestic workers in Jordan, Kuwait and Lebanon*.

² Countries included in the definition of Middle East used in this paper include: Bahrain, Iraq, Kuwait, Lebanon, Jordan, occupied Palestinian territory, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates (U.A.E.) and Yemen.

³ With the exception of Jordan - Regulation No. 90/2009 of Domestic Workers, Cooks, Gardeners and Similar Categories.

establish trade unions and their possibility to organize themselves around other forms of social and solidarity economy is curtailed by the current legislation.

This brief is inspired by emerging examples of domestic workers organizing themselves in different parts of the world through social and solidarity economy enterprises and organizations. It analyses current legislative and policy frameworks, institutional structures and membership-based initiatives that could allow and promote domestic workers' social and solidarity economy enterprises and organizations. This brief focuses on three countries in the Middle East (Jordan, Kuwait and Lebanon) and is meant to generate reflection and discussion on opportunities and options towards the realization of decent work for domestic workers in line with the ILO Domestic Workers Convention 2011, (No.189).

Social and solidarity economy: Structures and definitions

While there is no official, internationally recognized definition for social and solidarity economy (SSE), two core features tend to define enterprises and organizations in this realm. First, such enterprises and organizations have explicit economic as well as social aims. Secondly, they foster and involve varying types of cooperative, associative and solidarity relations.⁴ SSE as a concept refers to enterprises and organizations, in particular cooperatives, mutual benefit societies, associations, foundations and social enterprises, which specifically produce goods, services and knowledge while pursuing economic and social aims and fostering solidarity.⁵

The social and solidarity economy (SSE) refers to organizations and enterprises that are based on principles of solidarity and participation and that produce goods and services while pursuing both economic and social aims. SSE encompasses a variety of organizations and enterprises that all share social and economic objectives, values and operating principles. It is a dynamic and evolving group of actors that all promote and run economic organizations that are people-centred.

Fonteneau et al (2010)

SSE membership-based organizations such as cooperatives, mutual benefit societies, associations and community-based organizations have historically been instrumental in supporting workers and protecting them from exploitation, as well as providing them with much needed social services such as finance and housing.

⁴ ILO Working draft (a).

⁵ ILO (2011).

Cooperatives

The ILO Promotion of Cooperatives Recommendation, 2002 (No. 193) defines a cooperative as: “An autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.” Cooperatives are generally business entities that operate under a set of core principles; shifting their priorities from profit to shared value and commitment to social needs. They are unique in that members are not only direct beneficiaries of the surplus produced through their activity, but are owners of the enterprise as well. The structure of cooperatives incentivizes the participation and ownership of workers to achieve common goals that would otherwise be difficult to achieve individually. There are two overarching categories of cooperatives, both of which enable their members to combat social exclusion:

- 1) Cooperatives that offer services to their members (credit unions, consumer cooperatives, housing cooperatives, financial and agricultural cooperatives, etc.);
- 2) Cooperative that provide jobs for their members (worker cooperatives such as producer cooperatives and labour cooperatives).⁶

The Seven Principles of Cooperatives

Cooperatives around the world generally operate according to the same core principles and values which were codified by the Rochdale Pioneers cooperative in 1844 (Gallin and Horn, 2005). The International Co-operative Alliance, a global umbrella organization for cooperatives, revised and adopted these principles in 1995, and kept the following ones considered as the most essential principles:

- 1. Voluntary and open membership;**
- 2. Democratic member control;**
- 3. Member economic participation;**
- 4. Autonomy and independence;**
- 5. Education, training and information;**
- 6. Cooperation among cooperatives;**
- 7. Concern for community.**

Source: International Co-operative Alliance: Statement on the Co-operative Identity (1995).

Mutual benefit societies

The objective of mutual benefit societies is essentially to provide social services for their individual members and their dependents. These societies – whether formal or informal – meet the need of communities to organize collective social relief for themselves by sharing a wide variety of risks. The most common types of mutual benefit

⁶ Tchami (2007).

societies are based on health provision or mutual insurance, as well as providing banking and other financial services. Mutual benefit societies provide services through a mechanism where risks are shared and resources are pooled, with benefits distributed by need.⁷

The main differences between these and joint stock insurance companies is that mutual benefit societies are not-for-profit and do not select their members nor calculate members' premiums on the basis of their individual risks. It is worth noting that mutual benefit organizations share key features with cooperatives. For example, both are owned by their members who have democratic control over the organization. Other common features of mutual benefit societies are that they are established to serve a specific community or interest group and have governance structures that have formally incorporated stakeholder interests.⁸

Associations

Associations are characterized as groups serving a specific purpose. Associations are mission based, non-profit organizations. While they can represent any community or activity, from small recreational groups to militia groups,⁹ only those that carry an economic purpose form part of the social and solidarity economy.¹⁰ Like cooperatives, trade unions and mutual benefit societies, associations within the social and solidarity economy are membership based and employ the "one person, one vote" model to negotiate collectively. Associations have varying degrees of formalization making them more flexible in shape and form than other components of the SSE. The flexibility and relative ease in forming associations may explain the plethora of these organizations, and indeed can be a major advantage in countries where laws create significant hurdles to the registration of cooperatives.

In many countries, NGOs are legally defined as associations. While not all NGOs belong to SSE, as they may not pursue both economic and social goals, they become increasingly influential because of their ability and willingness to reach out to sectors of society and labour that have not been prioritized (for example, workers in the informal economy) or have not been reached by the unions due to restrictive legislation (for example, labour laws that exclude a specific group of workers or prevent unionization).¹¹ NGOs have been increasingly playing a role in the SSE as incubators and sponsors for a wide array of cooperatives worldwide.¹²

⁷ Fonteneau et al (2010).

⁸ Lewis et al (2006).

⁹ Stolle and Rochon (1998).

¹⁰ Fonteneau et al (2010).

¹¹ Bonner and Spooner (2012); Ford (2004).

¹² See Bonner and Spooner (2012) for examples.

Domestic work and the social and solidarity economy

The informal and precarious working conditions associated with domestic work have led to a situation whereby a large proportion of domestic workers are excluded from social protection entitlements, denied support services and means to seek redress in the event that their rights are abused. Living in a vacuum, domestic workers in many parts of the world have sought to introduce substitutes to traditionally government-provided services that can cater to their specific needs while protecting them from exploitation.

Examples of social and solidarity economy organizations that cater to domestic workers' needs

Health services

Despite their significant contribution to the Indian economy, most self-employed women workers in India cannot access affordable health care. In 1984, the Self-Employed Women's Association (SEWA) of India introduced a full primary health care service that focused on disease prevention and promotion of well-being. SEWA, a trade union and association for Indian women working in the informal sector, had already negotiated with the Government of India for help to allocate maternity benefits to poor women. In addition, local women, especially traditional midwives, were trained so that they could serve as "barefoot doctors" to their communities. In 1990, these health services developed into Lok Swasthya Mandali, a registered state-level cooperative of midwives and health workers that links SEWA members to preventive and curative health care, including maternal and child care. The Lok Swasthya Mandali provides lifesaving, preventive health information and low cost, appropriate curative services at women's doorsteps, while also creating employment opportunities for women health workers (WIEGO, 2012).

Financial services

The International Remittances Network was developed by the World Council of Credit Unions in response to credit union members' demand for money transfer services and to counter the exorbitant fees being charged to use these services (ILO, 2013). The service was developed primarily to make it more affordable for workers in the United States to send remittances and was launched especially targeting the Hispanic population although the network currently provides service to countries in Africa, Asia, Australia, Europe and Latin America (ILO, 2013).

Self-help groups

The Beyond Care Child Care Cooperative in the United States brought together 25 immigrant women who conceptualized, planned and launched a membership cooperative business. As a self-help group, the cooperative aims to provide members with job opportunities and help immigrant men and women increase their income, build internal leadership and provide mutual support. The cooperative has more than 30 members who have completed business development and nanny training through respective probationary periods [ILO Working draft (b)].

In some cases, domestic workers have filled gaps in regulation by establishing social and solidarity organizations which offer a wide spectrum of services, including financial and credit schemes, health services and insurance, self-help and training, and employment opportunities.

Enabling factors for the formation of SSE by domestic workers

Geographic proximity

The formation of SSE enterprises and organizations has often been found to be location driven – that is, organized around a certain geographic area. For example, the South African Domestic Service and Allied Workers Union (SADSAWU) organizes workers into street communities in places where they work.¹³ These workers act as local contact points and they also try to reach out to other workers in the same area.¹⁴

Shared ethnic and cultural backgrounds

Shared ethnic and cultural backgrounds are common in emerging SSE organizations.¹⁵ But while shared language and customs may reduce barriers to cooperation, it is important to note that this clustering can partly be attributed to location dynamics, as migrant communities often inhabit the same areas.¹⁶ For example, while it is true that most members of *Ecomundo* Cleaning – a green domestic workers cooperative in New York – are of Latin American origins, they also all live in Sunset Park, Brooklyn (a predominantly immigrant neighbourhood) and it was their financial backgrounds and needs coupled with their geographic proximity that created an opportunity for establishing the cooperative.¹⁷

Furthermore, there are successful examples of domestic worker organizations whose members hail from various nationalities and backgrounds. For example, the Hong Kong Federation of Asian Domestic Workers Unions is an umbrella organization that was able to build solidarity between five different unions representing different cultural groups to strengthen their collective bargaining power.

Activist and community leader networks

Activist and community leader networks include vocal, more experienced members of the domestic worker community, as well as representatives from faith-based organizations and non-domestic worker activists who provide support to domestic workers. Leaders can provide workers with important information as well as act as hubs that connect migrant workers to one another and to relevant stakeholders.

¹³ Bonner and Spooner (2012).

¹⁴ ILO (2012a).

¹⁵ e.g. Cranford and Ladd (2003).

¹⁶ ILO Working draft (a).

¹⁷ *Ibid.*

Removed from the public domain and inaccessible to or fearful of joining formal worker organizations, domestic workers may feel more comfortable joining such informal networks which can afford them self-help and training as well as collective job placement services.¹⁸

In some settings, such networks can and have, over time, become institutionalized and able to exert more bargaining power to free domestic workers from exploitation. Irene Fernandez is an example of this. Her long-time activism for migrant domestic workers' issues in Malaysia led her to found *Tenaganita* (Women's Force) to empower migrant workers and increase their visibility.¹⁹ Through her individual connections and working with multiple organizations as an activist, she managed to develop a movement of domestic workers in Malaysia.

Mobilization through campaigns and targeted events

The nature of domestic work can be isolating. However, mobilization through campaigns and targeted events can bring domestic workers together, physically and in solidarity. Whether as individuals or small networks these forms of mobilization provide an opportunity for domestic workers to discuss important issues under a stronger, united platform. These campaigns can serve as a springboard for longer-term cooperative efforts.

A striking example is that of the brutal assault on and eventual death of a 19 year-old Indonesian domestic worker, Muawanatul Chasanah, in Singapore, which prompted a number of people to meet and eventually establish The Working Committee 2 (TWC2) in 2002.²⁰ TWC2 acted as a network for activists and civil society representatives to discuss domestic work issues. TWC2 hosted many activities tackling issues affecting domestic workers,²¹ and it resulted in the establishment of the Maids Resource Centre.²²

Involvement of trade unions

Historically most trade unions have not been successful in targeting or attracting members working in the informal economy, partly due to their strategies as well as the nature of the sector.²³ More recently, many trade unions have intensified efforts in organizing domestic workers with mixed success.²⁴ In some cases, the lack of legal protection for domestic workers and policies that curb their organization have made it difficult for trade unions to collectively bargain on their behalf.²⁵ A recent survey of

¹⁸ Bonner and Spooner (2012).

¹⁹ Women's Aid Organisation (2012).

²⁰ Lyons (2004).

²¹ *Ibid.*

²² *Ibid.*

²³ Birchall (2001).

²⁴ See Bonner and Spooner (2012) for examples.

²⁵ Bonner and Spooner (2012); Lyons (2004).

domestic worker SSE enterprises and organizations conducted by the ILO has identified a typology of three different relationships between cooperatives and trade unions:

- a. Cooperatives as a prelude to trade unions;
- b. Trade unions offering collective services to their members; and
- c. Cooperatives and trade unions operating under the same platform.²⁶

Examples of domestic worker cooperatives and trade unions collaboration

I. Cooperatives/ Associations as a Prelude to a Trade Union

The Jamaican Household Workers Association was founded in 1991 and currently has over 1,600 members. The Association works closely with employers, governments and trade unions to ensure that their workers are provided with fair wages and ethical employment practices. On March 18, 2013 the Association was formally registered as a trade union, shifting the focus from serving largely economic interests of their members to a greater emphasis on advocating for the rights of domestic workers [ILO Working draft (a)].

II. Unions Providing Cooperative Services to their Members

The Self Employed Workers Associations (SEWA), as mentioned previously, is registered in India as a trade union but its grassroots organizing strategy is based on the creation of over a hundred cooperatives, which are owned and run by its women members. The *Lok Swasthya Mandali* Cooperative provides health services to SEWA's members. It is just one of over 100 SEWA sponsored cooperatives.

III. Cooperatives and Unions Operating through One Platform

While no domestic worker cooperatives have been found to truly fit this typology, the recently announced partnership between United Steel workers representing workers in the United States, Canada and the Caribbean, and Basque and Spanish Mondragon cooperatives exemplifies how cooperatives and unions can be united under one platform for joint action. Both organizations have committed to working together to create "union coops" which differ from traditional cooperatives in that workers can appoint a management team (from within their own ranks or from outside the cooperative) which will bargain collectively with management to determine terms and conditions of employment (including wage rates, benefit packages, and processes for grievances and arbitration of workplace disputes) (Dean, 2013).

Importantly, although collective bargaining is generally considered to be the preserve of trade unions, domestic worker cooperatives that play an employment intermediation role carry out functions that can improve domestic workers' working conditions in the same manner as collective bargaining agreements. These cooperatives negotiate contracts with employers, specify the contractual parameters for workers and provide wage, overtime and other information to employers.

²⁶ ILO Working draft (a).

Support from NGOs

With their technical expertise, networks and resources, NGOs have been engaging with communities and enabling and supporting the formation of cooperative initiatives. A recent mapping of domestic worker cooperatives conducted by the ILO found that all such cooperatives established in the New York City area had been supported by at least one NGO which operated as an ‘incubator’ before the initiatives were officially launched.²⁷ The support and other roles played by NGOs in the social and solidarity economy range from actually forming cooperatives, and sponsoring already existing informal arrangements, to building strategies for emerging cooperatives.²⁸

For example, the most significant migrant labour NGO umbrella group in Indonesia (KOPBUMI – the Consortium for the Defence of Indonesian Migrant Workers) has been mainly funded by the American Center for International Labour Solidarity (the international wing of the American Federation of Labour-Congress of Industrial Organizations or AFL- CIO).²⁹ KOPBUMI has, in turn, supported the development of a migrant labour union in Indonesia, which tackles issues faced by migrant domestic workers and engages with cooperative campaigns and networks.³⁰

Exploring the potential for cooperating out of isolation in the Middle East

Migrant domestic workers in the Middle East are more isolated than domestic workers in many other regions due to the structure of the *kafala* sponsorship system, combined with the fact that these workers live in employers’ homes with highly restricted freedom of movement. In spite of this, several enabling factors for organizing have been identified. These include geographical proximity, shared racial and cultural backgrounds, and the involvement of trade unions and NGOs acting as “incubators” for domestic worker organizations.

Since parameters for interaction are restrictive, the importance of geographic proximity becomes particularly pertinent. Neighbouring streets, apartment buildings and balconies have become important spaces where domestic workers find ways to communicate and engage with one another.

²⁷ ILO Working draft (a).

²⁸ Bonner and Spooner (2012).

²⁹ Ford (2004).

³⁰ Ford (2005).

'Balcony talk' between domestic workers in Beirut helps migrant domestic workers negotiate with employers by enabling them to share their experiences with regard to issues such as days off, contract terms and so on. Balconies can become spaces for solidarity and support between domestic workers, allowing the sending of food and letters from home, et cetera, which are sometimes cross-cultural. In some cases, cooking and eating jointly, or watching movies together in apartments rented for a day allow domestic workers a sense of community (Pande, 2012 and ten Zijthoff, 2009).

Language, cultural backgrounds and interests shape migrant workers' interactions with one another. For example, the weekend enclaves in the Dora region in Beirut attract many nationalities but for the most part, migrant workers engage with workers from similar backgrounds – either in shops that have their ethnic goods or through mostly mono-cultural networks.³¹ This extends beyond the domestic sector networks: in Jordan, many Sri Lankan domestic workers participate in wider Sri Lankan community activities that also attract migrant workers employed in the garment factories and therefore are driven by a cultural basis rather than by sector.³²

Individual and personal networks in addition to those led by activists and community leaders remain key enabling factors for migrant domestic workers to gather. These networks have been activated for all types of cooperation, including financial support and collective action. A number of migrant workers in Kuwait and the U.A.E. reported a network of friends and family that they rely on in the event that they need to borrow money.³³ Personal networks have also been employed for solidarity and support. In Beirut, homebound domestic workers visit freelancers on days off in their weekend enclaves to exchange experiences and develop better bargaining techniques.³⁴ These networks are not limited to activities in host countries, as it is clear that networks in sending countries influence migrant workers. For example, many workers surveyed in Kuwait and the U.A.E. have implied that their decision to migrate was motivated by friends and relatives in their home country.³⁵

Faith-based organizations for migrant domestic workers have a vital importance in the Middle East for their ability and potentials to create, empower and support domestic worker networks and cooperative initiatives. Organized by domestic workers themselves, the Sri Lankan Buddhist and Christian Association in Jordan have been able to support religious and cultural activities in the community as well as collect money to repatriate peers in the case of an emergency.³⁶ Affiliation to faith-based organizations can also provide workers with opportunities to create external networks as in the case of *paluwaga*, informal savings associations, which have been formed within Beirut's church congregations.³⁷

³¹ Pande (2012); tenZijthoff (2009).

³² Frantz (2008).

³³ Khan et al (2011).

³⁴ Pande (2012).

³⁵ Khan et al (2011).

³⁶ Frantz (2008).

³⁷ ten Zijthoff (2009).

The ability of specific incidents to bring migrant domestic workers together has also been documented in the Middle East. In Jordan, an ad-hoc support group of migrant domestic workers with different cultural backgrounds and no previous interactions was formed after several workers sustained injuries while washing windows.³⁸ Two Sri Lankan and one Indonesian domestic worker were admitted to Prince Hamzeh Hospital in Amman after having serious injuries after falling from a window. When other migrants learned of their situation, they formed an ad-hoc support group, taking turns visiting the hospital to feed, bathe, and talk to the patients and help them call their families at home.

While the long-term potential and sustainability of such mobilizations have yet to be explored, these kinds of opportunities not only create networks across nationalities but also speak to the solidarity embedded within the domestic work sector which can be capitalized on in the future.

It is important to note that freedom of association is in general restricted in the Middle East. Only few countries have ratified the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). Trade unions and strikes are banned by law in Saudi Arabia, Qatar and the U.A.E. The law in these three countries only allows for workers' committees. In the other countries where trade unions exist, only Bahrain, Kuwait, Lebanon and Oman allow migrant workers to join them. Even then they are not allowed to run for trade union elections. No domestic workers are allowed in any of these trade unions.³⁹ Migrant domestic workers have more restricted access to trade unions than other migrant workers. For example, in Jordan, domestic workers are only allowed to join the General Trade Union for Workers in General Services.

Interestingly, unions in sending and receiving countries have collaborated to address concerns of migrant workers. Trade unions in Bahrain and Kuwait have agreements with the General Federation of Nepalese Trade Unions (GEFONT) and three national trade union centres in Sri Lanka to promote migrant workers' rights and protect them from exploitation.⁴⁰ While awareness of such agreements remains limited⁴¹ and the involvement and impact on domestic workers has yet to be documented, such collaborations reaffirm the need to approach the domestic worker social and solidarity economy with a transnational lens.

NGOs have been increasingly active in the region in providing support services for building networks between migrant workers. These wide-ranging services cover many real and perceived gaps in legislation and employment structures, including health, culture, faith, although there may be little awareness of these initiatives.

³⁸ Frantz (2008).

³⁹ Esim, S. Kerbage, C. (2011).

⁴⁰ ILO (2013c); ITUC (2012).

⁴¹ Khan et al (2011).

Finally, technology has emerged as a factor that has expanded the parameters within which workers can engage with one another. Patterson has noted that migrant workers in Jordan use mobile phones to participate in networks, even when they are physically unable to join due to restricted mobility. Mobile phones have become an important means for solidarity among workers and for alerting others to problems.⁴²

Barriers and opportunities for organizing domestic workers in Jordan, Kuwait and Lebanon

General overview

The following information provides a summary of key findings related to the legal desk and field research conducted by the ILO in Jordan, Kuwait and Lebanon in 2013 and 2014.⁴³ The field research specifically looked at the potential for the involvement of migrant domestic workers in SSE enterprises and organizations, specifically cooperative enterprises in Jordan, Kuwait and Lebanon. Its aim is to put forward opportunities and challenges for the creation of cooperatives and/or pre-cooperatives for domestic workers in the Middle East.

The main findings of this research relate to: the lack of a conducive legal environment; the presence of support structures for the creation of cooperatives that would include migrant domestic workers in the three countries; and the relevance of the cooperative model in providing opportunities to address the economic, social and cultural needs of migrant domestic workers.

Legal picture is bleak but improving

Domestic workers are excluded from the labour law in Lebanon and Kuwait. Although they are included in the Jordanian labour law, there is inconsistent application of the law. In some interpretations the inclusion in labour law contributes to institutionalizing discrimination against domestic workers by according domestic workers lower working standards and benefits compared to other workers. One of the key debates in regards to labour law and domestic workers has been between integrating domestic workers in the labour law and creating a special law for domestic workers. For the sake of organizing domestic workers, an improved legal framework in all these three countries is necessary. Legislation needs to provide domestic workers with legal protection on par with other workers, which will then also extend to the right to form and/or join unions, to form cooperatives or other types of social and solidarity organizations.

The legal situation in Jordan, Kuwait and Lebanon presents several barriers to setting up any type of organization, whether an NGO, an association, a cooperative or a trade

⁴² Patterson (2009).

⁴³ ILO Working draft (c).

union. The study shows clearly the legal barriers to organizing, such as not allowing non-nationals to create a trade union or a cooperative, although membership is in most of these countries permitted. There are however important variations between the countries in this regard. Despite the legal challenges to formalizing an organization, the study finds examples of domestic workers self-organizing. Key examples identified include active self-organized migrant domestic workers of Filipino, Indian and Sri Lankan origins in Kuwait; domestic worker community leaders in Lebanon, and self-help groups in Jordan along national and linguistic lines. Some of these groups are affiliated with civil society organizations.

Support organizations for domestic workers

Several national and local support organizations offer services to domestic workers. The full-length research report provides an overview of these organizations. Support organizations raise issues that should be reviewed by workers' organizations. In some cases the current discourse and practices of these organizations, which are not based on membership principles, could be considered paternalistic. The paper points out the lack of civil society initiatives that can empower and build migrant domestic workers' organizations using a rights-based approach. There are, however, some notable exceptions, and Lebanon stands out in this regard. The Lebanese Trade Union FENASOL, for example, is highlighted as active in working toward organizing migrant domestic workers using a rights-based approach.

Cooperatives as an alternative

Cooperatives can offer an alternative or a prelude to affiliation with trade unions for several reasons. In Lebanon and Jordan non-nationals can in theory both join and start a cooperative and in Kuwait they are allowed to join cooperatives founded by nationals. The benefits of cooperatives lie within its democratic structure coupled with the opportunity to create a self-sustaining economic organization. However, the possibility of establishing domestic worker cooperatives with and for migrant domestic workers needs to be supported with capacity building in economic literacy, and other skills such as marketing.

Country analysis

The following section analyses opportunities, advantages, restrictions and risks of organizing migrant domestic workers in the three countries.

JORDAN

TRADE UNIONS	
Opportunities	<ul style="list-style-type: none"> • Foreign workers can join existing trade unions. • Migrant domestic workers can join or form domestic worker committees under the General Trade Union for Workers in General Services or General Federation for Jordanian Trade Unions.⁴⁴
Benefits	<ul style="list-style-type: none"> • Not-for-profit and democratic structure. • Members can discontinue memberships at any time. • Administrative board can accept new members at any time as per statutes. • Labour law ensures high level of protection for union members.
Restrictions/Risks	<ul style="list-style-type: none"> • Only nationals are permitted to establish unions and run for elections. • Establishment of trade unions is limited by requirement for minimum number of 50 members and restricted by number and categories of unions.
COOPERATIVES	
Opportunities	<ul style="list-style-type: none"> • Nothing in current law on establishment of cooperatives⁴⁵ prohibits membership of foreigners**
Advantages	<ul style="list-style-type: none"> • Democratically owned and operated structure, i.e. equal vote regardless of shares. • New members may join following the decision of the directors of cooperative. • The cost of establishing a cooperative is approximately 175 JOD depending on purpose of cooperative. For rural and women's cooperatives costs are lower. • Only 10 members are required to form a cooperative, but it is advisable to have more members to mitigate risk of being dissolved and ensure sustainability. • Distribution of profits among members. • No minimum capital is required. • Opening branches in regions is allowed on condition of informing Jordan Cooperative Corporation.⁴⁶
Restrictions/risk	<ul style="list-style-type: none"> • **Although law on establishment on cooperatives makes no discrimination regarding nationality of members, Jordan Cooperative Corporation operates under guidelines that only allow Jordanians to be members in cooperatives. Currently, Jordan Cooperative

⁴⁴ Currently, the sole trade union to which the domestic workers may adhere is the General Trade Union for Workers in General Services. Yet, according to the President of the General Federation for Jordanian Trade Unions (GFJTU), Mazen Al-Maaytah, it may be possible for domestic workers to form a committee within GFJTU or the General Trade Union for Workers in General Services [ILO Working draft (c)].

⁴⁵ To date, cooperatives in Jordan are governed by Law No. 18 of 1997 and Statute of Cooperatives No. 13, issued in 1998 (ILO 2010).

	Corporation is in process of institutionalizing this by amending regulations.
NGOS/ SOCIETIES/ ASSOCIATIONS	
Opportunities	<ul style="list-style-type: none"> • Migrants can join NGOs with approval of the Council of Ministers.
Advantages	<ul style="list-style-type: none"> • Not-for-profit and democratic structure. • Tax exemptions. • Members can discontinue memberships at any time. • Administrative board can accept new members at any time in line with statutes. • Possible option to establish a <i>private society</i>, i.e. a society with 3-20 members formerly known as not-for-profit companies. All members must be Jordanians, but if founding members are non-Jordanian, the board can obtain approval from Council of Ministers to register. However, as private societies are now subject to Law of Societies, this may no longer be a possibility. • Net revenues of a private society shall only be used for achieving the objectives of society.
Restrictions/risk	<ul style="list-style-type: none"> • Only nationals can establish NGOs according to Societies Law No. 51 of 2008.⁴⁷
BRANCH OF FOREIGN SOCIETY/ NGO	
Opportunities	<ul style="list-style-type: none"> • Possible to create a branch of foreign NGO for domestic workers in Jordan, which could lead to establishment of cooperatives.
Advantages	<ul style="list-style-type: none"> • No requirement of nationality. • No minimum number of founders. • No restrictions on financial funding from outside Jordan. • No reporting requirements. • No requirement to draft bylaws. • Registration of a foreign branch only requires approval of the Ministry of Social Development, and not that of the Council of Ministers.
Restrictions/risk	<ul style="list-style-type: none"> • Main office of the society branch cannot be for-profit, distribute profits, realize benefit for members or others, or have political or religious goals. • Registration requires approval from the Register of Societies' Board of Directors in line with the Societies Law No. 51 of 2008.

According to this analysis, opportunities to organize migrant domestic workers in Jordan are limited. However, some options have been identified and they are hereunder proposed for discussion.

⁴⁷ The Government of Jordan has been discussing possible amendments to the Societies Law No. 51 of 2008. Following national dialogue efforts the Ministry of Social Development produced a new draft law in May 2014.

Options identified for organizing migrant domestic workers in Jordan

Establishment of branches of a foreign NGO

While local NGOs are required to receive approval from the Council of Ministers in the event of migrants joining the organization, a branch of a foreign NGO only requires approval from the Ministry of Social Development. The creation of such a branch will require external support for networking between domestic workers in Jordan and foreign NGOs. This networking could eventually lead to establishing a cooperative. The branch of the foreign NGO would be important in advocating for legal reform and promoting the rights of migrant workers; sponsoring and initiating non-profit projects by migrant workers; providing training on financial literacy and saving, as well as legal counselling for migrant domestic workers; and developing human resource capacities and knowledge of the values, advantages and benefits of the cooperative movement. This is a good step towards developing the concept of cooperatives and developing the managerial and entrepreneurial capacities of migrant workers. A promising potential partner for the establishment of a branch of a foreign NGO is the International Domestic Workers Network, especially because it does not yet have an affiliate in the Arab region. It is advisable that any such initiative also involves organizations already working on migrant domestic worker issues in Jordan.

Exploring the creation of a domestic worker committee within the trade unions

The General Federation for Jordanian Trade Unions has expressed interest in exploring the opportunity of forming a domestic worker committee either under the Federation itself or within the General Trade Union for Workers in General Services. This is worth exploring following a similar example in Lebanon with the National Federation of Employees and Workers FENASOL.

Improving the national legal system

Jordan should undergo several legal reforms, including amendment of the labour law in order to allow foreigners to establish unions and amendment of the labour regulation for domestic workers in order to remove discrimination. It is also of utmost importance to call for Jordan's ratification of ILO Domestic Workers Convention, 2011 (No. 189) and ILO Freedom of Association and Protection of the Right to Organize, 1948 (No. 87). Moreover, a reform of the Jordanian cooperative legislation is necessary to align the law to the ILO Recommendation No. 193 on the Promotion of Cooperatives. Such reform would allow non-Jordanians to become members in cooperatives and pave the way for the formation of a domestic worker cooperative in Jordan.

KUWAIT

TRADE UNIONS	
Opportunities	<ul style="list-style-type: none"> • Domestic workers can join committees associated with Kuwait Trade Union Federation. • Migrant Workers' Office of Kuwaiti Trade Union Federation has expressed interest in creating a committee for migrant workers which does not require government approval. • The Kuwaiti Trade Union Federation is a member of the Arab Network on Migrant Workers' Rights and actively advocates for rights of migrant workers, including domestic workers. It is vocal on the abolition of the <i>kafala</i> (sponsorship) system.
Advantages	<ul style="list-style-type: none"> • Not-for-profit and democratic structure. • Establishment of a union does not require approval from Ministry of Social Affairs and Labour (MOSAL). • MOSAL has right to instruct unions and correct procedures of establishment. Yet, if MOSAL fails to respond within 15 days of submission of documents, the union shall be deemed to exist by force of law.
Restrictions/risk	<ul style="list-style-type: none"> • Domestic workers are not allowed to form trade unions. • If a domestic workers' committee is formed within an existing union, independence of the committee vis-à-vis union can be at risk.
COOPERATIVES	
Opportunities	<ul style="list-style-type: none"> • Law⁴⁸ does not include any provisions excluding foreigners from membership. • Minimum 50 founders of Kuwaiti nationality over age of 21 and approval from MOSAL required for establishment of cooperative.
Advantages	<ul style="list-style-type: none"> • Democratically owned and operated structure. • Equal vote regardless of shares. • Cooperative may open branches within its jurisdiction.
Restrictions/risk	<ul style="list-style-type: none"> • MOSAL has right to: suspend decisions issued by a cooperative; dissolve the board and appoint temporary director(s); inspect monitor and oversee registration, audit reports, current and upcoming projects; and amend articles related to association.
NGOS/ SOCIETIES/ ASSOCIATIONS	
Opportunities	<ul style="list-style-type: none"> • Non-Kuwaitis can join existing societies but not be elected onto the board.
Advantages	<ul style="list-style-type: none"> • Not-for-profit and democratic structure. • Members may discontinue memberships at any time. Administrative board may accept new members at any time in line with statutes. • The minimum number of members is ten. • Have access to financial allocation from MOSAL.

⁴⁸ Cooperatives in Kuwait are governed by Law Decree No. 24 of 1979 and its amendments.

Restrictions/risk	<ul style="list-style-type: none"> Establishing NGO requires prior authorization from MOSAL. All founding members must be Kuwaiti.
COMMITTEE WITHIN NGO	
Advantages	<ul style="list-style-type: none"> It is possible to create committee of migrant workers within NGOs. Kuwait Society for Human Rights is a member of the Arab Network on Migrant Workers' Rights, and has expressed willingness to establish migrant domestic workers' committee within its organization.
Restrictions/risk	<ul style="list-style-type: none"> If domestic workers' committee is formed within an existing NGO, independence of the committee vis-à-vis NGO can be at risk. NGO would be free to dissolve internal domestic workers' committee at its own discretion.
SOCIETIES WITHIN EMBASSIES	
Advantages	<ul style="list-style-type: none"> Societies registered inside embassies have been working well with Filipino, Sri Lankan and Indian informal migrant communities. There could be possibilities to establish a branch of domestic workers' association in the Philippines embassy. There are possibilities for embassies to promote domestic workers' involvement in cooperation with NGOs working on domestic worker issues both in Kuwait and sending countries.
Restrictions/risk	<ul style="list-style-type: none"> If a domestic workers' society is formed within an embassy, independence of the committee vis-à-vis embassy can be at risk.

According to this analysis, opportunities to organize migrant domestic workers in Kuwait are limited. However, some entry points have been identified and they are hereunder proposed for discussion.

Options identified for organizing migrant domestic workers in Kuwait

Formation of a committee within the Kuwaiti Trade Union Federation

The Migrant Workers' Office of the Kuwaiti Trade Union Federation has expressed its interest in creating a domestic worker committee. Potential concerns about such an initiative are similar to the ones mentioned in the point above. However, the fact that the Kuwaiti Trade Union Federation is a member of the Arab Network on Migrant workers' Rights is an encouraging factor.

Creation of a domestic worker committee within NGOs

While this is a feasible option, risks need to be carefully assessed. The independence of the committee vis-à-vis the NGO, in an environment where discrimination is overwhelming would need to be taken into consideration as well as the issue of restricted mobility of the domestic worker that would make it difficult for the worker to

participate in the committee meetings. Finally, the NGO would be free to dissolve the committee at any time at its own discretion.

Establishment of societies inside embassies

The example of the Filipino, Sri Lankan and Indian informal migrant communities registered as societies at their respective embassies is of great interest. Unfortunately, most of these societies gather migrant workers in other labour sectors as domestic workers are penalized to join by their lack of mobility. However, it is possible to promote their involvement in cooperation with the embassies and the Migrant Workers' Office of the Kuwaiti Trade Union Federation, as well as with NGOs working on domestic worker issues both in Kuwait and in the sending countries.

Improving the national legal system

Kuwait should remove exemptions from the labour law in order to provide equal protection for all workers, including domestic workers. Kuwait should also consider allowing foreigners to establish unions and NGOs. It is also of the utmost importance to call for Kuwait's ratification of ILO Domestic Workers Convention, 2011(No. 189) as well as to improve legal aid through cooperation with civil society organizations.

LEBANON

TRADE UNIONS	
Opportunities	<ul style="list-style-type: none"> • According to Lebanese labour law⁴⁹ migrant domestic workers may join existing national unions, if the objective of union is in line with domestic employment; a worker is authorized to work in Lebanon; practicing profession at time of request, is 18 years or older with a clear criminal record.⁵⁰ • Domestic workers can establish a section or committee within an existing union, as the newly established Domestic Worker Committee of FENASOL has set precedent for. The FENASOL committee has potential to develop into a full-fledged union.
Advantages	<ul style="list-style-type: none"> • Not-for-profit and democratic structure. • Cost-effective in terms of establishment and annual running expenses. • Has a broader right to negotiate working conditions than associations. • Right of litigation more comprehensive in unions than in associations, as unions may litigate with respect to sector and not

⁴⁹ Article 92 of Labour Code of 23 September 1946, modified 31 December 1993 and 24 July 1996.

⁵⁰ i.e. workers meet conditions provided for in §2, 3, 4 of Article 91 of Labour Code.

	<p>only members.</p> <ul style="list-style-type: none"> • Unions can join international or local federations. • Unions are exempted from public auditing.
Restrictions/risk	<ul style="list-style-type: none"> • Foreigners cannot vote or get elected to governance bodies. • Domestic workers are not allowed to form a union. • Ministry of Labour exerts high degree of control over operations of trade unions and requires prior license. This significantly delays the process of establishment.
COOPERATIVES	
Opportunities	<ul style="list-style-type: none"> • Law⁵¹ does not impose restrictions on nationality. • Establishment of cooperatives for domestic workers (Lebanese and migrants) highly recommended by General Directorate of Cooperatives, preferably with significant number of Lebanese members, which can help de-stigmatize domestic employment and provide livelihood to Lebanese families. • Application for establishment of a cooperative requires submission of economic feasibility study. • Advisable to involve organizations working on migrant domestic worker issues.
Advantages	<ul style="list-style-type: none"> • Democratically owned and operated structure. Equal vote regardless of shares. • No minimum capital required. • Cooperative may accept aid and deposits from members and non-members. • Cooperatives are exempted from municipal taxes, rental value taxes, and electricity and water charges, as well as other fees and taxes. • Cooperatives may open branches within their jurisdiction.
Restrictions/risk	<ul style="list-style-type: none"> • Manager of a cooperative must be a Lebanese national.
NGOS/ SOCIETIES/ ASSOCIATIONS	
Opportunities	<ul style="list-style-type: none"> • One migrant worker can establish an NGO if accompanied by a minimum of four nationals. The ratio must be four Lebanese members per one non-Lebanese member.
Advantages	<ul style="list-style-type: none"> • Associations have a wide margin for manoeuvre, few reporting and financial obligations. • Ministry of Interior exerts very limited control over associations, i.e. annual budgetary reporting and verification of legality of statutes and amendments. • Cost-effective in terms of establishment and annual running costs. • Not-for-profit and democratic structure. • Members may discontinue memberships at any time. Administrative board may accept new members at any time in line with statutes.
Restrictions/risk	<ul style="list-style-type: none"> • If more than 1/4 association members are migrants, or if a non-

⁵¹ Cooperatives in Lebanon are governed by the Cooperative Societies Act set out by Decree No. 17199 of August 18, 1964, and Decree No. 2989 of 17 March 1972 pertaining to the organization of cooperative societies.

	Lebanese is designated as manager or member of the board, the association is no longer considered Lebanese and instead is subject to law of foreign associations in Lebanon.
COMMITTEE WITHIN NGO	
Advantages	<ul style="list-style-type: none"> • Internal committees composed exclusively of migrants can be created under existing Lebanese NGOs to counter the nationality requirement. • No requirement of reporting to the Ministry of Interior on the committee.
Restrictions/risk	<ul style="list-style-type: none"> • Risk related to independence vis-à-vis NGO can be mitigated by providing guarantees for committees in statutes of Lebanese NGO.
BRANCH OF FOREIGN SOCIETY/NGO	
Advantages	<ul style="list-style-type: none"> • Establishing a branch of foreign NGO is possible.
Restrictions/risk	<ul style="list-style-type: none"> • Need for identification of suitable foreign NGO. • Establishment of foreign NGOs/branches require prior approval of Council of Ministers, which may take 1.5 years on average.
CIVIL COMPANY	
Advantages	<ul style="list-style-type: none"> • Establishing a civil company remains the quickest option. • Only 1/3 partners must be Lebanese. A residence permit is not required for foreigners.
Restrictions/risk	<ul style="list-style-type: none"> • Cost of establishment, complexity of transfer of shares and restriction of number of partners (20) constitute major challenge.

The analysis reveals that there are several feasible legal options in Lebanon, some of which involve building on initiatives in existing organizations, and others which involve establishing a new organization.

Options identified for organizing migrant domestic worker in Lebanon

Establishing a Lebanese NGO

In general, takes three Lebanese citizens to form an association in Lebanon. The recommendation is to include a migrant worker as a founding member. In this case, the ratio must be four Lebanese members to each non-Lebanese member. The NGO would be instrumental in advocating for legal reform promotion the rights sponsoring and initiating non-profit projects, providing training on financial literacy and saving, providing legal counselling; and developing human resource capacities and knowledge of the values, advantages and benefits of the cooperative movement.

Establishing a committee within a Lebanese NGO

In order to counter the nationality requirement, a Lebanese NGO whether newly established or already existing, may create an internal committee composed of foreigners. There is no requirement of reporting to the Ministry of Interior and no

restrictions on membership of committees. The risk of establishing a committee within an NGO is mainly related to the independence of the committee vis-à-vis the NGO. The risk can be reduced by providing certain guarantees for committees in the statutes of the Lebanese NGO. The statutes may include that the NGO may at any time establish permanent committees and the committees may appoint their own president upon approval by the board and that dissolution of the committee is subject to certain rules, etc.

Establishing a cooperative

After consultation with the General Directorate of Cooperatives (GCD), the establishment of a cooperative for domestic workers (Lebanese and migrants) seems to be highly recommended. However, several concerns were raised by the GCD. Although the law does not impose any restriction on the nationality of members, the objectives of the cooperative should not violate the requirements for work and residence permits of migrant workers. Moreover, according to the GCD it would be preferable for the cooperative to contain a significant number of Lebanese members, as this would help de-stigmatize domestic employment and could provide a livelihood to Lebanese families. Furthermore, the application for the establishment of a cooperative requires the submission of an economic feasibility study. Workers that are to be involved in any such cooperative will need significant capacity building in the areas of project design, project management, financial literacy, financial planning and possibly marketing. Moreover, it is advisable that any such initiative involves organizations already working on migrant domestic worker issues. Even though, establishing a cooperative might be a difficult process, this option is highly recommended within the Lebanese context as such an organization would have wide-ranging benefits for migrant domestic workers and could solve several key problems faced by migrant domestic workers in the country, including:

- Finding new employment and accommodation for migrant domestic workers who are dissatisfied with their current sponsors.
- Mediating between the current sponsors, migrant domestic workers and future sponsors.
- Upgrading the skills of domestic workers which may pave the way for transitioning into higher-skilled, better paid employment.
- Empowering domestic workers and increasing their bargaining power.
- Building a network between Lebanese and migrant domestic workers.

Establishing a union

National laws allow non-Lebanese to become union members on the condition that they do not vote or run for governance bodies. From this point of view, it is possible to establish a union and seek the approval of the Ministry of Labour. However, there is no

such precedent in Lebanon. The current initiative to establish a union of domestic workers within FENASOL will need the approval of the Ministry of Labour, otherwise, it is possible to sign the statutes of the union in front of a public notary and send them for notification to the Ministry of Labour. The main argument for such an approach would be that the Ministry of Labour should not hinder the establishment of the union, in light of the fact that Lebanese law gives international conventions predominance over national laws. One possibility to be explored and taken into consideration is that domestic workers have a section within the existing union, which is currently the effort underway with FENASOL.

Establishing a civil company

It is possible to establish a civil company and this remains the quickest option. However, the cost of establishment, the complexity of the transfer of shares and the restriction of the number of partners to 20 is a major challenge.

Establishing a branch of a foreign NGO

This is also a possible option that requires assistance from international partners in identifying and networking with a suitable foreign NGO.

Improving the national legal system

Lebanon is required to undergo major legal reforms regarding the situation of migrant domestic workers. In particular, it is of utmost importance to call for:

- ✓ Amendment of Article 7 of the labour law and hence the inclusion of domestic workers. This will provide domestic workers not only legal protection but also the right to form unions.
- ✓ Ratification of the relevant ILO Conventions on Domestic Workers (No. 189) and of Convention 189 on Freedom of Association and Protection of the Right to Organize (No. 87).

Conclusions

This Brief is an attempt to explore possibilities and entry points that would allow for dismantling the asymmetric power relationship between the employer and the domestic worker, migrant in particular, prevailing in the Middle East. By challenging the legal system, it maps current legislative and policy frameworks, institutional structures and membership-based initiatives that could allow and promote domestic workers' economic enterprises and solidarity economy organizations.

Jordan, Kuwait and Lebanon are the countries presented in this Brief. Although entry points for change towards organizing migrant domestic workers exist, they all come with drawbacks. However, the possibility of establishing cooperatives of domestic workers, committees within trade unions and using the support of NGOs should be further explored as they could generate new ideas for future improvement of the situation of migrant domestic workers in the region.

This Brief will be presented during a regional ILO event in December 2014 with the aim to open dialogue towards rethinking current labour migration governance systems vis-à-vis domestic workers in the Middle East.

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