



JORDAN

Domestic Plight

How Jordanian Law, Officials, Employers, and Recruiters Fail Abused Migrant Domestic Workers

HUMAN
RIGHTS
WATCH



Tamkeen

Tamkeen Center for Legal aid and Human Rights



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Summary

Despite significant legal reforms in recent years, the chances of a migrant domestic worker (MDW) having all her human rights respected and protected in Jordan are slim, if non-existent.

Pressing financial needs have led hundreds of thousands of women to migrate as domestic workers to Jordan, where many face systemic and systematic abuse. This results from a recruitment system in which employers and recruitment agencies disempower workers through deceit, debt, and blocking information about rights and means of redress; and a work environment that isolates the worker and engenders dependency on employers and recruitment agencies under laws that penalize escape. Jordanian law contains provisions and omissions that facilitate mistreatment, while officials foster impunity by failing to hold employers and agencies to account when they violate labor protections or commit crimes, and belittling or ignoring a disturbing pattern of abuse.

Such instances of deception and exploitation – especially when combined with labor and physical abuses within a legal and practical environment that punishes escape – may in some cases amount to forced labor under international law, which defines this as work extracted involuntarily under the menace of penalty.

This report, based on research conducted in Jordan in 2009 and 2010, records abuses experienced by some of the 70,000 Indonesian, Sri Lankan, and Filipina women who comprise Jordan's three MDW population groups.

Human Rights Watch documented employers and recruitment agents beating domestic workers, almost always locking them inside the house around the clock, depriving them of food, and denying them medical care. Employers generally required workers to work more than 16, and sometimes up to 20, hours a day, seven days a week. The most common complaint that local aid organizations and embassies of labor-sending countries received involved non-payment of salaries. Domestic workers often had no privacy, sleeping on balconies, and in living rooms, kitchens, and corridors. Many employers also forced domestic workers to work after their two-year contracts expired.

Many workers endured abusive conditions for months and even years, not knowing where to turn to for help. Workers' disempowerment began at home with recruiters charging excessive fees and deceiving them with false promises. Neither home-country nor

Jordanian recruitment agents provided workers with copies of their contracts. Among cases documented by Human Rights Watch, Jordanian agents and employers almost universally confiscated workers' passports immediately upon arrival, making it harder for workers to leave abusive conditions and return home.

In some important respects, Jordan has led legislative reform for MDWs in the region: in 2003, it became the first regional country to use a Unified Standard Contract for MDWs and in 2008 finally included domestic workers under its labor law. In 2009, the government issued regulations specifying MDW rights, toughened regulations on recruitment agencies, and criminalized slavery, servitude, and forced labor for exploitation under a new law against human trafficking. In 2010, new agreements called for raised salaries for MDWs of all nationalities to at least \$200 a month, and Jordan increased the number of labor inspectors responsible for enforcing MDW regulations.

However, in other ways Jordanian law exacerbates and even facilitates abuses by, for example, prohibiting workers from leaving the house without the employer's permission, thus violating domestic workers' freedom of movement guaranteed under international law. Indeed, if the cases of forced confinement in our sample reflect the ratio of confinement for the total estimated MDW population, 50,000 migrant domestic workers are confined to the house around the clock – slightly less than Jordan's total prison population in 2008. Confinement in the house opens the door to other abuses because it becomes more difficult for the worker to complain about them.

Labor Ministry officials rarely held employers and recruitment agencies to account when they violated labor protections, and criminal prosecutions for trafficking were few and far between. Moreover, Jordanian police sometimes detained escaped domestic workers, in violation of Jordanian law, because employers had reported them to the police. Employers also filed frivolous charges of theft against workers who escaped, leading to immediate detention, prosecution, and possible deportation.

Jordan has no shelter for domestic workers escaping abuse. Workers turned to overcrowded embassy shelters or to their agencies whose staff sometimes abused them, forcibly returned them to their employers, or placed them with new employers against their will. Others MDWs who escaped worked as freelancers in the informal labor market. Besides embassies, only a handful of Jordanian organizations work with domestic workers.

Many escaped workers could not return home because they accumulated fines of JOD1.5 (US\$2.12) for each day that they lacked legal, or documented, residency status. They

became undocumented either because their employers did not apply for residency permits, or because they were unable to renew those permits once they had escaped. Negligent employers are legally obliged to pay the fines but suffered no consequence for failing to do so. Similarly, migrant domestic workers are entitled to an employer-paid return ticket after two years of service, but enforcement was non-existent.

On June 16, 2011, the International Labour Organization adopted a new international convention for the protection of migrant domestic worker rights, the Convention Concerning Decent Work for Domestic Workers. Jordan, which supported the convention, should promptly ratify and implement it domestically, and should revise the Standard Unified Contract for domestic workers and the 2009 MDW Regulation to strike clauses conditioning a MDW's freedom of movement on her employer's permission. Jordan should stop detaining MDWs for "escaping" their employers, and also allow MDWs with overstayer fines to return home while the government collects those fines from recruiters or employers responsible for maintaining her documented residency status. Prosecutors should more forcefully pursue cases of forced confinement, passport confiscation, and forced labor for exploitation. Labor inspectors should investigate and fine those employers found responsible for making their MDWs work more than 10 hours a day and not granting a day off.

The following sections outline the background to migrant domestic workers in Jordan; the abuses they suffer; the reasons for, and nature of, their disempowerment; before detailing the problem of residency fines and repatriation costs; instances of forced labor; and limited access to redress. The report also highlights the views of employers and provides an overview of international and Jordanian law on issues related to MDWs.

Background

Asian domestic workers began to arrive in Jordan in the 1980s, replacing the relatively few existing local domestic workers. Today, up to 40,000 Indonesians, 30,000 Sri Lankans, and 28,000 Filipinas – almost all women – work as domestic workers.

Abuses against domestic workers have in recent years resulted in tense relations between Jordan and sending countries. In February 2008, the Philippines suspended deployment of domestic workers to Jordan, followed by Sri Lanka in August 2009, and Indonesia in July 2010, although Sri Lanka resumed cooperation by late 2010.



Map of Jordan. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations. © 2010 Europa Technologies, United Nations Cartographical Service

Domestic work is low-paid. Of the three MDW populations, Sri Lankan domestic workers earned the least, between \$100 and \$150 per month, followed by Indonesians who earned \$125 to \$175, and Filipinas who earned \$150 to \$200. New agreements in late 2010 should have raised salaries for MDWs of all nationalities to at least \$200 a month – still less than Jordan’s minimum wage of the JOD150 (\$212) – but had not been finalized by May 2011. If they were not always paid in full and on time, Filipina domestic workers could even lose out on potential earnings by working abroad, a Philippines diplomat said, because at home these women could make more than 8,000 pesos [\$185.94].

Jordan has led legislative reform for MDWs in the region. Jordan became the first regional country to use a Unified Standard Contract for MDWs in 2003, and to lift the exclusion of domestic workers from its labor law, in 2008. In 2009, the government issued regulations specifying MDW rights, and toughened regulations on recruitment agencies. In March 2009, Jordan’s first law against human trafficking took effect. Legal change has led to greater awareness among officials about MDW rights, though enforcement remains poor. In addition, some legal provisions remain problematic, in particular restrictions on workers’ freedom of movement and fines for overstaying the legal residency period (residency permits are usually valid for one year).

Abuses against Domestic Workers

Domestic workers in Jordan are at high risk of abuse. One or a combination of human rights violations occurred in every case Human Rights Watch investigated. The most common violations included forced confinement inside the home, confiscation of passports, nonpayment of salaries, no weekly days off, and excessive working hours. Due to the relatively high upfront costs for hiring a domestic worker, employers seemed to feel entitled to receive unlimited or non-fully remunerated work from the worker.

One in two MDWs whom Human Rights Watch interviewed said employers or recruitment agency staff had physically or sexually abused them. Several complained about daily beatings. One in ten MDWs sheltering at the Philippines embassy reported physical abuse, the labor attaché said; 427 Filipina MDWs escaped abuse and sheltered at their embassy in the first quarter of 2010, and 231 new cases arrived in the second quarter.

Employers displayed shocking brutality. One worker said her employers burned her with an iron, while another said they “used a pink hose, with the two of them doubling up” to hold and beat her. “They beat me everywhere, on the head and the entire body,” she said. A third described her employers “attack[ing] me with a knife, stabb[ing] my chest, head, and right shoulder.” Workers also quit their employer’s home because of sexual harassment.

Forced confinement was legally sanctioned and widespread. The 2003 Unified Standard Contract and the 2009 MDW Regulation prohibit a worker from leaving the house “unless with the permission of the employer,” in violation of domestic workers’ freedom of movement under international law. No lawsuit for forced confinement has yet been brought, nor a challenge made to the 2009 MDW Regulation.

Contrary to arguments by Jordanians that they locked up MDWs for their protection or to prevent illicit sexual relations – justifications that are paternalistic and economically exploitative – experts said that employers feared workers could leave if they learned of better jobs elsewhere. Confinement disempowered MDWs, leaving them isolated and vulnerable to getting trapped in poor or abusive working conditions. Employers did not confine freelance domestic workers, who lived outside the home, and generally worked on an hourly basis in multiple homes. As escaped MDWs without formal employers, most freelancers quickly became undocumented.

The most common complaint that MDWs voiced was that employers routinely failed to pay their salaries in full and on time: 90 percent of over 200 domestic workers we surveyed at the Indonesian embassy said they had claims of unpaid salaries. In addition to this survey,

Human Rights Watch conducted in-depth interviews with another 50 MDWs, only two of whom said they were paid in full and on time. Employers made late or partial payments or did not pay at all, regarding salaries as charity rather than remuneration for work. This significantly impacted workers' ability to support families back home or meet basic living requirements. MDWs were powerless to change their situation except to escape and work as freelancers – at the price of becoming undocumented and unable to leave the country.

The second most frequent MDW labor complaint was excessive work, often due to long working hours, little rest and sleep, no weekly day off, and strenuous tasks that led to exhaustion. Some workers chose to escape primarily due to excessive work. Interviewees worked an average of 16 hours a day, and only two employers required fewer than 13 hours of work a day. Some MDWs cared for small children at night after long shifts during the day. MDWs worked even when employers went on family outings.

Workers frequently lacked privacy, including their own room, even where one was available. Every fourth domestic worker of the over 200 MDWs at the Indonesian shelter had slept on the balcony; only around one in six had their own room. Others slept in the living room, kitchen, storage room, hallway, or a room shared with children or their employers.

A number of workers also complained about lack of food, employers denying them medical care and rest, or dismissing them because of illness.

Disempowerment

A combination of deceit, debt, isolation, and lack of support disempowered MDWs and prevented them from seeking their rights. MDWs arriving in Jordan frequently knew little about their contract or working conditions. One worker thought she was going to Dubai until she discovered she was going to Amman while boarding the plane. “I didn’t have my passport or contract or anything,” she said. Home-country recruitment agencies routinely charged workers illegal placement fees, forcing some into debt. Jordanian agents and employers sometimes withheld a worker’s salary for the first three months as compensation for recruitment costs. Some agents deceived domestic workers, falsely promising high salaries or a light workload. No MDW in Jordan whom we interviewed had a copy of her contract, and only few had read one. Workers could not understand the English/Arabic Unified Standard Contract, because they did not know those languages.

Recruitment agents and employers nearly always confiscated workers’ passports on arrival, diminishing their freedom to decline falsely advertised work or leave abusive employers. Employers retained passports as well as residency and work permits. Workers cannot

change employment without documentation, and even with it, such a change requires the initial employer's consent. Conversely, before July 2010, the initial employer could contract with a prospective employer for the worker's services without her consent.

Ill-informed, indebted, and without contract or documents, workers are easily exploited. Isolation in the home without recourse to help compounds the worker's disempowerment. Domestic workers interviewed had nowhere to turn to solve problems of abuse because hotlines were either unknown or defunct, leaving them little choice but to escape to their embassies or agencies, or remain stuck with abusive employers.

MDWs learned about embassy shelters through chance encounters across balconies, often with freelance workers, or after escaping. One Sri Lankan worker managed to call for help only after seven years of being locked up and not paid in Irbid, northern Jordan.

In August 2010, 150 Filipina, 225 Indonesian, and 85 Sri Lankan escaped MDWs lived in overcrowded embassy shelters. Embassies sometimes turned away distressed workers if they did not deem the case to be urgent, but Jordan offered no alternative shelter.

If MDWs escaped to their agencies, staff there did not allow them to return home, but often forced them to return to abusive employers or to work elsewhere for the agency's financial gain. Nevertheless, workers turned to agencies because it was their only known point of contact. Despite suffering abuse, some MDWs also hoped to continue working through the agency. Employers wanting to rid themselves of unwanted MDWs also deposited them at their agency, regardless of outstanding claims. When finding new employers for domestic workers, agencies often failed to apply for new residency and work permits.

Because agencies and shelters were unattractive, some workers escaped abusive employers to work on their own as freelancers, with better working conditions but at the risk of becoming undocumented and unable to leave.

Residency Fines and Repatriation Cost

MDWs faced two obstacles to returning home: "overstayer" fines of JOD1.5 (\$2.12) for each day a foreigner lacks legal residency status, blocking them from leaving the country without payment; and lack of enforcement of employers' obligation to pay for MDWs tickets home, which leaves them stranded.

The Unified Standard Contract holds the employer liable to pay a worker's overstayer fines if he or she failed to apply for the worker's residency permit, but Jordanian officials often did not enforce this obligation.

Jordan almost always waived fines for MDWs at embassy shelters, but the process was lengthy and unclear. Escaped workers who freelanced had no means of initiating a review to waive overstayer fines. Children of freelance migrant domestic workers were also affected: around a dozen were unable to attend school because they were undocumented, and unable to return home because of the fines. Besides paying the fines or receiving an exemption, workers could hope for deportation, but Jordan generally only deported workers with a criminal record.

Workers also lacked money to purchase tickets home, leaving them stranded if employers failed to do so. The Unified Standard Contract obliges employers to pay for a ticket after two years of an MDW's employment, but officials often do not enforce this obligation. Workers often changed employers within the two years, but the contract period started afresh, with no system of pro-rating or dividing repatriation costs between employers. Embassies only paid for repatriations in emergencies.

Forced Labor

International law defines forced labor as work extracted involuntarily under the menace of penalty. Jordan includes in its definition of trafficking forced labor for the purpose of exploitation. In cases of deception or the clearly expressed desire to stop work, MDWs' services ceased to be voluntary. Where agencies and employers beat, sexually harassed, or insulted workers, and confined them, they meted out penalties. Confiscation of documents constituted both a penalty and diminished the voluntary nature of work. Jordanian law and practice further punish workers who escaped abuse by imposing overstayer fines for being undocumented and offering no adequate shelter. Employers and agencies who overworked and underpaid MDWs, and prevented them from returning home, also exploited them.

In one instance of forced labor by recruitment agencies, agency staff beat the worker, stripped her, and sent her to a new house each time she left her employer because she wanted to go home. In another case, the worker ran away eight times from her abusive employers, and each time agency staff beat and returned her to the house. The agency later placed her in another house where she worked for 13 months, also without pay, which the agency collected.

Redress

Domestic workers suffering abuses had little means of redress – physically cut off from help, and without legal means to vindicate their contractual and statutory rights. Police and prosecutors were lackluster in pursuit of domestic worker complaints, and labor officials outright dismissive. NGOs and embassies tried, but lacked resources. Where cases made it to court, adjudication took months and sometimes years, and workers remained at risk of detention, accumulation of large fines, and a lengthy period without income.

Thousands of domestic workers sought help each year. The Sri Lankan embassy received 1,431 complaints in 2009, and 784 in the first six months of 2010. Tamkeen, a Jordanian NGO, received 221 migrant worker complaints between April and December 2009, and 311 in 2010, over ninety percent from domestic workers. In 2007 and 2008, only prisoners submitted more complaints to the National Center for Human Rights than migrant domestic workers, and MDWs remained among those with the highest number of complaints in following years.

In 2010, Jordan increased the number of labor inspectors who are responsible for enforcing the 2009 MDW Regulation, the 2009 Recruitment Agency Regulation, and its companion 2010 Instruction, from three to five. The inspectors did not conduct onsite workplace inspections and paid no heed to limits on working hours or respect for weekly days off. We only encountered inspectors' involvement in claims for unpaid salaries, and found no case of fines being imposed on employers. Tamkeen referred several labor complaints to inspectors, who questioned their veracity before investigating them.

Inspectors participated in a Labor Ministry committee for MDW complaints that failed in several cases to swiftly adjudicate complaints, in part because it lacked interpreters. The committee, established in July 2010, included recruitment agencies in addition to government agencies, embassies, and the National Center for Human Rights; it had no clear mandate, internal rules of procedure, or enforcement powers.

MDWs fared little better with police and prosecutors. Police detained runaway domestic workers if employers filed an escape notice, or if caught without valid residency, which senior officials said was against the law.

There was a notable difference in the handling of criminal complaints by MDWs against employers, and of those by employers against workers. Police detained MDWs if employers filed theft accusations, even where patently frivolous, while police almost never detained employers accused of serious crimes. For example, an Indonesian diplomat recounted the

case of an Indonesian MDW in Juwaida prison accused of stealing JOD5 (\$7).¹ Meanwhile, a Philippines diplomat said police had detained a Filipina worker in Juwaida who was accused of stealing a can of Pepsi. “She has had 22 appearances in court, but the sessions are always postponed because not even the shadow of the employer shows up,” the diplomat said. When a bruised Sri Lankan domestic worker arrived at her embassy saying her employers beat her, police detained the worker “straight from the hospital,” but not the employer, who had filed a theft complaint against her, the ambassador said. One employer frankly told a Tamkeen staff lawyer trying to obtain an MDW’s confiscated passport that she would file a theft complaint in retaliation.

When domestic workers escaped abuse and approached police stations, some officers referred them directly to their agency or embassy without taking their statements. A new, specialized anti-trafficking unit in the Criminal Investigation Department also failed to fully investigate domestic worker claims, even when workers came assisted by lawyers and interpreters. In three cases of alleged trafficking involving five workers, police detained the MDWs for “escape,” but not the employers, who were free to leave after giving statements.

Police and prosecutors did not adequately pursue the crime of confiscating passports, which carries a prison sentence of up to three years. Where Tamkeen threatened legal action, employers and agencies mostly returned the passport; when they did not, police sometimes did not follow up and the prosecutor did not initiate proceedings in all cases. Neither Tamkeen nor an embassy lawyer could cite cases where courts had sentenced employers of MDWs for passport confiscation. Agencies and employers attempted to extort hundreds of dinars from domestic workers privately seeking to retrieve their passports. Workers sometimes forewent outstanding salary claims to get their passports and return home.

To recoup unpaid salaries, Tamkeen and embassy officials relied more on bargaining than official channels. Labor disputes receive expedited status in court in theory, but in practice take many months, despite procedures favorable to the workers, under which employers must prove payment rather than workers nonpayment. Nevertheless, Tamkeen could not cite any final ruling in lawsuits for salary payments to domestic workers in its two years of work.

In physical and sexual abuse cases prosecutors initiated proceedings without discernible differences to cases not involving MDWs, that is, where forensic evidence existed,

¹ Human Rights Watch interview with Indonesian diplomats, Amman, August 2, 2010.

prosecutions got under way. However, there had been no prosecutions for widespread crimes perpetrated in particular against MDWs, such as forced confinement, forced labor, food deprivation, or failure to provide medical care. The legal paradox, in which the law provides a criminal sanction for forced confinement whereas a regulation sanctions prevalent social norms allowing confinement of MDWs, may be one reason why prosecutors have not tried cases for confinement.

Anti-trafficking police and prosecutors appeared reluctant to fully consider the sum of a MDW's circumstances that may amount to forced labor and trafficking. In five cases Human Rights Watch reviewed, the anti-trafficking unit and the prosecutor investigated allegations of trafficking, but pursued only narrower charges of sexual harassment or confiscation of passport, despite strong indications of coercion for exploitation. In 2009, the police investigated 14 cases of trafficking, and referred four to the prosecutor. The prosecutor referred two to court. Until December 14, 2010, the anti-trafficking unit had referred 13 cases to the prosecution. The prosecutor referred six cases to court for trial, decided not to prosecute five cases, while two cases remained under consideration.

Despite making significant improvements to labor and anti-trafficking protections on paper in the past few years, Jordan's implementation of these laws and regulations has been very weak. The result has been continuing patterns of a range of abuses against migrant domestic workers, in some cases rising to the level of forced labor, including trafficking into domestic servitude. Labor-sending countries have been so concerned about these abuses they have attempted to impose bans on further migration of their nationals who seek employment as domestic workers in Jordan.

Below are recommendations to Jordan, labor-sending countries, UN agencies, and donors on measures to improve enforcement of migrant domestic workers' rights.

Recommendations

To the Jordanian Ministry of Labor

- Ensure MDWs appear in person to have their work permits issued, and that their passports and permits are, and remain, in their possession.
- Take steps to ensure both employers and domestic workers are well-informed about their rights and obligations under Jordanian law, and that domestic workers have a copy of their employment contract.
 - Provide employers with a copy of the 2009 MDW Regulations and obtain a signed acknowledgement of receipt.
 - Establish information stands at Amman’s international airport staffed, preferably with women, speaking MDWs’ local languages, and ensure each new MDW receives information about her rights and means of redress, including addresses and numbers for labor inspectors, embassies, and local organizations.
 - Provide mandatory orientations for both domestic workers and employers to acquaint them with relevant laws and policies as well as means of redress.
 - Initiate sustained, national public education efforts regarding humane treatment of domestic workers and requirements under law.
 - Support the ability of domestic workers to form and join workers’ associations and trade unions.
- Improve the capacity and training of labor inspectors to monitor employers and recruitment agencies, vigorously investigate labor violations including excessive working hours, lack of a day off, denial of health care, inadequate living quarters, food and other provisions, and impose fines to the full extent of the law.
- Investigate places of work where allegations of abuse against domestic workers exist. Inspections may be conducted with employers’ consent, or with judicial warrants without consent.
- Publish rules of procedure for the MDW committee, and publicize its hearing schedule.
- Employ interpreters and translators proficient in MDWs’ mother tongues, recruiting them from other countries if necessary.
- Ensure that MDW minimum salary requirements and maximum working hours conform to current national standards for all workers.
- Alter the standard unified contract for MDWs to include provisions for early termination by the worker without penalty in cases of bereavement or serious illness.
- Introduce a system to help domestic workers open bank accounts and for employers to make all salary payments through automatic monthly transfers as this has been one of the most effective models for addressing unpaid wages in other countries.

- Include further amendments that allow for immediate termination in cases where employers violate the contract or national law by making the MDW work excessively long hours, failing to provide a weekly day off, or making her work outside the habitual home.
- Consider an insurance scheme for employers to recoup part of their initial fees when their MDWs terminate employment early through no fault of the employer.

To the Jordanian Ministry of Interior

- Return passports only to MDWs, not agents, at immigration, and ensure MDWs appear in person to have their residency permits issued, and that their passports and permits are, and remain, in their possession.
- Employ interpreters and translators proficient in MDWs' mother tongues, recruiting them from other countries if necessary.
- Stop accumulation of overstayer fines of MDWs living in embassy shelters.
- Expedite exemptions from the payment of fines for MDWs who credibly allege abuse and allow them to leave the country.
- Consider abolishing the policy of charging overstayer fines for undocumented migrants, as it can trap workers in the country, unfairly penalize workers for their employers' negligence, and lead to undocumented migrants staying for longer periods of time in Jordan.
- Recoup overstayer fines from abusive employers, and blacklist employers who have failed to apply for their MDWs' residency or work permits from hiring MDWs in the future for a reasonable period of time.
- Allow MDWs to change employers at will after the end of the one-year contract period Jordanian law recognizes, while retaining their residency status. Ensure that MDWs can change employers at any point if experiencing abuse.
- Implement a special residency status that allows MDWs to pursue claims against their employers. This status should take into consideration the long time it takes to adjudicate claims and MDWs' lack of means to support themselves during such time.
- Consider transferring immigration sponsorship to legal persons who are not MDWs' employers and can be better monitored by the government.

To the Public Security Directorate

- Do not issue general "wanted" notices leading to arrest for MDWs whose employers report them as escaped or absconded.
- Improve identification by the anti-trafficking unit of the Criminal Investigations Department of cases of trafficking into domestic servitude, including consideration of

threats, violence, overstayer fines, withheld passports, forced confinement, unpaid salaries, and refusal to pay tickets home.

- Employ interpreters and translators proficient in MDWs' mother tongues.
- Accept bail guarantees that MDWs' embassies provide.

To the Jordanian Ministry of Justice

- Prosecute all agencies and employers who withhold MDW passports to the full extent of the law, and publicize guilty verdicts.
- Vigorously prosecute all agencies and employers for trafficking in persons by considering evidence of the sum of a MDW's circumstances to determine forced labor for exploitation, including consideration of threats of violence or violence against the MDW, overstayer fines, withheld passports, forced confinement, unpaid salaries, and refusal to pay tickets home.
- Provide MDWs with access to legal aid and to certified interpreters and translators proficient in MDWs' mother tongues.
- Instruct judges to conclude civil trials for labor complaints involving MDWs within three months, as currently stipulated.
- Prosecutors should immediately assess the credibility of employer complaints of theft against an MDW before ordering the MDW's detention.
- Improve the response of the justice system to criminal abuses, including through greater publicizing of the hotline, providing police officers appropriate training on receiving and investigating domestic workers' complaints, and expediting cases involving migrants.

To the Jordanian Council of Ministers

- Amend the penal code to include the crimes of forced labor, food deprivation, and denial of medical care as crimes.
- Amend the 2009 MDW Regulation to prohibit employers confining an MDW inside the house and confiscating their passports and permits. Include a provision that allows MDWs to reside outside the home. Amend the working hours to at most eight hours a day, include stand-by (on call) times – even if discounted – in that calculation, and make provisions for overtime pay and ceilings on daily and weekly overtime.
- Appropriate funds to support civil society and embassy shelters or to establish a government-operated shelter. Ensure these are open, accessible shelters for MDWs escaping abuse that meet international standards, and staff them with medical, social, and legal case workers.

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Implement the new binding convention on decent work for domestic workers at the International Labour Organization (ILO).

To the Governments of Indonesia, the Philippines, and Sri Lanka

- Improve MDWs' training in job-specific skills, including Arabic.
- Improve provision of information to MDWs about their contractual and legal rights in the country of destination, as well as of concrete means to seek help and redress. Ensure MDWs have with them a copy of their legally valid employment contract.
- Improve the monitoring of local recruitment agents to ensure they do not deceive or mislead MDW applicants, charge excessive recruitment fees, or escape government monitoring channels.
- Hold accountable local agents who deceive or mislead MDW applicants, including through provisions of anti-trafficking laws where applicable.
- Raise at the diplomatic and, if necessary, public level, cases of nationals who have suffered abuse. Advocate for improved enforcement of the rights of domestic workers in Jordan as outlined under national law and bilateral agreements.
- Strengthen cooperation among labor-sending countries to advocate a common platform for increased protection of domestic workers.
- Strengthen the capacity of embassies in Jordan to assist migrant domestic workers by expanding the physical capacity of shelters to relieve overcrowding, and increasing trained staff equipped to deal with the range of MDWs' complaints and navigating Jordan's justice system.

To the International Labour Organization, the International Organization for Migration, UN Women, International Donors, and Other States

- Support Jordan, Indonesia, the Philippines, and Sri Lanka financially, with technical assistance, and diplomatically to update and implement national laws, regulations, and programs as well as international agreements to protect MDWs .
- Support collaboration and networking among civil society groups, trade unions, and other migrants' advocates across labor-sending and labor-receiving countries.
- Support Jordan's accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members their Families and support ratification of an ILO convention on decent work for domestic workers.

Methodology

Human Rights Watch conducted research for this report during five visits to Jordan between January 2009 and December 2010. A researcher interviewed 50 domestic workers: 20 from Sri Lanka, 15 from Indonesia, 14 from the Philippines, and one from Ethiopia. The Ethiopian interviewee was an exception as virtually all MDWs come from the three Asian countries. In addition, we conducted a brief survey among over 200 Indonesian MDWs sheltering at their embassy about the incidence of several violations of human rights among them.

Human Rights Watch also interviewed eight diplomats from Indonesia, Sri Lanka, and the Philippines, eleven civil society activists, six employers of domestic workers, and 20 high-ranking Jordanian officials – nine in the Ministry of Labor, eight in the Ministry of Interior, six in the Public Security Directorate, and three in the Ministry of Justice.

Employers, community activists, and Tamkeen, a Jordanian organization that works with domestic workers by providing free legal representation, facilitated contact with the domestic workers, in addition to the Philippines and Indonesian embassies. The Sri Lankan embassy declined a request to interview domestic workers at its shelter.

Interviews were carried out in English and Arabic, and through a translator, in Sinhala, Tamil, and Bahasa Indonesia. The translators were independent, except for some interviews in Indonesian, where a fellow domestic worker who spoke English helped. The interviews took place mostly individually, but sometimes in small group settings in private homes, organization offices, public cafes, and embassy facilities.

Most problems the interviewees recounted occurred over the past two years, but isolated cases – in particular situations of confinement and unpaid salaries that began almost ten years ago but continued into the present – began earlier. Information presented in this report was current as of December 2010, with updates to May 2011 where possible. MDWs usually remembered the exact date of their arrival in Jordan, and often the date they escaped their employers, though recollection of exact periods of time worked were less precise. Most domestic workers worked in Amman, where one third of the Jordanian population lives. However, some related experiences elsewhere, in Zarqa, Irbid, Salt, and Karak. All interviews were conducted in Amman.

Human Rights Watch also interviewed six employers of domestic workers and two domestic workers among the 50 interviewed who did not complain of any problems. The experiences documented in this report, even if not statistically representative of the entire domestic worker population in Jordan, are at least indicative of types of abuses suffered and the lack of redress for them.

Human Rights Watch discussed the availability of shelter, recourse to police and the justice system, and labor and immigration policies with Jordanian officials. In the Ministry of Interior, we discussed our research with Lt.-Gen. Husain al-Majali, the director of the Public Security Directorate (PSD), Brig.-Gen. Sa'd al-Ajrami, head of judicial affairs at the PSD, and other high ranking officials. We also interviewed Basim al-Dahamisha, assistant director of the Nationality and Foreigners Affairs Department; Ahmad Qutaishat, head of the Borders and Residency Department; Brig.-Gen. Fadhil al-Humud and Col. Husain al-'Awdat, the director and deputy director of the Criminal Investigation Department; Lt.-Col. Muhannad Duwaikat, head of the Anti-Trafficking Unit in the Criminal Investigation Department; and 'Umar Jubur, an official in the Family Protection Department. In the Ministry of Labor, we interviewed Mazin 'Awda, the secretary general; Hamada Abu Nijma, head of the Salaries Authority; 'Afi Jubur, head of the Migrant Domestic Workers Department; Faisal Jubur and Ibrahim al-Sa'udi of the Legal Affairs Department; and Muhammad Abu Naji, labor inspector in the judiciary. We also interviewed Ratib Wazani, head of the Supreme Judicial Council and the highest ranking judge; Mazin Qur'an, attorney general; and Hasan Abdallat, Amman's chief prosecutor.

In addition, we interviewed five owners of recruitment agencies, three lawyers dealing with domestic worker cases, seven faith-based community activists, and the ambassadors, labor or welfare officers, and case workers at the Indonesian, Philippines, and Sri Lankan embassies.

We have used pseudonyms to protect the domestic workers interviewed in this report except where their cases were public knowledge. Some officials also preferred not to be named, citing concerns for their jobs.

I. Background

We are conservative here. Our culture is that we don't work. We want to be the boss, have a nice title and a nice desk, even if it's not a lot of money
—Basim al-Dahamisha, assistant director for Nationality and Foreigners, Ministry of Interior, Amman, August 8, 2010

Domestic workers were relatively uncommon in Jordan until two to three decades ago. In the 1950s and 1960s some affluent Jordanian households hired domestic help from Palestinians living in refugee camps, or from the local rural population of al-Ghawr in the Jordan River valley.²

In the 1980s, Jordanians began to hire domestic help from abroad, primarily Sri Lanka and the Philippines, because local hires were, according to one employer, “too much of a headache” because “they want to go home on the weekends, then they get married.”³

By 1984, an estimated 8,000 migrant domestic workers (MDWs) were in Amman.⁴ Today, about 70,000 MDWs from Indonesia, Sri Lanka, and the Philippines work in Jordan, a country of about 6.5 million people.⁵ The real number of MDWs is probably higher, because many working informally elude the statistics. Officials from labor-sending countries and from Jordan's Ministry of Interior estimate that there are between 30,00 and 40,000 Indonesian MDWs in Jordan, between 20,000 and 28,000 Filipinas, of whom 14,000 to 16,000 are registered, and around 30,000 Sri Lankans.⁶

Jordanian officials and advocates for MDWs observed some trends. For one, one Jordanian official said, the number of domestic workers increased “because Jordanian women want to work outside the home.”⁷ Advocates noted that more Indonesians and more ethnic

² Elizabeth Frantz, “Of Maids and Madams,” *Critical Asian Studies*, vol. 40, no.4 (2008), p. 612.

³ Human Rights Watch interview with Khadija L., an employer of domestic worker, Amman, August 4, 2010.

⁴ Frantz, “Of Maids and Madams,” *Critical Asian Studies*, p. 612.

⁵ Human Rights Watch interview with Public Security Directorate officials, Amman, August, 9, 2010, including Brig.-Gen. Sa'd al-'Ajrami, assistant director for judicial affairs; Brig.-Gen. Ibrahim al-Shubaki, assistant director, and director of criminal investigations; Brig.-Gen. Fadhil al-Humud and Col. Husain al-'Awdat, director and deputy director of the Criminal Investigations Department; Ahmad Qutaishat, Residency and Borders Department; Lt.-Col. Muhannad Duwaikat, head, Anti-Trafficking Unit, Criminal Investigations Department; and Col. Mahir Shishani, head, Office for Grievances and Human Rights.

⁶ Human Rights Watch interview with Virginia Calvez, welfare officer, Philippines embassy, Amman, July 27, 2010; with Philippines diplomats, Amman, August 2, 2010; with Indonesian diplomats, Amman, August 2, 2010; and with Basim al-Dahamisha, assistant director for Nationality and Foreigners, Ministry of Interior, Amman, August 8, 2010; See also: Frantz, “Of Maids and Madams,” *Critical Asian Studies*, p. 613.

⁷ Human Rights Watch interview with Mazin Qur'an, attorney general, Amman, August 1, 2010.

Tamils had arrived from Sri Lanka over the past year.⁸ The advocates also said that domestic work had gotten “rougher” recently, with an increase in escapes, and some MDWs turning to, or being forced into, sex work.⁹ Jordanian officials said MDWs ran away to find better jobs, and that this had increased because MDWs had better information from communicating with each other through mobile phones. Recruitment agents blamed sending-country agents who they said instructed workers to run away, and then took a cut of their pay on the new jobs.¹⁰

What had not changed, officials and advocates said, was the low pay that MDWs received. In the 1980s, domestic workers earned between US\$60 to \$80 per month. In 2010, average pay ranged from a high of \$200 per month for Filipinas to between \$150 and \$175 for Indonesians, and between \$125 and \$150 for Sri Lankans;¹¹ salaries were set to rise to a minimum of \$200 per month regardless of nationality in late 2010, but had not been implemented by May 2011.¹² These salaries are below Jordan’s minimum wage of JOD150 (US\$ 212) per month, which domestic workers are entitled to under the amended labor law. Actual salaries often violated Jordanian law as well as bilateral agreements setting minimum salaries for MDWs. Sri Lanka’s ambassador, A.W. Mohottala, told Human Rights Watch in August 2010 that “the agencies still do contracts for \$125 or \$150 per month,” although by agreement the new minimum was \$175 for the last two years.¹³ In reality, Sri Lankans earned as little as \$100, other embassy officials said.¹⁴ Pay differentials for the same work based on national origin, while illegal under international law, were common and accepted.

Remittances received through migrant labor represent a significant contribution to the national economy of labor-sending countries in terms of income, foreign exchange reserves, and alleviation of labor market pressures. Diplomats from sending countries in Amman told Human Rights Watch that there were 8.5 million Philippines nationals working abroad out of a population of 92 million, at least 2.5 million Indonesians out of a population of 230 million, and around between 1.6 and 1.8 million Sri Lankan migrants out

⁸ Human Rights Watch interview with faith-based workers, Amman, July 27, 2010.

⁹ Human Rights Watch interview with Mazin Qur’an, August 1, 2010.

¹⁰ Human Rights Watch interview with Public Security Directorate officials, August, 9, 2010, and with Khalid al-Husainat and Husam, recruitment agency owners, Amman, August 2, 2010.

¹¹ Human Rights Watch interview with Public Security Directorate officials, August, 9, 2010.

¹² Human Rights Watch interview with Tariq, recruitment agency owner, Amman, December 15, 2010, and telephone interview with Indonesian diplomat, Amman, May 11, 2011.

¹³ Human Rights Watch interview with A.W. Mohottala, Sri Lankan ambassador, Amman, August 11, 2010.

¹⁴ Human Rights Watch interview with Indonesian, Philippines, and Sri Lankan diplomats, Amman, August 2, 2010.

of a population of 20 million.¹⁵ In 2010, Philippines migrants contributed 11.7 percent of the country's Gross Domestic Product (GDP), Indonesian migrants 1.3 percent, and Sri Lankans 7.9 percent.¹⁶

As a low or even unskilled type of work, domestic work is attractive for persons who would otherwise have few opportunities to earn an income.

Domestic workers leave their countries to work abroad for financial reasons. The demand for unskilled domestic work in the Middle East is a welcome opportunity for MDWs, many of whom face pressing financial need to earn money. Often, sickness, death, or divorce, leaves them as the sole income earners and they cannot find adequate jobs at home. Chandrika M., a Sri Lankan domestic worker, went to work abroad because she did not have a husband and could not care for her child alone.¹⁷ Ponnamma S. from Sri Lanka was suddenly widowed when her husband died of a cobra bite. "I had a one-month-old child. I needed to think of ways of making money," she said.¹⁸ Similarly, Pamela A., a mother of eight from the Philippines, said that after her husband died she "needed money for the baby's milk."¹⁹

Other reasons for deciding to work abroad include paying for education or medical care, and supporting the wider family or saving to build a home. Rosa L. from the Philippines worked in a biscuit factory but wanted to go abroad to better her income so that she could fix up her house and fund her sister's university education.²⁰ Another Filipina, Gina R., said she went to work abroad because her husband, who worked in deliveries, did not earn enough to send their three children to school.²¹

The huge flow of women workers from lower-income countries to the Middle East, including Jordan, creates both economic benefits and social costs. Migrant domestic workers leave behind families, including their own children, when they emigrate to work abroad. Repeat

¹⁵ Human Rights Watch interview with Indonesian, Philippines, and Sri Lankan diplomats, August 2, 2010. World Bank, World Development Indicators and Global Development Finance, <http://databank.worldbank.org/ddp/home.do?Step=12&id=4&CNO=2> (accessed January 22, 2010).

¹⁶ "Migration and Remittances Factbook 2011 - East Asia and Pacific." World Bank, <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/EAP.pdf> (accessed January 21, 2011); and "Migration and Remittances Factbook 2011 - South Asia." World Bank, <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/SA.pdf> (accessed January 21, 2011).

¹⁷ Human Rights Watch interview with Chandrika M., Sri Lankan domestic worker, Amman, July 30, 2010.

¹⁸ Human Rights Watch interview with Ponnamma S., Sri Lankan domestic worker, Amman, August 9, 2010.

¹⁹ Human Rights Watch interview with Pamela A., July 29, 2010.

²⁰ Human Rights Watch interview with Rosa L., Filipina domestic worker, Amman, August 8, 2010.

²¹ Human Rights Watch interview with Gina R., Filipina domestic worker, Amman, August 8, 2010.

migrants grow dependent on earnings in countries where restrictive immigration policies allow neither longer-term residency status nor any realistic possibility for family unification. While domestic workers provide care for their employers' families and children, they regularly go for years without seeing their own.

Recruitment

In the 1980s, domestic workers came to Jordan as private hires. Today, they almost entirely come via recruitment agencies.

The process begins in Jordan, where a recruitment agency concludes an agreement with an agency in a labor-sending country. Based on that agreement and the demand from employers, the Jordanian agency draws up a job order and applies to the foreign embassy for approval.²² The Jordanian and, for example, Indonesian agencies then issue individual work contracts based on Indonesian applicants' files, which the embassy must authenticate. On the basis of such a contract, Jordanian officials then issue an immigration and work visa.²³

In practice, however, multiple agents and different contracts are often involved. For example, Indonesian agents farm out the contract to subagents who paid local recruiters to collect as many workers as they can, Indonesian diplomats told Human Rights Watch.²⁴ While embassies authenticate the original agreement, these are often "not the same ones given to the worker and the sponsor [employer], which have a lower salary," a Sri Lankan embassy official said.²⁵ Subagents submit these individual work contracts with lower salaries to the Jordanian authorities for visas.²⁶ Philippines diplomats confirmed this practice, and an Indonesian diplomat lamented that, "Jordan issues immigration visas without informing the Indonesian government or the embassy here."²⁷

Sending governments attempt to restrict recruitment to official channels in order to monitor the process and offer workers protection. For example, in Sri Lanka, a prospective migrant domestic worker had to obtain several government certificates before she was

²² Human Rights Watch interview with Indonesian diplomats, August 2, 2010.

²³ Ibid.

²⁴ Ibid. See also, Human Rights Watch, *Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia*, vol. 16, no. 9(b), July 21, 2004, <http://www.hrw.org/en/node/11993/section/1>, section "Pre-Departure Abuses in Indonesia."

²⁵ Human Rights Watch interview with a Sri Lankan diplomat, August 2, 2010.

²⁶ Ibid.

²⁷ Human Rights Watch interview with Indonesian diplomats, August 2, 2010.

cleared to work abroad, including an insurance scheme that paid workers who had been harassed or not paid. However, to benefit from this scheme, the contract must be current, and many domestic workers are not able to complain until after the contract has expired or they have moved on to a new employer, because they had no opportunity to complain while working abroad.²⁸

Philippines diplomats complained that Philippines and Jordanian agencies have colluded to circumvent government monitoring. Diplomats told Human Rights Watch some Filipina workers arrive indebted because Jordanian agents hire unlicensed Philippines agents who charge workers illegal fees. These agents then bribe officials to get the workers through the airport who do not have all the required Philippines clearance papers.²⁹

So far, Jordan's Ministry of Labor has only opened the domestic work labor market to Indonesia, the Philippines, and Sri Lanka, but agencies are clamoring to allow recruitment of workers from other countries, such as Nepal, with even lower salary demands or government monitoring of worker welfare.³⁰ Agencies also want to get around the formal deployment bans that these three countries have put in place to pressure agencies and Jordanian officials to improve the situation of their nationals.

Bilateral Relations

Sri Lanka, Indonesia, and the Philippines signed memoranda of understanding (MoU) with Jordan regarding recruitment and treatment of their MDWs in 2006, June 2009, and May 2010 respectively.³¹ However, only Jordan considers these MoUs to be in effect today. By August 2010, all three countries – Indonesia, the Philippines, and Sri Lanka – had formally suspended deployment of their nationals as domestic workers to Jordan. As of May 2011, the Philippines and Indonesia still had suspensions in effect, although by December 2010, Sri Lanka had lifted its suspension.

The sending countries used deployment suspensions and bilateral agreements as political tools to pressure Jordan for greater protection of their workers, but with limited effect.

²⁸ Human Rights Watch interview with A.W. Mohottala, August 11, 2010, and, Human Rights Watch, *Exported and Exposed: Abuses against Sri Lankan Domestic Workers in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates*, vol. 19, no. 16, November 13, 2007, <http://www.hrw.org/en/reports/2007/11/13/exported-and-exposed-1>, section "Recruitment Fee System and Debt Payments."

²⁹ Human Rights Watch interview with Philippines and Indonesian diplomats, August 2, 2010.

³⁰ Human Rights Watch interview with Indonesian diplomats, August 2, 2010.

³¹ The Philippines and Jordan signed the memorandum on May 27, 2010. Neither sending country has ratified the MoU yet, and do not consider it to be in force, whereas Jordan has published the MoUs in its Official Gazette and considers them to be in force. Human Rights Watch interview with Virginia Calvez, July 27, 2010.

One reason that sending countries initiated or maintained deployment suspensions was Jordan's failure to enforce the MoUs. The Jordan-Philippines MoU specified that only contracts authenticated by the Philippines embassy are valid, and pledged bilateral cooperation to ensure worker welfare and enforcement of prevailing laws (Indonesian, Sri Lankan, and Jordanian officials did not provide Human Rights Watch with a copy of the Jordan-Indonesia or Jordan-Sri Lanka MoU).³² A Philippines diplomat said that Jordanian officials had made no effort "at all" to force agencies to submit contracts to the embassy for validation under the MoU.³³ An Indonesian diplomat echoed this complaint, noting that the Indonesian embassy in 2009 legalized only 1,200 work contracts, whereas Jordan's Ministry of Health conducted health checks for 30,000 Indonesian MDWs, which meant that 28,800 Indonesian MDWs had arrived through informal migration outside official channels, despite a provision in Indonesia's MoU similar to that in the Philippines-Jordan MoU.³⁴

By late 2010, Jordanian and embassy officials said their relationship had become acrimonious for reasons that extended beyond failure to implement the MoUs. Embassy officials also accused the Jordanian government of failing to support abused MDWs, and Jordanian officials accused labor-sending countries of using deployment bans and escaped MDWs as a bargaining chip to obtain better salaries for their workers.³⁵

The embassies denied they were using escaped MDWs at their embassies as bargaining chips and described three major underlying causes for the bans: the continued high number of abuses against MDWs, the difficulty in returning MDWs stranded at the embassies to their home countries, and lack of progress in negotiating higher salaries for their workers with Jordanian agencies.

For example, the Philippines has maintained a formal ban on deployment to Jordan since February 2008 due to the abuses its nationals suffered there.³⁶ To lift its deployment ban, "at a minimum" all workers stranded in Jordan would need to be able to return to the Philippines, a diplomat said.³⁷ The Philippines was also seeking a salary of \$400 a month for their domestic workers as a condition to lift the ban.³⁸

³² Memorandum of Understanding on Labor Cooperation between the Government of the Hashemite Kingdom of Jordan, Represented by the Ministry of Labor, and the Government of the Republic of the Philippines, Represented by the Department of Labor and Employment, May 27, 2010, Amman, arts. 4 and 5.

³³ Human Rights Watch interview with Philippines diplomats, August 2, 2010.

³⁴ Ibid.

³⁵ Human Rights Watch interview with Indonesian, Philippines, and Sri Lankan diplomats, August 2, 2010.

³⁶ Hani Hazaimah, "Indonesians to get crash-course in Jordanian culture," *Jordan Times*, August 27, 2010.

³⁷ Human Rights Watch interview with Virginia Calvez, July 27, 2010.

³⁸ Human Rights Watch interview with Philippines diplomats, August 2, 2010.

Sri Lanka in August 2009 put a moratorium on deployment to Jordan that was only lifted after raising the “minimum salary to \$200, resolution of cases of 150 Sri Lankan domestic workers [sheltering] at the embassy, and another 400 who are stuck here because of their [residency] overstayer fines,” a diplomat said.³⁹ In August 2010, Sri Lanka renewed its ban because of a string of deaths and unpaid salaries of MDWs.⁴⁰

Indonesia suspended deployment in late July 2010 over a political row with Jordanian agencies, which were supported by the Jordanian government, regarding a 30 percent increase in recruitment fees Indonesian agencies charged, and to return over 200 stranded Indonesian MDWs home.

Only Sri Lanka’s ambassador noted a positive reaction to his country’s ban: “The agencies all of a sudden want to sort out outstanding cases,” he told Human Rights Watch.⁴¹ Khalid Husainat, the head of the Jordanian Association of Recruitment Agencies, acknowledged embassies’ pressure on agencies to resolve escaped workers’ claims, saying they “will often not certify the contract if there are any domestic workers in their shelters.”⁴²

However, for the most part, it is unclear how successful deployment suspensions and bilateral agreements as political pressure tools have been. For example, although recruiters faced increased difficulties hiring migrant domestic workers, they have also found ways to circumvent lack of official cooperation and, according to a Philippines diplomat, now turn to persons who are “more easily recruitable” because they can be lured by false promises outside government monitoring.⁴³ Furthermore, according to a lawyer for the Indonesian and Philippines embassies, Jordan still issued visas “regardless,” something the Labor Ministry acknowledged, arguing they had not been formally notified of the ban.⁴⁴

³⁹ Human Rights Watch interview with Sri Lankan diplomats, August 2, 2010.

⁴⁰ The ban was lifted that same month. Hani Hazaimah, “Indonesians to get crash-course in Jordanian culture,” *Jordan Times*, August 27, 2010. In late July 2010, a domestic worker in Salt burned herself to death. She poured kerosene over herself sitting under a tree. Another Sri Lankan worker just died from an asthma attack. Human Rights Watch interview with a Jordanian faith-based community worker, Amman, August 2, 2010.

⁴¹ Human Rights Watch interview with A.W. Mohottala, August 11, 2010.

⁴² Human Rights Watch interview with Khalid Husainat, president, Association of Recruitment Agencies, Amman, August 4, 2010.

⁴³ Human Rights Watch interview with Philippines diplomat, August 2, 2011, and Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies (name withheld on request), Amman, July 31, 2010, and Human Rights Watch interview with Khalid Husainat, August 2, 2010.

⁴⁴ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, Amman, July 31, 2010. The Ministry of Labor’s secretary-general, Mazin ‘Awda, said that “We have not received an official Indonesian stop notice.” Human Rights Watch interview with Mazin ‘Awda, secretary-general, Ministry of Labor, Amman, August 3, 2010.

Diplomats from the Indonesian and Philippines embassies told Human Rights Watch they are considering lifting the restrictions in light of increased recruitment outside official channels, and the prospect of Jordan allowing recruitment of MDWs from other countries, such as Nepal.⁴⁵

Employer Views

Employers of domestic workers in Jordan sometimes felt unfairly stigmatized by media portrayals of them as abusive. Father Kevin O’Connell, a Jesuit priest who has worked for over a decade with domestic workers in Jordan, told Human Rights Watch that Filipina domestic workers he sees at Mass in Amman often work in “upper class” households where employers readily grant a day off and allow workers to participate in his church service.

Human Rights Watch interviews with employers found that some employers believed they acted generously toward their domestic workers and respected some important labor rights, even though such terms might not be considered so by standards in other countries. An employer of a Sri Lankan domestic worker for over 25 years said she had given her “more than one raise,” and had recently hired a second domestic worker to help her.⁴⁶ Another employer said she wanted the worker “to go home every two years,” and that she gave her advance salary for trips home, in addition to “a bonus for Christmas and Ramadan,” which she was not legally obliged to do.⁴⁷

Heba A.’s account exemplifies the lengths some employers will go to assist their domestic workers. Heba A. hired Malini S., from Sri Lanka, in 2002 to care for her young children while she worked. In 2006, Heba A. bought Malini a return ticket to attend to a family emergency, extending the return date four times at a cost of JOD170 (\$240). As weeks passed, Malini did not come back or respond to calls, leaving Heba struggling to manage work and family. In January 2008, Malini surprised Heba A., calling for help from Jordan. She said she had returned with another agency but that her new employers had beaten her and she had escaped. The employers notified the police about her escape and she was now undocumented, working in a restaurant far away and not allowed out.

Heba A. tried to help and reemploy her, first persuading the other employers to sign a “release,” paying the agency JOD2,000 (\$2826) in fees as though hiring Malini from abroad. With this “release” Heba A. got the police to cancel the “escape” notice, and then

⁴⁵ Human Rights Watch with Indonesian and Philippines diplomats, August 2, 2010.

⁴⁶ Human Rights Watch interview with Khadija L., August 4, 2010.

⁴⁷ Human Rights Watch interview with Selma A., employer of domestic worker, Amman, August 4, 2010.

paid about half of Malini's overstayer fines of JOD540 (\$763) for one year. She also paid JOD360 (\$509) for new residency and work permits. Malini started work again with her, on full pay, working from 2 p.m. instead of the early morning, since Heba A.'s children were now in school.

At church on Fridays Malini and an Indian man fell in love and decided to marry. Heba A. took Malini shopping and prepared for the wedding and party. An unannounced family visit from abroad led Heba A. to ask Malini to postpone the wedding by one week. Upset, Malini left the next morning, June 24, 2010, 18 months after Heba A. took her back in. Heba A. paid another JOD2,000 (\$2827) to hire a replacement.⁴⁸

Nevertheless, other interviews also revealed that some employers saw nothing wrong with confiscating passports or denying domestic workers a vacation, a weekly day off, or permission to leave the house, keeping them in a state akin to servitude.

Two employers, who regarded themselves as model employers who provided comfortable and fair working and living conditions, admitted their workers had not returned home in years. One employer said her domestic worker "went home once, 10 years ago, for two months," while the other said: "The last time she went home was 12 years ago. She doesn't want a vacation."⁴⁹ These employers said their workers did not have a weekly day off.⁵⁰

The employers justified such treatment citing the workers' presumed religious or social inclinations. For example, one employer said the domestic worker was "a homebody and doesn't like to go out. Buddhists don't like to go out, though she's recently converted to Islam."⁵¹ The worker confirmed she only goes "shopping with the driver ... I am a Muslim now, and can go out to the mosque for the prayers in Ramadan. Otherwise, I don't go out."⁵² The other employer said she felt justified not allowing the worker to have a mobile phone, "because she has no friends."⁵³ The first employer admitted to keeping the worker's passport and residency permit. She explained: "How can she have them? She doesn't even know the end of the street!"⁵⁴

⁴⁸ Human Rights Watch interview with Heba A., former employer of domestic worker Malini S., Amman, August 9, 2010.

⁴⁹ Human Rights Watch interview with Marwa M., employer of domestic worker, Amman, August 4, and with Khadija L., August 4, 2010.

⁵⁰ Human Rights Watch interview with employers Khadija L., and Marwa M., August 4, 2010.

⁵¹ Human Rights Watch interview with Khadija L., August 4, 2010.

⁵² Human Rights Watch interview with Adelina Y., Filipina domestic worker, Amman, August 4, 2010.

⁵³ Human Rights Watch interview with Marwa M., August 4, 2010.

⁵⁴ Human Rights Watch interview with Khadija L., August 4, 2010.

Jordanian Legal Reform

Jordan has been a leader in legislative reform in the region. In 2003, it became the first regional Arab country to issue a Unified Standard Contract for all migrant domestic workers, and in July 2008, amended article 3 of its labor law that excluded domestic workers from labor law protections now extended to them without distinction – again becoming the first Arab country to do so in the region.⁵⁵ In 2009, the government passed new regulations that for the first time specified the rights of domestic workers and of employers under the labor law.

Once they were brought under the protection of the labor law, domestic workers were entitled to the same protections as other workers, including minimum wage, annual, maternity, and sick leave, and workplace health and safety regulations. Under the 2009 MDW Regulations, employers of MDWs specifically undertook to pay salaries each month, procure residency and work permits every year, grant at least eight hours of continuous rest per day, limit daily work to 10 hours, and grant one day off per week.

The government also updated regulations on recruitment agencies, but has not yet devoted resources to fully enforce these protections.⁵⁶ The new regulations explicitly prohibit agencies from engaging in “economic exploitation” or in “physical or sexual assault [of MDWs] or ill-treating them or facilitating” such practices, which lead to the loss of an agency’s operating license.⁵⁷

In March 2009, Jordan became one of the first states in the region to pass a law against human trafficking – a move that one Indonesian diplomat who deals with trafficking victims on a daily basis attributed to US pressure and Jordan’s concern at being downgraded in the annual US trafficking rating, which US law mandates and imposes sanctions on underperforming countries.⁵⁸ The law included in its definition of trafficking

⁵⁵ Global Forum on Migration, *Background Paper, Human Mobility and Human Development, Migration, Gender, and Family, Annex*, Mexico 2010 meeting, <http://www.gfmd.org/en/documents-library/mexico-2010.html> (accessed April 11, 2011), p. 5.

⁵⁶ Labor inspectors had closed a handful of recruitment agencies not in compliance with labor regulations, labor officials told Human Rights Watch in May 2011. Human Rights Watch interview with Ibrahim Sa’ud, head, Legal Department, Ministry of Labor, Amman, May 30, 2011.

⁵⁷ Ministry of Labor, “Organizing Regulation for Specialized Offices Operating in Recruiting and Employment of Non-Jordanian Domestic Workers (نظام تنظيم المكاتب الخاصة العاملة في استخدام واستقدام غير الاردنيين العاملين في المنازل),” Official Gazette No. 4989, October 1, 2009, p. 5342.

⁵⁸ Lebanon, Iraq, and Kuwait have not passed such a law; Syria, Jordan, Egypt, Saudi Arabia, the UAE, and Bahrain have anti-trafficking laws. From 1929 until 2009 Jordan had an anti-slavery (*riqq*) law, now replaced by the anti-trafficking law. Human Rights Watch interview with Mazin Qur’an, August 1, 2010. Human Rights Watch interview with Indonesian diplomats, August 2, 2010.

the notion of forced labor for the purpose of exploitation, a situation applicable to several MDWs whom Human Rights Watch interviewed.

But while it is a regional leader in several aspects, Jordan lags behind other countries in legislating better protection for migrant workers. For example, in 2009, Singapore, which is also home to large numbers of migrant domestic workers, instituted measures that stipulate that employers “stand to lose a S\$5,000 (US\$3,980) security bond for every migrant worker under their employment should they fail to pay them on time.”⁵⁹ The Singapore government also has a better record of enforcement than Jordan, prosecuting employers who do not pay their workers on time or make them work in multiple locations, or who provide sub-standard accommodation – commonly reported violations in Jordan that the government has failed to address.⁶⁰

In February 2010, Jordan issued instructions for recruitment agencies that came into force on October 1.⁶¹ These instructions include a number of positive developments, if properly enforced, such as stricter vetting for agencies and employers, better information on workers’ rights, and better information sharing with government bodies.⁶²

⁵⁹ Humanitarian Organisation for Migration Economics (HOME) and Transient Workers Count Too (TWC2), *Justice Delayed, Justice Denied: The Experiences of Migrant Workers in Singapore*, 2010, p.3.

⁶⁰ Ibid., and Human Rights Watch, *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East*, April 27, 2010, <http://www.hrw.org/en/reports/2010/04/28/slow-reform-0>, pp. 19-20.

⁶¹ Human Rights Watch interview with Mazin ‘Awda, secretary-general, Ministry of Labor, Amman, August 3, 2010.

⁶² Instructions on the Conditions and Procedures for Licensing Offices Specialized in Working in Recruitment and [Work] Placement of Non-Jordanians Working inside the Homes (تعليمات شروط و اجراءات ترخيص المكاتب الخاصة العاملة في استقدام) (غير الاردنيين العاملين في المنازل), Official Gazette, February 16, 2010, pp 1194-1200 (Recruitment Agency Instructions).

II. Abuses against Domestic Workers

One or a combination of human rights violations occurred in each of the 50 cases Human Rights Watch investigated. The most common violations included forced confinement inside the home, delayed or unpaid salaries, failure to give weekly rest times, and overly long working hours.

According to the embassies of the three major labor-sending countries for domestic work, MDWs complained most about not receiving their salaries in full and on time, followed by complaints about excessive work, physical abuse, and food deprivation. Forced confinement, while most prevalent, prompted fewer complaints, perhaps because Jordanian law, though not international law, condones the practice. Indonesian embassy officials noted that the number of workers seeking shelter doubled in Ramadan, when domestic workers face a particularly high workload and often work around the clock.⁶³

The Philippines embassy reported that in the first quarter of 2010, 427 domestic workers sought refuge at its shelter, a house the Philippines Overseas Labor Organization (POLO) rents, and 231 new cases arrived in the second quarter.⁶⁴ Physical abuse cases constituted about 10 percent of the total, the labor attaché said.⁶⁵ Sri Lanka's labor attaché said that in 2008, 1,256 domestic workers sought assistance at the embassy, 1,431 in 2009, and 784 in the first six months of 2010.⁶⁶ In August 2010 around 80 workers were sheltering at the embassy.⁶⁷

Criminal Abuses

Physical, Sexual, and Verbal Abuse

The most common complaints are unpaid salaries, and after that, harassment, shouting, beatings, and cutting of hair

—A.W. Mohottala, Sri Lankan Ambassador to Jordan, Amman, August 11, 2010

⁶³ Human Rights Watch interview with Indonesian diplomat, August 2, 2010.

⁶⁴ Human Rights Watch interview with Virginia Calvez, July 27, 2010.

⁶⁵ Ibid.

⁶⁶ Human Rights Watch interview with I.M. Samaraweera, Sri Lankan labor attachée, Amman, August 11, 2010. Samaraweera gave Human Rights Watch a document containing monthly statistics for domestic workers running away to the Sri Lankan Embassy entitled, "Labour Issues reported to the Embassy – 2008," and similar statistics for 2009 and 2010.

⁶⁷ Ibid.

Of 50 domestic workers interviewed, 23 alleged that their employers or recruitment agency staff physically abused them, in addition to four cases in which MDWs alleged sexual abuse. Two workers said their employers forcibly cut their hair. In several cases, there was a combination of alleged physical or sexual abuse, often in addition to other complaints of long working hours or insufficient food.

Some employers physically abused their workers as a form of punishment for mistakes, others as a means of discipline, regardless of behavior.

One Sri Lankan worker described how she had to work in two houses, despite severe pain in one of her hands. She persuaded her employers to allow her to go back to her agency to see a doctor; when she returned, her employer beat her for telling the agency about her workload.

[My employer] slapped me in the face, and asked me why I told the agency that I'm working in two houses. Later, I tried to make them send me home [because of the pain in my hand]. I have an eight-year-old daughter, and I told Madam that she is sick and that I needed to go home. I had told the maid of Madam's brother that it was not true, and she told my madam. It was a white lie. Madam got very angry and beat me in the face. Then Baba [the male employer] came from work and started kicking me with his feet. Then Madam every day told me I am not good, a whore, and a liar. Two weeks later, I ran away.⁶⁸

Several domestic workers complained about daily beatings: "Mama [the female employer] beat me every day, when I didn't know where something was. I have only been here 20 days," a Filipina worker said.⁶⁹ For some, the beatings started as soon as they arrived, for others, much later. One worker, for example, said the beatings started after she asked to go back home after finishing her two-year contract: "Then ... nothing was ever clean enough."⁷⁰

Employers displayed serious brutality in their physical abuse. "Mama and Baba hit me with anything they could find, often with a plastic hose. Once, they burned me with an iron," an Indonesian worker said.⁷¹ Another Indonesian worker said her employers beat her "many times, saying something was not clean. They used a pink hose, with the two of them

⁶⁸ Human Rights Watch interview with Farzana M., Sri Lankan domestic worker, Amman, August 1, 2010.

⁶⁹ Human Rights Watch interview with Marilou R., Filipina domestic worker, Amman, August 4, 2010.

⁷⁰ Human Rights Watch interview with Yuniarti W., Indonesian domestic worker, Amman, August 4, 2010.

⁷¹ Human Rights Watch interview with Yanti S., Indonesian domestic worker, Amman, August 3, 2010.

doubling up to hold and to beat me. They beat me everywhere, on the head and the entire body.”⁷² A third Indonesian worker accused her employers of attacking her with a knife, stabbing her chest, head, and right shoulder, and pulling her ears.⁷³ Yet another Indonesian worker said of her female employer: She “pulled my shirt and punched me in the eyes, banged my head against the wall, and pulled my hair.”⁷⁴

Some workers were so badly beaten that they had lasting injuries. Sutiati S., an Indonesian domestic worker said, “Mama beat me every day. In one beating, blood came from my left ear. Mama’s 12-year-old son joined in the beating. I cannot hear well now.”⁷⁵

Agency staff also beat workers, mainly because they had run away from a house. One worker said:

The [agency] boss beat the women with his belt ... I saw three [Indonesian and Sri Lankan] women being beaten, and have their heads slammed into the wall. I heard the screams from the Indonesian women and saw a Sri Lankan woman come out of the other room bleeding. This happened about three times.⁷⁶

Another worker who fled her employers’ beatings told Human Rights Watch that the agency staff responded by “also hurt[ing] me, pulling my cheek. The agency sent me to a new house.”⁷⁷

Workers also quit their employer’s home because of sexual harassment. A Sri Lankan worker described how her male employer started inviting friends over to drink after his wife had left him, and “one of them wanted sex with me, so I was very afraid. I ran away when Baba was drunk and forgot to lock the door.”⁷⁸ A Filipina domestic worker said she “ran away after two days because Baba wanted me to give a massage to a friend of his, so I became afraid, but the agency told me I had to stay a minimum of two months at a house.”⁷⁹

⁷² Human Rights Watch interview with Wati S., Indonesian domestic worker, Amman, August 4, 2010.

⁷³ Human Rights Watch interview with Fatima N., Indonesian domestic worker, Amman, August 3, 2010.

⁷⁴ Human Rights Watch interview with Yuniarti W., August 4, 2010.

⁷⁵ Human Rights Watch interview with Sutiati S., Indonesian domestic worker, Amman, August 4, 2010.

⁷⁶ Human Rights Watch interview with Chandrika M., July 30, 2010.

⁷⁷ Human Rights Watch interview with Fatima N., August 3, 2010.

⁷⁸ Human Rights Watch interview with Hemanthi J., Sri Lankan domestic worker, Amman, July 30, 2010.

⁷⁹ Human Rights Watch interview with Journey L., Filipina domestic worker, Amman, July 31, 2010.

Physical or sexual abuse, combined with other violations, has even pushed some MDWs to suicide. The Jordanian daily *Al-Ghadd* reported on March 30, 2009, that 100 domestic workers had attempted suicide in the first quarter of that year, 18 of whom had died, while others often sustained injuries.⁸⁰ A Sri Lankan domestic worker with over 10 years' experience in Jordan told Human Rights Watch how a fellow Sri Lankan MDW had called out to her from a neighboring apartment in Amman's Rabia neighborhood:

She gave me a phone number and said, 'This is my mother's number. Call her when I die.' I asked her what she was talking about, and she showed me the empty container of the Clorox that she had drunk. I took her to my place and gave her yoghurt. She threw up, and was fine eventually. The girl told me that the madam beat her every day, that she worked long hours without breaks, that she didn't get enough food, and that she was simply too tired to go on.⁸¹

Confinement

Domestic workers should not live outside of the house. That would bring too many problems, especially prostitution.

—Basim al-Dahamisha, assistant director for Nationality and Foreigners, Ministry of Interior, Amman, August 8, 2010

Fourteen out of thirty MDWs who responded to questions of confinement said they were locked inside their employer's home. An additional six said they were confined to the house and could not go out, but that the door was not locked. No domestic worker said she was generally free to go out after work or on her day off, but four domestic workers said that they could occasionally go out, usually to church, and one said she could go out in the afternoons to do her employer's shopping. Another asserted she "did not want to go out."⁸² Four other MDWs said they went out occasionally, but under supervision. "I went out with my employer in taxis everywhere, though not alone," Chitra G. from Sri Lanka said.⁸³

If the cases of forced confinement in our sample broadly reflect the ratio of confinement for the total estimated MDW population of 70,000, then 50,000 MDWs are confined to the

⁸⁰ "18 suicide cases by Maids Working in Jordan in First Quarter of 2009 (18 حالة انتحار لخدمات يعملن في الاردن في الربع الاول 2009 من سنة 2009)," *Al-Ghadd* (Amman), March 30, 2009, <http://www.radicaljustice.com/2010-06-05-06-25-01/139--18-2009.html> (accessed December 15, 2010).

⁸¹ Human Rights Watch interview with Chitra G., Sri Lankan domestic worker, Amman, August 5, 2010.

⁸² Human Rights Watch interview with Sandra C., Filipina domestic worker, Amman, August 8, 2010.

⁸³ Human Rights Watch interview with Chitra G., August 5, 2010.

house around the clock – only slightly lower than Jordan’s total prison population in 2008 of 61,000 people.⁸⁴

The longest case of continuous confinement that Human Rights Watch learned of was that of a Sri Lankan domestic worker who “for seven years had worked in Irbid without pay and locked inside the home.”⁸⁵ The police rescued her, but no charges were pressed against the employers, according to the faith-based activists who initiated her rescue.⁸⁶

Faced with their prolonged, indefinite confinement in the house, some workers took the first opportunity to escape. Two workers told Human Rights Watch how they did so. Rosa L., a Filipina domestic worker, said that, “One morning, the key was in the lock. It was a new key and I took and hid it. The next day, they were all out, so I took my key, unlocked the door, and left.”⁸⁷ An Indonesian worker said:

The flat was on the third floor and the door was always closed and locked. A guard took out the garbage, so I never got to go out. One day I saw the key in the door. I opened it and left and went downstairs to the neighbors. They knew that mama beat me. They took me to the embassy.⁸⁸

Jordanian law, contractual agreements, and the practice of employers and recruitment agencies clearly violate MDWs’ freedom of movement, which Jordan’s constitution (article 9) and its obligations pursuant to the International Covenant on Civil and Political Rights (ICCPR) (article 12.1.) guarantee.⁸⁹

Article 5.5 of the Regulation on Domestic Workers, Cooks, Gardeners, and Their Like, of October 1, 2009 (MDW Regulation) states that domestic workers are obliged “not to leave the house or to be absent from it unless with the permission of the employer and

⁸⁴ “Al-Umari: 61 Thousand the Number of Inmates Who Entered ‘Correctional Centres’ Last Year (العمرى : 61 ألفا عدد النزلاء) (الداخلين إلى «مراكز الإصلاح» العام الماضي,” Al-Arab News website, March 2, 2009 <http://webcache.googleusercontent.com/search?q=cache:jup2wymFchHj:www.alarrabnews.com/newsView.php%3Fid%3D1217+%D8%B9%D8%AF%D8%AF+%D8%A7%D9%84%D9%86%D8%B2%D9%84%D8%A7%D8%A1+%D9%81%D9%8A+%D9%85%D8%B1%D8%A7%D9%83%D8%B2+%D8%A7%D9%84%D8%A7%D8%B5%D9%84%D8%A7%D8%AD+%D8%A7%D9%84%D8%A7%D8%B1%D8%AF%D9%86&cd=1&hl=en&ct=clnk> (accessed November 24, 2010).

⁸⁵ Human Rights Watch interview with faith-based workers, July 27, 2010.

⁸⁶ Ibid.

⁸⁷ Human Rights Watch interview with Rosa L., August 8, 2010.

⁸⁸ Human Rights Watch interview with Yuniarti W., August 4, 2010.

⁸⁹ See: The Constitution of The Hashemite Kingdom of Jordan, January 1, 1952, art. 9; and, International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Jordan on May 28, 1975, art. 12.1.

knowledge her whereabouts.”⁹⁰ The 2003 Unified Standard Contract specifies in article 6 that “the [worker] shall not leave the Employer’s residence or be absent from work without the Employer’s approval.”⁹¹ There has yet to be a prosecution for unlawful deprivation of liberty by forced confinement or a legal challenge to the 2009 MDW Regulation.

Acceptance of forced confinement is pervasive. Even senior Jordanian officials such as the Interior Ministry’s al-Dahamisha defended the ability of employers to restrict a migrant domestic worker’s freedom of movement, including after working hours. Amman’s chief prosecutor Hasan Abdallat said:

Article 346 of the penal code criminalizes depriving a person of her liberty, but just locking the door [so a domestic worker cannot go out] is not a crime. What if, for example, the domestic worker let in a man? That would not be right [*mashru*].

We have a social responsibility against terrorism and crimes and for public health. The customs, traditions, and special characteristics of our society do not allow a domestic worker to go out alone. There are court verdicts that describe the worker as part of the family.⁹²

In a similar vein, Mazin Qur’an, Jordan’s attorney general, explained why he did not permit his own domestic worker to go out by herself:

My Sri Lankan only goes out with me. I would be afraid that she will be attacked if she goes out alone. We cannot accept that she brings someone into the house. That would not be right.⁹³

At the same time, these officials emphasized, “We as Muslims have to respect all religions,”⁹⁴ and that Jordanians, unlike “Gulf societies ... are civilized.”⁹⁵

⁹⁰ Regulation on Domestic Workers, Cooks, Gardeners, and Their Like (نظام العاملين في المنازل و طهااتها و بستانيها و من في) (حكمهم) No. 90 of 2009 , published in Official Gazette No. 4989, October 1, 2009, p. 5348 (2009 MDW Regulation).

⁹¹ Special Working Contract for Non-Jordanian Domestic Workers, 2003, art. 6 (Standard Unified Contract).

⁹² Human Rights Watch interview with Hasan Abdallat, prosecutor general, Amman, August 1, 2010.

⁹³ Human Rights Watch interview with Mazin Qur’an, August 1, 2010.

⁹⁴ Ibid.

⁹⁵ Human Rights Watch interview with Hasan Abdallat, August 1, 2010.

Such attitudes are not restricted to officials and employers of domestic workers; they also have support among human rights organizations. A labor official involved in drafting the MDW regulations said that he was surprised in his consultations when “[t]he women’s union told me they cannot accept that domestic workers go out.”⁹⁶ One explanation for this is that members of these organizations are often employers themselves.

Even employers who consider themselves generous toward their workers and in compliance with the law support confinement. One said, “I let them [the domestic workers] go out to the shops close by, but not anywhere else,” because they might meet strangers.⁹⁷

One faith-based worker suggested that rather than wanting to protect their workers or prevent illicit sexual relations, employers were afraid to let their domestic workers go out “because they might hear of others earning higher salaries.”⁹⁸

The power dynamic created by preventing workers from moving freely, seeking help, or reporting abuse may also explain why some employers confine their employees. The faith-based activists working to protect MDW welfare described how they patiently argued with their neighbors to allow their Sri Lankan worker out of the house after five years and join them for a Christmas party, but, although the employers finally agreed, “they picked her up in the middle ... fearing she’d speak to other workers” and learn about better living and work conditions.⁹⁹

Common answers that Human Rights Watch received from workers in response to questions about their ability to go out were: “I was not allowed out alone. The doors were always locked;”¹⁰⁰ “The door was always locked, and Mama had the key;”¹⁰¹ “The door was always locked, and the key taken out. I could not leave the house;”¹⁰² And “The door was not locked, but I was never left alone.”¹⁰³

Some workers said employers had granted them greater freedom over time. Gloria J., a Filipina domestic worker, said:

⁹⁶ Human Rights Watch interview with Hamada Abu Nijma, head of the Salaries Authority, Ministry of Labor, July 28, 2010.

⁹⁷ Human Rights Watch interview with Khadija L., August 4, 2010.

⁹⁸ Human Rights Watch interview with a Jordanian faith-based community worker, Amman, August 2, 2010.

⁹⁹ Human Rights Watch interview with faith-based workers, July 27, 2010.

¹⁰⁰ Human Rights Watch interview with Tamilvaani G., Sri Lankan domestic worker, Amman, July 29, 2010.

¹⁰¹ Human Rights Watch interview with Wati S., August 4, 2010.

¹⁰² Human Rights Watch interview with Rosa L., August 8, 2010.

¹⁰³ Human Rights Watch interview with Pamela A., Filipina domestic worker, Amman, July 29, 2010.

In my first two years, I was never allowed to leave the house alone. [In the year] after that, I was allowed three or four times to visit my church.... And in the fourth year, I was allowed to go to church from 4 p.m. to 6 p.m. every Friday. My employer dropped me off and picked me up.¹⁰⁴

However, a worker earning her freedom over time was the exception, not the rule.

Employers' forced confinement of live-in MDWs contrasted sharply with their treatment of freelance MDWs – usually escaped MDWs now living and working on their own numbering in the thousands, if not tens of thousands. Employers, especially foreigners, even gave these workers keys to their houses to clean while they were out: “Arabs lock you inside, foreigners give you their house keys. I only work with foreigners. They know how we feel and trust me – look how many house keys I have,” said Chitra G., from Sri Lanka, pulling out a ring with seven keys attached.¹⁰⁵

Recruitment agencies also confine domestic workers. Typically agency staff will pick up a newly-arrived worker at the airport and bring her to the agency, where she may spend several days before her prospective employer comes to collect her.¹⁰⁶ A Filipina worker said she spent three days locked up at her agency:

There were two rooms, one office and [another] one for all of us. We were 10 workers. There was also one kitchen and one bathroom. At 6 p.m. we were locked in, and at 10 a.m. the employees would arrive and unlock the door. Some runaway workers brought vegetables and we asked Ahmad, [an employee] there, to buy us rice. We paid and we all shared.¹⁰⁷

Ahmad Hababna, the owner of a recruitment agency and former head of the agencies' association, said in 2009 that he had opened a communal house and training center for newly-arrived MDWs, but that other agents shunned the cost, housing MDWs in their homes or offices until they could place them with their employers.¹⁰⁸

¹⁰⁴ Human Rights Watch interview with Gloria J., Filipina domestic worker, Amman, July 29, 2010.

¹⁰⁵ Human Rights Watch interview with Chitra G., August 5, 2010.

¹⁰⁶ Human Rights Watch interview with Gina R., August 8, 2010.

¹⁰⁷ Human Rights Watch interview with Marjorie L., Filipina domestic worker, Amman, January 29, 2010.

¹⁰⁸ Human Rights Watch interview with Ahmad Hababna, recruitment agency owner former head of the agencies' association, Amman, January 29, 2009.

Food Deprivation

Physical or sexual assault and home imprisonment are not the only crimes perpetrated against domestic workers: a number of workers also complained of not having enough to eat – primarily due to employer oversight or as an effort to control them.

Many employers give their workers enough to eat, but others deprived their domestic workers of food. They did so not because they were poor or as a punishment, but as an oversight or means of control. A Filipina domestic worker described her humiliation and hunger in the house of a wealthy family:

I had to take care of an eight-month-old baby, but they didn't give me time to cook or food to eat. I stole flour and mixed it with water to eat some quick pancake-like thing. I ate some baby food while feeding the baby. The Sri Lankan on the second floor put some rice under my pillow sometimes so I would have something. When I got money, I gave it to the guard to buy me some noodles because I was not allowed to go out. One time, I fished a slice of pizza out of the garbage. That image of picking food out of the garbage is forever with me.¹⁰⁹

Krishnan S. described her employers' neglect when it came to the food she was given: "The food was bad. They ate *mansaf laban* [a traditional Jordanian meat and rice dish] and I didn't eat."¹¹⁰ Two other workers complained to Human Rights about getting only leftovers to eat. One said she "ate separately, we workers got the leftovers."¹¹¹ The other said, "I didn't get much to eat, only leftovers and some bread."¹¹²

Employers' food rationing as a means of control was also apparent. Hemanthi J., a Sri Lankan worker, said: "The fridge was locked, and I got no dinner. I got one half [flat] bread with cheese and tea for breakfast, and the other half of bread for lunch."¹¹³ A Filipina worker said her compatriot's "family is counting the bread every day to see how much she has eaten. Bread is the only thing she gets."¹¹⁴

¹⁰⁹ Human Rights Watch interview with Dolores P., Filipina domestic worker, Amman, August 6, 2010.

¹¹⁰ Human Rights Watch interview with Krishnan S., Sri Lankan domestic worker, Amman, July 26, 2010.

¹¹¹ Human Rights Watch interview with Marjorie L., January 29, 2010.

¹¹² Human Rights Watch interview with Yanti S., August 3, 2010.

¹¹³ Human Rights Watch interview with Hemanthi J., July 30, 2010.

¹¹⁴ Human Rights Watch interview with Marisa G., Filipina domestic worker, Amman, August 4, 2010.

Three workers cited lack of food as the primary reason for leaving their employer, including Journey L., the Filipina worker, who said that she “only ate once a day, at 3 p.m. I was always hungry. I ran away because I got no food.”¹¹⁵

Such cases of food deprivation are neither isolated nor restricted to Jordan. Human Rights Watch research has also found that depriving MDWs of food is prevalent in Lebanon, Kuwait, Malaysia, and Saudi Arabia.¹¹⁶

Denial of Medical Care

Some domestic workers said their employers did not provide them with medical care, or let them rest when they had received medical advice to do so.

States in the Middle East have different health care regulations for domestic workers. In Jordan, the 2009 regulations for domestic workers mandate that the employer is responsible for “providing health care for the worker.”¹¹⁷ The law does not specify the extent of care to be provided. Some employers have taken their workers to see a dentist for a toothache and other routine visits. One domestic worker told Human Rights Watch that her employers paid “for all health care expenses.”¹¹⁸ Another worker, however, said she had to pay for her own medication for high blood pressure.¹¹⁹

Employers and recruitment agencies failed to provide adequate health care on several occasions. Workers who complained about health problems did not receive timely care or any medical attention at all.

In one particularly disturbing case, on August 1, 2010, Marilou R. from the Philippines jumped from the roof of the house in Salt where she had been working since coming to Jordan 20 days earlier. When Human Rights Watch visited her in al-Bashir hospital three days later, where she was recovering from a fractured leg and spinal injuries, she implied it was an act of desperation, saying she felt very sad that morning and under no

¹¹⁵ Human Rights Watch interview with Journey L., July 31, 2010.

¹¹⁶ Human Rights Watch interviews in Malaysia in February 2010 and April 2011 and in Cambodia, April 2011. See also: Human Rights Watch, *Walls at Every Turn: Abuse of Migrant Domestic Workers through Kuwait's Sponsorship System*, October 6, 2010, <http://www.hrw.org/en/reports/2010/10/06/walls-every-turn-o>; Human Rights Watch, *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers*, September 16, 2010, <http://www.hrw.org/en/reports/2010/09/16/without-protection-o>; Human Rights Watch, “*As If I Am Not Human*”: *Abuses against Asian Domestic Workers in Saudi Arabia*, July 7, 2008, <http://www.hrw.org/en/reports/2008/07/07/if-i-am-not-human-o>.

¹¹⁷ MDW Regulations, 2009, art. 4.h.

¹¹⁸ Human Rights Watch interview with Indrani P., Sri Lankan domestic worker, Amman, August 3, 2010.

¹¹⁹ Human Rights Watch interview with Fathima S., Sri Lankan domestic worker, Amman, August 1, 2010.

circumstances wanted to go back to that house.¹²⁰ She said her employer had beaten her daily.¹²¹

Marilou R. said that when she landed in front of the house she was in pain and could not move. “One of the people in the household, a woman in a wheelchair, saw me lying in the yard and shouting for help. Mama saw me, too. She finished her shower and took her time before she called for help. Then an ambulance came and took me away,” she said.¹²² The employer, who came during our hospital visit, said she had called for help as soon as she saw Marilou R. The employer then told Marilou R. not to speak to us. The employer asked a Human Rights Watch researcher if Marilou R. could resume work the following week, although she was immobile.¹²³

Four workers told Human Rights Watch that they lost their jobs after they got sick. Farzana M., a Sri Lankan domestic worker, said:

I started having pain in my right hand. Mama gave me Panadol, but did not take me to a doctor. She made me work. I cried. It hurt too much. After two-and-a-half months, they took me back to the agency. The agency took me to a doctor [who said] I would need an operation.¹²⁴

Her employers did not allow the operation, but “the son knew some medical person who came and gave me an injection and pills, but it did not get better. I continued working, but wanted to go home. I cried and told them.”¹²⁵ Farzana M. then left her employers. Domestic workers who left their employers – in Human Rights Watch’s experience typically because of a multitude of contractual, labor, and at times criminal violations – lost their right to free health care provided for in their contract. Embassies typically only paid for emergency care.

Sandra C., a Filipina domestic worker, told Human Rights Watch that she had an operation for breast cancer in the Philippines in March 2009, a month before coming to Jordan. When she developed pain in her chest from carrying heavy gas and water canisters, her employer

¹²⁰ Human Rights Watch interview with Marilou R., Amman, August 4, 2010.

¹²¹ Ibid.

¹²² Ibid.

¹²³ Human Rights Watch interview with Mariam R., Marilou R.’s employer, Amman, August 4, 2010.

¹²⁴ Human Rights Watch interview with Farzana M., Sri Lankan domestic worker, Amman, August 1, 2010.

¹²⁵ Ibid.

refused to take her to a doctor, saying “Tomorrow, tomorrow.” Her employer eventually called the agency to take her back, which it did.¹²⁶

Prema C., a Sri Lankan domestic worker, told Human Rights Watch how her employers accidentally poisoned her, then denied her a doctor-ordered rest, and again exposed her to toxic fumes. When she got sick again, her employer returned her to the agency instead of providing medical care:

Mama by mistake put a toxic concoction of cleaning liquids in the bathtub. She asked me to clean it, and closed the door.... I was inside, and fainted ... baba threw away those cleaning supplies. But Mama bought them again. She only gave me one day of rest, although the doctor had ordered that I not work [longer]. She made me clean again with those chemicals, and I vomited again, and told her I cannot work like that. Mama sent me back to the agency.¹²⁷

Eni M., an Indonesian domestic worker, said that in May 2009, four months after coming to Jordan, “I got sick to my stomach, and had to be taken to the hospital. After spending a day in hospital, my employers took me back to the agency.” She lost her job with the family she worked for, and was made to do part-time freelance work instead by her agency.¹²⁸ However, after three months Eni M. was still sick, angering the head of her agency. “She beat me not only once, but many times, shoving my head into the wall, beating me with a stick, and cutting me with glass.”¹²⁹ The agency head then called the employer’s husband, a doctor, who stitched her up in his private clinic.¹³⁰

Employers sometimes called a friend or relative who they said was a doctor, in at least one case with devastating results. A domestic worker cannot know whether the alleged doctor called is qualified or that he will honor doctor-patient privacy. Chitra G. said that when she fell ill, complaining of a severe headache, her employer called her younger brother, who she said was a medical doctor. His treatment put her in a coma. She said:

[He] gave me an injection into my buttocks. He also gave me two valiums. He didn’t ask me any questions about what was wrong or my medical

¹²⁶ Human Rights Watch interview with Sandra C., August 8, 2010.

¹²⁷ Human Rights Watch interview with Prema C., Sri Lankan domestic worker, Amman, August 6, 2010.

¹²⁸ Human Rights Watch interview with Eni M., Indonesian domestic worker, Amman, August 4, 2010.

¹²⁹ Ibid.

¹³⁰ Ibid.

history. I fainted. The rest I know from accounts I heard. My sister, who was working for another madam, was called, and they took me to the Istiqlal hospital. Apparently I had an allergic reaction. I was unconscious three to four days. I was flown to Sri Lanka still unconscious. [There], I woke up, but I could not see or speak. I stayed for 10 months like that.¹³¹

Chitra G.'s employers offered her no compensation and she decided not to pursue any claims against them.

Labor Abuses

Jordanians want Asian domestic workers because they can do anything with them. They accept any orders and work day and night. I am sorry to say, but it is a form of slavery.

—Labor official, Amman, July 28, 2010

Nonpayment of Salaries

Earning a salary is the main reason women seek work abroad as domestic workers. Jordanian law specifies that salaries are to be paid in full, on time, without deductions (see: Jordanian Law and International Standards).

Accounts of employers failing to pay domestic workers' salaries in full and on time were strikingly consistent among complaints. Of over 200 domestic workers sheltering at the Indonesian embassy, only 20 said they had received all monies due them, though not necessarily on time. Of the 50 domestic workers across nationalities interviewed in more detail, only two workers said their employers paid in full and on time.¹³²

Nonpayment of salaries ranges from complete refusal by employers to pay the worker, to late or partial payment. Seven workers said their employers had not paid them at all for periods ranging from four months to six-and-a-half years.¹³³ Lilis H., from Indonesia, said she worked in a house in Suwailih, an Amman suburb, from January 2002 until May 2010, but was not paid her salary of \$100 a month for almost four years and five months of that time.¹³⁴ Winarti N., an Indonesian worker, said, "I worked seven-and-a-half years. Only the

¹³¹ Human Rights Watch interview with Chitra G., August 5, 2010.

¹³² Human Rights Watch interview with Dolores P., August 6, 2010, and with Anarkali T., Sri Lankan domestic worker, Amman, August 6, 2010.

¹³³ Human Rights Watch interview with Fatima N., August 3, 2010.

¹³⁴ Human Rights Watch interview with Lilis H., Indonesian domestic worker, Amman, August 3, 2010.

first year I was paid.”¹³⁵ Another Indonesian worker, Sri H., said she ran away because she had not been paid for five of the seven years she worked.¹³⁶

Fourteen workers told Human Rights Watch their salary payments were irregular or that they only received partial payments. The workers’ accounts revealed how casually some employers treated paying their workers, apparently considering payment as more of a favor than an obligation with attached penalties for failing to comply. One worker said that her employer directly told her when she demanded her salary, “We will pay you if you work well.”¹³⁷ Employers sometimes regarded payment as a gesture of kindness rather than remuneration for work, deeming presents during Ramadan or small cash gifts sufficient. Krishnan S. said she arrived at her second employer during Ramadan. She said:

They did not pay me. They said that they had paid the agency ... they gave me clothes for Ramadan. After the Eid [holidays after Ramadan ends], they said bye bye to me, they didn’t need me any longer.¹³⁸

Another worker described how her employers reduced her salary, not feeling bound to honor their contractual agreement:

In my house in Khalda, I got JOD200 (\$283) per month for the eight months I worked there. In the house after that, they reduced my salary from JOD170 (\$240) to JOD150 (\$212), and then JOD140 (\$198). At that point, I left.¹³⁹

Five workers said they had received their salaries in the beginning, but that payment then stopped.¹⁴⁰ Seven more workers said that payments were irregular and bore no relation to the monthly salary stipulated in their contract. Siti Mujiati W., from Indonesia, said her employers paid her \$300 after five months of work, and “another \$200 here and there” over the following year.”¹⁴¹ Five more workers provided Human Rights Watch with similar accounts.¹⁴²

¹³⁵ Human Rights Watch interview with Winarti N., Indonesian domestic worker, Amman, August 4, 2010.

¹³⁶ Human Rights Watch interview with Sri H., Indonesian domestic worker, Amman, August 4, 2010.

¹³⁷ Human Rights Watch interview with Rosa L., August 8, 2010.

¹³⁸ Human Rights Watch interview with Krishnan S., July 26, 2010.

¹³⁹ Human Rights Watch interview with Hasna M., Sri Lankan domestic worker, Amman, August 3, 2010.

¹⁴⁰ Human Rights Watch interviews, all in Amman, with Dolores P., August 6; with Fatima N., August 3; with Hemanthi J., July 30; and with Farzana M., August 1, 2010.

¹⁴¹ Human Rights Watch interview with Siti Mujiati W., Indonesian domestic worker, Amman, August 3, 2010.

¹⁴² Human Rights Watch interviews, all in Amman, with Gina R., August 8; with Wati S., August 4; with Yanti S., August 3; and with Nining W., Indonesian domestic worker, August 3, 2010.

Some employers have unlawfully deducted from the salary costs for personal hygiene items and telephone calls by the worker. “I had to pay for my own soap, shampoo, and clothes,” Yanti S. from Indonesia said.¹⁴³

Employers have also claimed that they have an agreement to pay the agency instead of the worker at least during the initial months, or that they had wired the salaries to the workers’ relatives abroad. Tamilvaani G. told Human Rights Watch:

The first three months, Madam said she paid my salary to the agency, and after that, they sent my salary for three months directly to Sri Lanka. I talked to my sister there, who said \$300 arrived. After that, they did not pay, and when I asked, Madam got angry and said she would pay me ‘later’.¹⁴⁴

One Filipina worker said her employer tried to make her believe that she was paying her salary into a separate account. Marjorie L. said:

Madam never paid me since I arrived in March 2006. But when my father died, around May 2007, she took me to the Western Union and sent \$400 to my family. When I asked her for the salary, she said she had put it in the bank and would give it to me when I went home. But she never showed me a bank statement and said it was in her, not my, name.¹⁴⁵

The story of Krishnan S., from Sri Lanka, was similar. She said her employer did not pay her during the first months of work:

Then, she [her employer] said: ‘Give me a Sri Lankan bank account to transfer the money to.’ I did, and she went out. When she came back and said she had paid, and waved some paper at me, but I did not see and could not verify that she had paid, whom she had paid, and how much. She did not allow me to call Sri Lanka to verify.

Although almost all workers clearly recalled the amount of salary in their contract, not all employers could do so. One employer frankly said that she didn’t know her worker’s salary. “She is not my first,” she said by way of explanation.¹⁴⁶

¹⁴³ Human Rights Watch interview with Yanti S., August 3, 2010.

¹⁴⁴ Human Rights Watch interview with Tamilvaani G., July 29, 2010.

¹⁴⁵ Human Rights Watch interview with Marjorie L., January 29, 2010.

¹⁴⁶ Human Rights Watch interview with Mariam R., July 31, 2010.

Workers reported being afraid to ask for their salaries, and that employers threatened them or dismissed their requests when they did. Mujiati W. from Indonesia told us that her employer told her, “I will send you home if you ask for money.”¹⁴⁷

Many workers stayed on for months and even years without pay, either powerless to escape or with desperate hopes to eventually receive payment. Tamilvaani G. said that when she asked for payment, “Mama ... said she would pay me ‘later’,” and she stayed for months.¹⁴⁸

Some employers claimed to be unable to pay for lack of resources, but nevertheless continued to employ their worker’s services. Indonesian worker Siti Mujiati W. said that “When I asked to go home after three years, Mama said she had no money to send me home.”¹⁴⁹

The minimum income for a Jordanian to be allowed to employ a domestic worker is JOD500 (US\$750) per month. However, the Ministry of Labor has not in the past verified or enforced this limit.¹⁵⁰

Employers paid no price for failing to pay their workers’ salaries in full and on time. At worst, the authorities would force them to pay the monies owed, but courts imposed no penalties on employers or awarded punitive damages for employees.

In contrast, MDWs who escaped and then worked as freelancers on their own had no complaints about unpaid salaries, and usually commanded higher wages.¹⁵¹ Chitra G., the long-time Sri Lankan freelance domestic worker, said: “I lived for a while with a Jordanian lady, who made my residency permit, but I worked outside of the house for other people. I am making good money working for different foreigners, in cleaning and babysitting. Sometimes I get JOD700 (\$989) a month.”¹⁵²

Excessive Work

The second most common complaint after unpaid salaries was excessive work load: a combination of long working hours, little rest and sleep, no weekly day off, and strenuous

¹⁴⁷ Human Rights Watch interview with Siti Mujiati W., August 3, 2010.

¹⁴⁸ Human Rights Watch interview with Tamilvaani G., July 29, 2010.

¹⁴⁹ Human Rights Watch interview with Siti Mujiati W., August 3, 2010.

¹⁵⁰ Human Rights Watch interview with ‘Afi Jubur, head, Migrant Workers’ Department, Ministry of Labor, Amman, August 2, 2010.

¹⁵¹ Human Rights Watch interview with Krishnan S., July 26, 2010; and with Chitra G., August 5, 2010.

¹⁵² Human Rights Watch interview with Chitra G., August 5, 2010.

tasks that often led to exhaustion. In some cases, excessive work was the primary reason that domestic workers quit their employers and sought shelter or work elsewhere.

The average workload was just over 16 hours a day at the 31 workplaces for which domestic workers gave Human Rights Watch their regular working hours. The median workload was 15 hours a day. Three employers required the worker to work more than 20 hours a day. Only two employers, whose MDWs had worked for them for many years, required fewer than 13 hours of work a day.¹⁵³

Some domestic workers had to look after small children at night in addition to long working hours during the day. Rosa L., the Filipina domestic worker, said that in addition to working from 6 a.m. to 9.30 p.m. or 10 p.m., she had to look after her employers' two-year-old child at night. Rosa L. said she slept in the same room as the toddler who "woke up every night" crying.¹⁵⁴

A 16-year-old Sri Lankan worker, whose passport was altered to say she was 21-years-old, said her employer made her work from 7 a.m. until midnight, with no day off, looking after seven children aged two to 16. She twice returned to the agency, "and twice they sent me back to him."¹⁵⁵

Domestic workers also complained about work made stressful by being at the beck and call of their employers, or doing tiring manual labor. MDWs described how they had to clean more than one flat or house, contrary to the provisions of the Unified Standard Contract, the new MDW Regulation issued in 2009, and the instructions for recruitment companies issued in 2010. Hemanthi J., the Sri Lankan domestic worker, said that after cleaning her employers' flat, she cleaned their parents' houses. "I ran away after one month to the embassy, because it was too much work. I had no day off," she said.¹⁵⁶

Workers not only worked long hours, but did so seven days a week without rest. Of the over 200 Indonesian domestic workers sheltering at their embassy none said she had a weekly day off.¹⁵⁷ One worker lasted seven-and-a-half years before seeking help, while another did the same for three-and-a-half years.¹⁵⁸

¹⁵³ Human Rights Watch interview with Indrani P., August 3, and with Marisa G., August 4, 2010.

¹⁵⁴ Human Rights Watch interview with Rosa L., August 8, 2010.

¹⁵⁵ Human Rights Watch interview with Chemmani R., Sri Lankan domestic worker, Amman, August 9, 2010.

¹⁵⁶ Human Rights Watch interview with Hemanthi J., July 30, 2010.

¹⁵⁷ Human Rights Watch survey of over 200 Indonesian domestic workers, Amman, August 3, 2010.

¹⁵⁸ Human Rights Watch interview with Winarti N., August 4, and with Mujiati W., August 3, 2010.

Even when employers took their workers along on an excursion they had to work. Krishnan S., a Sri Lankan domestic worker, told Human Rights Watch that at her fourth house, “I had no days off. Sometimes I went out on Fridays with the family, but I worked.”¹⁵⁹

Only two domestic workers said they had had some time off. Krishnan S. said that her employers in a fifth house in Zarqa, northeast of Amman, gave her “Thursdays and Fridays off to go to the house of a Sri Lankan friend and her husband.”¹⁶⁰ Anarkali T., also Sri Lankan, said “I had Fridays off to go to church.”¹⁶¹

One employer was frank in telling Human Rights Watch that she did not want to give her domestic worker a day off, and looked for one who would comply with such a demand. The employer said of her current Filipina domestic worker, “She is a Muslim. I didn’t want a Christian, because they want a [weekly] day off.”¹⁶²

Inadequate Quarters

The 2009 MDW Regulation obliges employers to provide a “well-lit and ventilated room with means to sleep and rest and the right to privacy.”¹⁶³ Of over 200 domestic workers at the Indonesian embassy shelter, 25 said they had slept on the balcony, and only 30 said they had had their own room.¹⁶⁴ Of the 50 workers whom Human Rights Watch interviewed in more depth, only eight workers said they had their own room in the 10 houses in which they had worked.¹⁶⁵ Slightly more, 11 workers, said they did not have their own room or privacy in the 14 houses in which they had worked: sleeping quarters included the living room, kitchen, hallway, balcony, a storage room, and a room shared with either children or employers.¹⁶⁶

One worker described how there was no heating in the storage closet where she had only a thin mattress and was “too cold” in winter.¹⁶⁷ Another worker said she shared a room with

¹⁵⁹ Human Rights Watch interview with Krishnan S., July 26, 2010.

¹⁶⁰ Ibid.

¹⁶¹ Human Rights Watch interview with Anarkali T., August 6, 2010.

¹⁶² Human Rights Watch interview with Mariam R., July 31, 2010.

¹⁶³ MDW regulation, 2009, art. 4.d.

¹⁶⁴ Human Rights Watch survey of over 200 Indonesian domestic workers, Amman, August 3, 2010.

¹⁶⁵ Human Rights Watch interviews, all in Amman, with Gloria J., July 29, with Sandra C., August 8, with Gina R., August 8, with Hemanthi J., July 30, with Nining W., August 3, with Anarkali T., August 6, and with Chemmani R., August 9, 2010.

¹⁶⁶ Human Rights Watch interviews, in Amman, with Hemanthi J., July 30, and with Fatima N., August 3, 2010. MDWs’ accommodation depended on their employers, and many worked in more than one house.

¹⁶⁷ Human Rights Watch interview with Krishnan S., July 26, 2010.

four children aged 13 to 18, and did not sleep well.¹⁶⁸ Pamela A. from the Philippines said she shared a room with her female employer who slept “in the bed, and I on the floor.”¹⁶⁹

In some houses, the domestic workers did not have their own room although at least one bedroom was not occupied.¹⁷⁰ “I slept in the kitchen although the flat had one unused bedroom,” Krishnan S. said, and in another house, “I slept on the balcony although there were free rooms available.”¹⁷¹

¹⁶⁸ Human Rights Watch interview with Sri H., August 4, 2010.

¹⁶⁹ Human Rights Watch interview with Pamela A., July 29, 2010.

¹⁷⁰ Human Rights Watch interview with Yanti S., August 3, 2010, and Human Rights Watch interview with Marisa G., August 4, 2010.

¹⁷¹ Human Rights Watch interview with Krishnan S., July 26, 2010.

III. Disempowerment

Employers as well as Jordanian and home country agents disempower domestic workers during recruitment and arrival by taking away their ability to demand their rights. Domestic workers arriving in Jordan are sometimes indebted, often deceived, and frequently have little knowledge of contractual agreements and work conditions. (In contrast, within the first few days of their arrival, Singapore provides all MDWs who come to work there mandatory orientation in different languages that teaches them local laws and their rights).

Recruitment agencies in home countries in numerous cases charged MDWs fees for work placement abroad, despite legal limitations and prohibitions against the practice, forcing some into debt. Other MDWs needed to work abroad to service debt incurred due to family illness, dire economic circumstances, or natural catastrophes.

Some home-country recruitment agencies also deceived domestic workers, promising higher salaries than those eventually offered in Jordan. Almost no domestic worker had a copy of her contract and only few had read it. Some had signed a contract in Jordan or before arriving, but had not been allowed or able to read it due to language problems, although most recalled the promised monthly salary and the contract period.

Ill-informed, indebted, and without paperwork to press their contractual or statutory rights, domestic workers become easy prey for recruitment agents and Jordanian employers. Recruitment agents and employers confiscated MDWs' passports on arrival, and then exploited workers by imposing terms on them worse than those promised at home. Without a passport, MDWs could not return home or seek other work.

MDWs were isolated in their employers' home, lacked information, money, and communication. The dearth of effective support mechanisms in Jordan further compounded their disempowerment. Where deception and exploitation combined with physical abuse and a punitive legal and practical environment for those seeking help, it amounted to forced labor.

Recruitment and Arrival

Fees and Debt

Domestic workers from all three sending countries – the Philippines, Sri Lanka, and Indonesia – arrived in Jordan with debt, partly from fees paid to recruiters for placement abroad (see Background section). Only two of the 18 domestic workers who responded to

questions about recruitment fees had not paid any.¹⁷² One worker, Sutiati S., from Indonesia, said that she even received a small incentive fee from her recruiter to work abroad, a phenomenon confirmed by two faith-based activists who said some Sri Lankan recruiters paid the worker \$300 before they got to Jordan.¹⁷³

Migrant domestic workers are often charged excessive fees that violate recruitment regulations. The Philippines, Indonesia, and Sri Lanka permit recruiters to charge workers limited fees to cover certain costs, such as health checks and passport fees; however, they should not pass the entire cost of recruitment onto workers. For example, the Sri Lankan government charges for medical checks and an insurance scheme, but placement fees are prohibited.¹⁷⁴ Charging a migrant worker placement fees is illegal in many labor-receiving countries, including Jordan. Eleven MDWs told Human Rights Watch they had paid recruitment fees in their home countries of one hundred to several hundred dollars, simply because the recruiters asked them to. Lilis H., from Indonesia, said she “paid \$300 to the Iwa agency to come here.”¹⁷⁵ Fathima S. and Prema C., both from Sri Lanka, said they paid \$100 each to their recruiters.¹⁷⁶

Recruiters claimed the fees, which varied widely, were government-imposed for medical checks, an insurance scheme, or the plane ticket. Sri Lankans paid between 6,000 and 20,000 rupees (\$54.41 to \$181.37) in fees.¹⁷⁷ Eni M., from Indonesia, said her recruiters required her to cover the costs of her medical check.¹⁷⁸ Filipina workers said they paid between 5,000 and 15,000 pesos (\$116.21 to \$348.63) for the medical check-up, the flight, the visa, and placement fees.¹⁷⁹

In the past, Jordanian recruiters regularly deducted the first two to three monthly salaries to cover various administrative expenditures. These “salary deductions” are no longer the norm, but still occur.¹⁸⁰ In Jordan, the Labor Law prohibits “the employer from deducting any portion of [the salary],” and the 2010 Instructions for Recruitment Agencies prohibit

¹⁷² Human Rights Watch interview with Yanti S., August 3, 2010.

¹⁷³ Human Rights Watch interview with a Jordanian faith-based community worker, August 2, 2010, and with Mina S., August 4, 2010. Human Rights Watch has documented payment of incentive monies to MDWs by recruiters in Indonesia, in 2006, and in Sri Lanka, in 2007.

¹⁷⁴ Human Rights Watch, *Exported and Exposed*, section “Recruitment Fee System and Debt Payments.”

¹⁷⁵ Human Rights Watch interview with Lilis H., August 3, 2010.

¹⁷⁶ Human Rights Watch interview with Fathima S., August 1, and with Prema C., August 6, 2010.

¹⁷⁷ Human Rights Watch interview with Krishnan S., July 26, Chandrika M., July 30, and Ponnamma S., August 9, 2010, and with Dammayanthi K., Sri Lankan domestic worker, Amman, August 6.

¹⁷⁸ Human Rights Watch interview with Eni M., August 4, 2010.

¹⁷⁹ Human Rights Watch interview with Rosa L. and Gina R., August 8, 2010.

¹⁸⁰ Human Rights Watch interviews with several migrant domestic workers, Amman, July and August 2010.

the agency from demanding any payment from the worker.¹⁸¹ Four MDWs said they had paid recruitment fees in order to avoid “salary deduction” upon arrival.¹⁸² Gloria J. told Human Rights Watch that her Philippines and her Jordanian recruitment agencies told her “the first three months were for the agency.”¹⁸³ When Krishnan S. asked her employer for her salary he told her he “paid the money to the recruitment agency for their fees and for your ticket here’,” Krishnan S. said.¹⁸⁴

Lack of Information, Deception

Migrant domestic workers often lacked information about their rights, a Labor Ministry official conceded.¹⁸⁵ Some came from poor areas with little formal education and were illiterate, although other MDWs, especially Filipinas, had university degrees. Tamilvaani G. told Human Rights Watch that she did not even know the name of her Jordanian agency when she arrived, let alone her prospective employers’ details. She only knew her monthly salary was \$100 a month.¹⁸⁶

Jordan had no safeguards for informing workers of their rights. ‘Afi Jubur, head of Jordan’s Migrant Domestic Workers (MDW) Department in the Ministry of Labor, told Human Rights Watch: “The Jordanian embassy only certifies that the worker is between 23 and 40 years of age and that she is medically fit for work” before issuing a visa.¹⁸⁷ Hasna M. from Sri Lanka said that she thought she was going to Dubai when she discovered while boarding the plane that she was in fact going to Amman. “I didn’t have my passport or contract or anything. It was all with the agency,” she said.¹⁸⁸

Workers arriving at the airport without a visa could still obtain a domestic worker visa there. A lawyer involved in domestic worker litigation showed Human Rights Watch several copies of passports with such entry work visas, not issued by a Jordanian embassy abroad.¹⁸⁹ In such cases of direct recruitment without an agency, there was no contract,

¹⁸¹ Labor Law No. 8 of 1996, Official Gazette No 4113, April 15, 1996, p. 1173 , art.46, and Recruitment Agencies Instructions, 2010, art. 8(d).

¹⁸² Human Rights Watch interview with Dolores P., and with Dammayanthi K., August 6, 2010.

¹⁸³ Human Rights Watch interview with Gloria J., July 29, 2010.

¹⁸⁴ Human Rights Watch interview with Krishnan S., July 26, 2010.

¹⁸⁵ Human Rights Watch interview with Hamada Abu Nijma, July 28, 2010.

¹⁸⁶ Human Rights Watch interview with Tamilvaani G., July 29, 2010.

¹⁸⁷ Human Rights Watch interview with ‘Afi Jubur, August 2, 2010.

¹⁸⁸ Human Rights Watch interview with Hasna M., August 3, 2010.

¹⁸⁹ Human Rights Watch interview with a lawyer for the Indonesian and the Philippines embassy, Amman, July 31, 2010 (embassy lawyer), and with Ponnamma S., August 9, 2010. The visa in the Ponnamma’s passport was stamped Queen Alia International Airport, the field for “type of visa” left blank. Handwritten above the visa stamp was 71061/KH/11/10 which the lawyer deciphered for Human Rights Watch as indicating a domestic worker visa “KH” for *khadima*, or, servant.

and even less assurance of obtaining lawful residency and work permits. Ponnamma S. from Sri Lanka said that a Sri Lankan man she met back home had promised to find her work. She arrived at the airport, passed immigration, and “a Sri Lankan picked me up from the airport and took me to his aunt, a Sri Lankan woman, who looked for work for me. I worked a little bit in three houses. The Sri Lankan man then brought a Jordanian sponsor for me, and took my passport. I don’t know who the sponsor is.”¹⁹⁰

Workers sometimes began working just hours after arrival. Pamela A. told Human Rights Watch that she “arrived on November 12, 2006, and was taken to Karak the same night. I started work on November 13.”¹⁹¹

Besides ignorance of contractual details, workers were unaware that their employers must apply to issue them residency and work permits and that they may not be legally resident in Jordan without them. “I don’t know if my employer made an *iqama* [residency permit] and work permit for me,” Krishnan S. said. “I was not given or shown any documents.”¹⁹²

Recruiters also deceived domestic workers, mostly by promising higher salaries than those actually paid. Two Sri Lankan workers said their home-country agencies promised them monthly salaries of \$150, but that they received only \$100 in Jordan, a more than 30 percent loss.¹⁹³ Dolores P., a Filipina worker, also complained that her employers only paid her \$150 per month, despite what she said was a salary of \$200 month promised in the Philippines.¹⁹⁴ None of these workers, or any other MDWs, had contracts to prove their claims.¹⁹⁵ A Philippines diplomat explained that agencies

... go to the provinces promising \$350 salaries that turn to \$200 once they get to Manila, \$150 on the plane, and \$100 when they arrive. We have come to a new stage where some Filipina domestic workers lose money by working abroad because they could make more than 8,000 pesos [\$185.94] at home.¹⁹⁶

¹⁹⁰ Human Rights Watch interview with Ponnamma S., August 9, 2010.

¹⁹¹ Human Rights Watch interview with Pamela A., July 29, 2010.

¹⁹² Human Rights Watch interview with Krishnan S., July 26, 2010.

¹⁹³ Human Rights Watch interview with Prema C., August 6, and with Padma S., Sri Lankan domestic worker, Amman, August 1, 2010.

¹⁹⁴ Because of the Philippines ban on MDW deployment to Jordan since 2008, Filipinas who arrived since then did not go through the governmental Philippines Overseas Employment Agency (POEA) at home, where the POEA would have ensured that they knew their salaries and had a copy of their contract.

¹⁹⁵ Human Rights Watch interview with Dolores P., August 6, 2010.

¹⁹⁶ Human Rights Watch interview with Philippines diplomats, August 2, 2010.

Other forms of deception included falsely advertised working conditions. One worker said she cared for two persons almost around-the-clock, although “the recruiter in Sri Lanka told me ... that there was only one person in the household.”¹⁹⁷ Sandra C. from the Philippines said she took the job abroad because “my recruiter said it was light work in a hotel, like office cleaning.”¹⁹⁸ Her doctor had warned her against hard work, but her employers made her lift heavy items and work long hours, causing her pain.¹⁹⁹

No Copy of Contract

None of the domestic workers whom Human Rights Watch interviewed had a copy of her contract. Jordanian officials also did nothing to ensure workers had understood or had copies of their contracts.²⁰⁰ Contracts were not in the worker’s local language, and while some said they had read and understood their contract before signing it, others were not given the chance or could not read the language. Only three domestic workers interviewed said they had signed and broadly understood their contracts, but did not receive a copy.²⁰¹

In the case of two Filipina MDWs, their contracts violated Jordanian law or the Unified Standard Contract. For example, Marisa G. said that she agreed in her contract that she would not have a weekly day of rest, while Gina R. agreed to a provision for one month’s salary deduction, no day off, and a fine of \$2,000 if she broke the contract.²⁰² She understood the contract because she knew English.

Eight domestic workers said they signed a contract, but did not understand its contents or receive a copy, partially because it was in English.²⁰³ Only one worker, from Sri Lanka, said her contract was in her local language, Sinhala, although she added that she did not have the opportunity to read it. She recalled a verbal agreement that during the first three months her salary would be “deducted” for the agency.²⁰⁴ One worker from the Philippines said she signed two contracts, one there, and another in Jordan, neither of which she read, understood, or received copies of from the agencies.²⁰⁵

¹⁹⁷ Human Rights Watch interview with Krishnan S., July 26, 2010.

¹⁹⁸ Human Rights Watch interview with Sandra C., August 8, 2010.

¹⁹⁹ Ibid.

²⁰⁰ Human Rights Watch interview with ‘Afi Jubur, August 2, 2010.

²⁰¹ Human Rights Watch interview with Gloria J., July 29, 2010.

²⁰² Human Rights Watch interview with Marisa G. August 4, and with Gina R., August 8, 2010.

²⁰³ Human Rights Watch interview with Chandrika M., July 30, with Hemanthi J., August 1, with Farzana M., August 1, with Winarti N., August 4, with Sutiaty S., August 4, and with Mina S., August 4, 2010.

²⁰⁴ Human Rights Watch interview with Chemmani R., August 9, 2010.

²⁰⁵ Human Rights Watch interview with Rosa L., August 8, 2010.

Seven other domestic workers said they had never signed a contract before coming to Jordan and starting work.²⁰⁶ Marjorie L. from the Philippines said:

I received no contract; the recruiters said I would get it on arrival. I only got a piece of paper with my visa on it. They said my salary would be \$200 per month. There was no description of the type of work other than housework. Then I heard that I would be going to Jordan and that there would be a three-month salary deduction on arrival for processing fees. I had no [telephone] number or other paperwork for whom I would be working for here, either the employer or the agency.²⁰⁷

The proper procedures for concluding a work contract were unclear. Currently the employer, the Jordanian recruitment agency, the worker, and her embassy must sign the Unified Standard Contract. However, as Khalid Husainat, the president of the Association of Recruitment Agencies in Jordan, the group representing the recruitment industry's interests, explained, there are two separate, and not necessarily identical, contracts:

One is a contract signed by the prospective employer, delegating the agency to recruit a worker. Then the Indonesian agency and the worker sign. This contract goes back to Jordan for authentication at the embassy. The second contract is signed between the agency and the sponsor [employer], and this is needed to get the visa from the [Jordanian] Ministry of Labor.²⁰⁸

Workers who left abusive employers were at the mercy of their agencies, with no ability to negotiate terms of a contract and few if any options to decline work.

Confiscation of Documents

Employers and recruitment agents further disempower workers by confiscating their passports and other documents, such as residency and work permits. Without these documents, an MDW can neither return home nor seek new employment. Employers sometimes turned the return of these documents into a bargaining chip when negotiating unpaid wages, return tickets, or transfers of employment with the employer. Jordanian law

²⁰⁶ Human Rights Watch interview with Chandrika M. July 30, with Farzana M., August 1, with Nining W., August 3, with Pamela A., July 29, and with Sandra C., August 8, 2010.

²⁰⁷ Human Rights Watch interview with Marjorie L., January 29, 2010.

²⁰⁸ Human Rights Watch interview with Khalid Husainat, August 4, 2010.

requires a migrant worker seeking new employment to obtain the consent of the initial employer, at least during the first year.²⁰⁹

Passport confiscation was near universal. None of the more than 200 Indonesian workers sheltering at the Indonesian embassy said she had been able to keep her passport,²¹⁰ and a Philippines embassy official said that “one hundred percent” of runaway domestic workers did not have their passports.²¹¹ Human Rights Watch interviewed only three workers, all Sri Lankans, who had their passports, two of whom had worked in Jordan for many years.²¹²

In 22 cases, recruitment agency staff immediately confiscated the worker’s passport at the airport. These included the Petra, Transia, al-Masa, ABC Abdun, al-Bait al-Sa’id, Saja al-Lail, Awsan, Jakarta, Saba, and Amira agencies.²¹³ Wati S., from Indonesia, told Human Rights Watch: “When I arrived on May 14, 2009, the Petra agency immediately took my passport at the airport.”²¹⁴ Some workers did not know where their passports ended up later; others said they then saw their passports with employers. “On arrival, the agency took my passport away. It is with Baba now,” Fatima N. said.²¹⁵ Employers also confiscated workers’ passports directly at the airport in an additional four cases that Human Rights Watch reviewed.²¹⁶

Confiscated documents also included residency and work permits, without which a domestic worker is severely limited in movement and liable to arrest for being in the country undocumented. Numerous workers did not know whether their employers had issued them a valid residency and work permit, including Gloria J., who said that she “found out later” that neither her agency nor her employer “made a work permit or a residency permit for me.”²¹⁷

Several domestic workers who left their abusive employers and have since worked as freelancers said they avoided going out after dark for fear of arrest. One Sri Lankan worker

²⁰⁹ Human Rights Watch interview with ‘Afi Jubur, August 2, 2010. Jubur explained that in July 2010 the ministry adopted a new “release” [تَنَازُل] form for changing employers that for the first time required the worker’s consent, too. Previously, an employer could agree with a prospective employer to sell the worker’s services under the contract without her consent.

²¹⁰ Human Rights Watch survey of over 200 Indonesian domestic workers, August 3, 2010.

²¹¹ Human Rights Watch interview with Virginia Calvez, July 27, 2010.

²¹² Human Rights Watch interview with Indrani P., August 3, and with Fathima S., August 1, 2010.

²¹³ Human Rights Watch interview with Chandrika M., July 30, with Hemanthi J., July 30, with Farzana M., August 1, with Siti Mujiati W., August 3, with Hasna M., August 3, with Eni M., August 4, with Dammayanthi K., August 6, with Rosa L., August 8, with Sandra C., August 8, and with Gina R., August 8, 2010.

²¹⁴ Human Rights Watch interview with Wati S., August 4, 2010.

²¹⁵ Human Rights Watch interview with Hemanthi J., July 30, 2010.

²¹⁶ Human Rights Watch interview with Tamilvaani G., July 29, with Padma S., August 1, and with Chemmani R., August 9, 2010.

²¹⁷ Human Rights Watch interview with Gloria J., July 29, 2010, and, for another case, with Yanti S., August 3, 2010.

said: “I have worked freelance ... without a residency permit. Twice the police stopped me, but I got away with luck and a smile.”²¹⁸

Jordanian recruiters, employers, and judicial officers denied that keeping foreign workers’ passports diminished their rights. Some justified doing so as a way to protect the worker from losing her documents. “My domestic worker’s passport is ... with the family papers. It is ‘keeping for protection’ of the passport, not ‘confiscation’,” a recruiter told Human Rights Watch.²¹⁹ Others like Burhan al-Fa’uri, president of the Association of Owners of Support Services Companies, said holding workers’ passports was “protection for the employers” against workers stealing something and leaving the country.²²⁰ Khalid Husainat considered employers to be the owners of MDWs’ passports, saying recruitment agencies handed documents to the employer, not the worker, “because he pays us for that.”²²¹

It is clear, however, that employers and agencies also confiscated documents for financial gain. Human Rights Watch reviewed six cases in which recruitment agencies or employers exploited domestic workers by setting a high price for returning passports. Pamela A. from the Philippines told Human Rights Watch that she had found a new employer willing to apply for a residency and work permit for her, but that her recruitment agency demanded JOD1,600 (\$2,261) in order to return her passport.²²² Krishnan S. said she needed her passport after leaving her abusive employer and to find a new employer, but her recruitment agency “told me they wanted JOD600 (\$848) in order to return my passport.”²²³ Padma S. from Sri Lanka said that she agreed to pay her recruitment agent \$600 in return for her passport, JOD200 (\$283) in cash, and the rest in free labor.²²⁴

MDWs arriving in the kingdom cannot complete the residency and work permit procedures on their own, and agencies and employers initially confiscate passports for weeks or months to complete the procedures. Faisal Jubur, head of the Labor Ministry’s Legal Affairs Department, said the government was working on an electronic system to notify agencies

²¹⁸ Human Rights Watch interview with Padma S., August 1, 2010.

²¹⁹ Human Rights Watch interview with Khalid Husainat, August 4, 2010.

²²⁰ Burhan al-Fa’uri, president of the Association of Owners of Support Services Companies, commenting at a roundtable meeting “Protect Migrant Workers from Trafficking in Persons,” organized by Tamkeen, a Jordanian NGO working to protect migrant workers, Amman, December 14, 2010.

²²¹ Human Rights Watch interview with Khalid Husainat, August 4, 2010.

²²² Human Rights Watch interview with Pamela A., July 29, 2010.

²²³ Human Rights Watch interview with Krishnan S., July 26, 2010.

²²⁴ Human Rights Watch interview with Padma S., August 1, 2010.

and employers of an appointment to complete their migrant workers' permits, so that they did not have to hold the passports for long periods of time.²²⁵

Nowhere to Turn

One day, Mama punched me in the mouth because I didn't get the kids' clothes ... I was bleeding. Mama opened the door and told me to get out. But I had nowhere to go

—Yuniarti W., Indonesian domestic worker, Amman, August 4, 2010

Domestic workers have nowhere to turn to solve problems of abuse. Most workers' only point of contact is their recruitment agency, but the agencies often forced escaped workers to work elsewhere and did not solve their claims against the old employers. Some workers ran away and worked as freelancers on their own, usually without residency and work permits, others sought shelter at their embassies. Hotlines at the Labor Ministry and for trafficked workers were either unknown or did not work. Most domestic workers escaped only after they learned of the shelter at their embassy. There is no government-provided shelter for domestic workers.

Isolation and Lack of Information

Domestic workers were sometimes had so little information they did not know what city they lived in. Many were isolated, especially if they lived outside Amman, where finding transportation to their embassy was more difficult and costly. Many did not know where their embassy was located, including one Filipina worker who said: "From the airport, I was taken to the recruitment agency [and then to its] boss's house. Then he took me [back] to the agency to go to my house with my employer. I didn't know where the embassy was."²²⁶

Isolation in the home also put workers beyond access to help, unless a chance encounter with another worker provided information where to go. Faith-based workers told Human Rights Watch that Tamilvaani G., a Sri Lankan worker in Irbid, northern Jordan, had been "locked up and unpaid for seven years had only by chance heard of us and contacted us."²²⁷

Prohibition of Communication

Domestic workers often lack both the information to seek help and the means to do so. Most employers did not allow their domestic worker to leave the house on their own (see

²²⁵ Comment made by Faisal Jubur, director of the Legal Affairs Department, Labor Ministry, at a roundtable meeting "Protect Migrant Workers from Trafficking in Persons," Amman, December 14, 2010.

²²⁶ Human Rights Watch interview with Journey L., August 3, 2010.

²²⁷ Human Rights Watch interview with faith-based workers, Amman, July 27, 2010.

above). Only some workers had access to phones, and only a few had information about getting help. Under the Unified Standard Contract and the 2009 MDW Regulation, domestic workers have the right to call home at the employers' expense once a month, and more frequently at any time they wish at her own expense, and the employer may not interfere with their written communication.²²⁸

Krishnan S. said that she had called her family in Sri Lanka on her first day of work, "and then no more – I was not allowed, not even to write home" and that her employers did not allow her "to speak to anyone while there. I only talked from window to window to one other Sri Lankan in another flat."²²⁹ Chemmani R. said she was not allowed to call home at her first house, and did so once a month at her second at her own expense.²³⁰

Some domestic workers had mobile phones, but employers kept a tight watch on calls. Marjorie L. said her employer gave her a mobile phone after three months, "but she checked it to see if I called somebody."²³¹ Gloria J. said her employer allowed her to have a mobile phone at her expense after one year, but took it away in the third year because her employer witnessed her receiving a call from a person she did know and suspected she had given her number to unknown men.²³²

Lack of Shelter

Jordan does not have a government shelter for domestic workers. However, all three embassies of labor-sending countries, Indonesia, the Philippines, and Sri Lanka, do – an arrangement that Basim al-Dahamisha, deputy head of the Interior Ministry's Nationality and Foreigners' Affairs Department, said "violate[s] our sovereignty."²³³

Two years ago, Jordan began to study how to establish a shelter, although none exist to date. In August 2010, senior public security officials incorrectly told Human Rights Watch that, "two weeks ago, a new shelter for victims of trafficking opened. The Criminal Investigation Department classifies who gets to go there."²³⁴ In December 2010, a government official acknowledged that only the by-laws for a proposed shelter had

²²⁸ MDW Regulation, 2009, art. 4(e), and Unified Standard Contract, art. 7.

²²⁹ Human Rights Watch interview with Krishnan S., July 26, 2010.

²³⁰ MDW Regulations, 2009, art. 4(d), and Human Rights Watch interview with Chemmani R., August 9, 2010.

²³¹ Human Rights Watch interview with Marjorie L., January 29, 2010.

²³² Human Rights Watch interview with Gloria J., July 29, 2010.

²³³ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²³⁴ Human Rights Watch interview with Public Security Directorate officials, August, 9, 2010.

recently been sent to the Council of Ministers for approval, but no concrete planning was underway.²³⁵

However, the shelter under discussion is only for victims of trafficking in persons, and would not include domestic workers who allege abuse that does not amount to trafficking. As a result, such a shelter would be of limited value to domestic workers, as Jordanian prosecutors in 2010 classified only six cases involving domestic workers as trafficking in persons.²³⁶ A senior Interior Ministry official said he wanted a new Jordanian-run shelter for escaped domestic workers, even if they are not trafficking victims. “That way, we can deal with their problems much faster,” he said.²³⁷

Human Rights Watch found embassy shelters overcrowded. Sri Lanka and Indonesia shelter escaped workers in their embassies’ basements, while the Philippines rents a house that workers call the POLO (Philippines Overseas Labour Office).²³⁸ When Human Rights Watch visited in July and August 2010, there were between 145 and 150 Filipinas at the POLO, 225 domestic workers at the Indonesian embassy shelter, and 85 at the Sri Lankan embassy shelter, two or three of whom had been there for a year, according to A.W. Mohottala, Sri Lanka’s ambassador to Jordan.²³⁹ Mohottala also said the basement could accommodate 100 workers, but claimed that “we take in anyone who comes and needs to stay,” and that sometimes 110 or more MDWs are there, adding that running the shelter “costs us between JOD3,500 (\$4,946) and JOD4,000 (\$5,652) per month ... including medical care for the 80 or so women there.”²⁴⁰ At the Indonesian embassy shelter, more than 200 MDWs lived in a large crowded basement, and at the POLO, over 100 MDWs lived in a rented house with a small number of rooms for the women. Both the Indonesian and Philippines shelters took only emergency cases to hospital.²⁴¹

²³⁵ Human Rights Watch interview with Muhannad Duwaikat, December 14, 2010.

²³⁶ Hassan Abdallat, prosecutor-general for Amman and all trafficking cases, comment at a roundtable meeting “Protect Migrant Workers from Trafficking in Persons,” organized by Tamkeen, a Jordanian NGO working to protect migrant workers, Amman, December 14, 2010.

²³⁷ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010. Jordan has a shelter for victims of sexual harassment or violence, run by the Family Protection Department of the Public Security Directorate. Human Rights Watch interview with ‘Umar al-Jubur, Family Protection officer, Amman, July 28, 2010. Under international anti-trafficking conventions to which Jordan is a party, victims of trafficking are entitled to shelter, whereas no such entitlements exist for MDWs who are not deemed to be trafficked.

²³⁸ The Philippines operates several Philippines Overseas Labor Offices (POLO) in countries with large concentrations of overseas Filipino workers. These offices are charged with handling labor disputes and coordinates with the Overseas Workers Welfare Administration to operate temporary shelters for migrant workers in distress.

²³⁹ Human Rights Watch interview with A.W. Mohottala, August 11, 2010..

²⁴⁰ Ibid., August 11, 2010.

²⁴¹ Human Rights Watch interview with Virginia Calvez, July 27, 2010, and with Indonesian diplomats, August 2, 2010.

Some embassies tried to rescue their workers in distress, like Pamela A. who said that she called for help after not being paid for months, and a Philippines “embassy car came to pick me up and we went to the shelter.”²⁴² Contrary to Mohottala’s claims, in some cases all three shelters also denied assistance to their nationals in need and returned them to abusive employers or agencies.²⁴³ Gloria J., from the Philippines, was not paid, then received partial payment, then had her salary reduced and conditioned on her performance, and then was again not paid. She described how she turned to her embassy for help, only to be turned over to her recruiting agent.²⁴⁴

Domestic workers were not free to come and go at the shelters, which was a condition of their stay, diplomats said, although the POLO and the Indonesian embassy shelter, but not Sri Lanka’s, allowed workers to leave for short periods.²⁴⁵ Some domestic workers spend long periods there, waiting for their salaries, resolution of criminal cases, or a waiver for their overstayer fines and a ticket home. During that time, they could not work. “After one month there, I and seven others left [the POLO], we could not wait that long to get our money,” one Filipina worker told Human Rights Watch.²⁴⁶ On January 24, 2011, 37 Sri Lankan domestic workers sheltering at the embassy, some for over 18 months, left en masse to Tamkeen, the NGO that assists domestic workers, because they had been confined and felt there was no progress in allowing them to return home.²⁴⁷

Recruitment Agencies

Recruitment agencies are a frequent point of outside contact for domestic workers who have left employers. However, their motivation often appears to be financial, and in interviews they exhibited little interest in the personal welfare of the workers, for whom they rarely provided effective support. While this is not their role or duty, agencies also returned MDWs to abusive employers, or failed to allow them to return home by withholding their passports or hiring them out to new employers.

²⁴² Human Rights Watch interview with Pamela A., July 29, 2010.

²⁴³ Human Rights Watch interviews with Sri Lankan, Indonesian, and Filipina domestic workers, Amman, July and August 2010.

²⁴⁴ Human Rights Watch interview with Gloria J., July 29, 2010.

²⁴⁵ Sri Lankan embassy officials also restricted the access of community workers to their nationals sheltering there. Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, and with faith-based workers, July 27, 2010. Human Rights Watch interview with Indonesian, Philippines, and Sri Lankan diplomats, August 2, 2010.

²⁴⁶ Human Rights Watch interview with Pamela A., July 29, 2010.

²⁴⁷ Human Rights Watch letter to Prime Minister Samir al-Rifa’i, January 27, 2010, <http://www.hrw.org/node/96098>. All but seven had returned home by June 2011.

Despite the little hope of redress for abuses suffered, workers fleeing abuse sometimes turned to their agencies because they hoped to continue working elsewhere. Agencies were not always welcoming and sometimes returned workers to abusive employers (see below: Forced Labor). Krishnan S. from Sri Lanka said that her agents “always put down the phone” when she called to complain about unpaid salaries, “but they picked up when I said my name was Fatima. [In the end, they] couldn’t get my salary,” she said.²⁴⁸

Workers like Dolores P. from the Philippines also turned to agencies to return home, but in several cases staff there forced them to work with new employers, or sold them to a new agency.

I ... call[ed] the agency, and they picked me up. For JOD50 [\$71], they ‘sold’ me on to another agency. I saw the payment then to another agency. They made me work with a family where I had problems. The wife was not good.”²⁴⁹

Workers risked becoming undocumented as agencies sold their services for short periods to various employers without registering them and applying for residency and employment permits. Padma S., from Sri Lanka, said her agency helped her find good employment after her first employers returned her there, but when she returned the second time, agency staff forced her to work part-time jobs, for little money, and without documentation.²⁵⁰ One senior Interior Ministry official told Human Rights Watch, “The agencies are the devils,” because they send domestic workers to various employers in violation of labor and residency requirements, making it impossible for the government to supervise the sector.²⁵¹

²⁴⁸ Human Rights Watch interview with Krishnan S., July 26, 2010

²⁴⁹ Human Rights Watch interview with Dolores P., August 6, 2010.

²⁵⁰ Human Rights Watch interview with Padma S., August 1, 2010.

²⁵¹ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

IV. Residency Fines and Repatriation Costs

Migrant domestic workers face two major obstacles to freely ending their employment and returning home, or seeking redress for abuse suffered. The first obstacle is fines, which Jordanian law imposes on foreigners for falling out of legal residency status, but that are too high for MDWs to pay. The second obstacle is return tickets, which workers also cannot afford and that the Unified Standard Contract obliges employers to pay.

Legal Residency and Visa “Overstayer” Fines

Jordan imposes fines of JOD1.5 (\$2.12) for each day a foreigner overstays his or her legal residency, but contradictions remain about who has to pay. In some cases, MDWs leave their employers voluntarily or overstay their visas in order to work as undocumented freelancers, who often enjoy better pay and working conditions. However, more commonly, employers and recruitment agencies are at fault for causing workers to fall out of legal residency status because they do not apply for the requisite residency permits or have them renewed each year, or by abusing workers who fall out of status if they run away.

Residency permits are credit-card sized documents issued by the Interior Ministry that cost JOD30 (\$42.40) a year; they list the holder’s name, the employer, and the validity period. A residency permit is necessary to obtain a work permit, costing JOD380 (\$537) a year; agencies include costs for both permits for the first year in the recruitment fees they charge employers, and apply for the permits on behalf of the employer in the worker’s first year.²⁵²

Article 3 of the Unified Standard Contract obliges employers to apply, at their cost, for the domestic worker’s residency and work permit. The contract specifically provides that “If the [employer] fails to obtain the permits, then he/she shall pay the penalties stated in article (34) of the Residency and Foreigners Law.”²⁵³ If the employer is not at fault, the law holds the worker responsible.

The Unified Standard Contract also specifies that the worker can legally cancel the contract without notice if she is not paid, or if the employer failed to issue her the required permits, or failed to pay the return ticket after at least two years of service.²⁵⁴ The employer remains responsible for all resulting obligations, including when a worker falls out of residency

²⁵² Human Rights Watch interview with Khalid Husainat, August 4, 2010.

²⁵³ Unified Standard Contract, art. 3.

²⁵⁴ Unified Standard Contract, art. 9.

status after leaving employment for one of these three reasons. The law is silent, however, on what happens if the worker leaves for other abuse that violates Jordanian labor or criminal law, and consequently falls out of documented residency status (having no means to renew her status without legal employment).

The government fails to hold employers and agents accountable when they fail to apply for or renew permits. Basim al-Dahamisha, deputy head of the Residency and Foreigners Department at the Ministry of Interior, said the ministry did “make the employers pay,” but only “if it is proven” that they were at fault.

In one typical scenario, an MDW escapes abuse, such as beatings, and then works as a freelancer in the informal market or sheltered at her embassy while accumulating fines because her permit had expired. If the abuse underlying the escape was not proven, then the employer’s fault at causing the worker to lose residency status was equally unproven, al-Dahimisha said.²⁵⁵

Even where the law empowered officials to make the employers or agents pay, they only did so occasionally. The government has not applied any sanctions to negligent employers.²⁵⁶ Philippines embassy Welfare and Labor Attaché Virginia Calvez said that “We want the government to charge agencies and employers ... but that is not happening.”²⁵⁷ Nevertheless, Khalid Husainat, head of the recruitment agencies association, complained that sometimes the police put pressure on the agencies to pay the fines although “we have no responsibility to do so under the law”:

We have a responsibility to obtain a residency permit for the first year the worker is here, but not thereafter. Sometimes, the police station insists on the employer also being present [to pay fines]. If he does not show up, what are we to do?²⁵⁸

A second problem resulting from unpaid fines is that the worker cannot leave to return home, regardless of who is legally responsible for paying the fines. Al-Dahamisha told

²⁵⁵ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁵⁶ Ibid., and with Indonesian diplomats, August 2, 2010.

²⁵⁷ Human Rights Watch interview with Virginia Calvez, July, 27 2010.

²⁵⁸ Human Rights Watch interview with Khalid Husainat, August 4, 2010.

Human Rights Watch, “A person who has been unlawfully present cannot leave of her own will without either paying the fines or receiving an exemption.”²⁵⁹

Gloria J. was one of those affected. She escaped abusive employers to her agency, which made her work in various houses. She could not go home, she said, because “no one ever made a residency permit for me” and she could not pay the accumulated fines of several years, that is, over \$1,000.²⁶⁰ Gloria J.’s situation was common. A recruitment agent said he had many cases where employers failed to apply for permit renewals, with some calculating that overstayer fines are less than permit fees.²⁶¹ Anju N., a Sri Lankan, was also stuck because her employer had never applied for a residency permit for her, leading to fines she could not pay. She said that her employer three days before she spoke to us promised to send her home now that her two-year contract was up. “But she has never made an *iqama* for me, although she’s paid my salary. She has given my passport to the agency. I don’t know what to do.”²⁶²

Al-Dahimasha expressed astonishment at such accounts. “This is the first time that I hear of domestic workers who cannot leave because they do not have valid residency permits because their initial employers did not renew them,” he said.²⁶³ Yet it is the ministry’s lack of enforcement that allows negligent employers to avoid their obligations and leaves domestic workers stranded.

The Interior Ministry not only failed to hold employers accountable, it failed to promptly waive accumulated overstayer fines for MDWs who fell out of status through no fault of their own. By law, the interior minister can exempt up to JOD250 (\$353) in overstayer fines, and the prime minister must approve higher exemptions.²⁶⁴ A faith-based activist said that as a matter of policy, overstayers for more than two years received “an automatic deduction of JOD250.”²⁶⁵ Jordan earned JOD2,250,000 (\$3,179,250) in overstayer fines in

²⁵⁹ Human Rights Watch interview with Basim al-Dahamisha, August 8, and with Indonesian diplomats, August 2, 2010. In May 2009, following a visit to Jordan by Sri Lanka’s president, the embassy submitted the names of 470 workers to the king, about 60 of whom were outside the shelter. After receiving the exemption, 100 workers went home, but 370 reconsidered and preferred to stay in Jordan ‘undocumented.’

²⁶⁰ Human Rights Watch interview with Gloria J., July 29, 2010.

²⁶¹ Human Rights Watch interview with Tariq, December 15, 2010.

²⁶² Human Rights Watch interview with Anju N., Sri Lankan domestic workers, Amman, July 30, 2010.

²⁶³ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁶⁴ Residency and Foreigners’ Affairs Law No. 24 of 1973, Official Gazette No. 2426, June 16, 1973, p. 1112, art.34(b). Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁶⁵ Human Rights Watch interview with a Jordanian faith-based community worker, August 2, 2010.

2009 from all nationalities and visa types, but also granted exemptions worth millions, al-Dahamisha said.²⁶⁶

While the government has consistently exempted many distressed MDWs from paying fines, at least those sheltering at their embassies, such exemptions were the result of unclear and protracted processes.²⁶⁷ Calvez, the Filipina diplomat, said that granting exemptions followed “no specific conditions” and was “discretionary.”²⁶⁸

Al-Dahamisha admitted processing cases only in batches, not individually, and first checked for any criminal charges or court cases, but blamed embassies for the slow progress: “Our problem is that the embassies are slow in coming to us with information.”²⁶⁹ Calvez countered that the embassy recently gave the Interior Ministry the names of 46 Filipina domestic workers whose only obstacle to returning home was overstayer fines for two years or more, totaling \$76,000, but that the government had not responded. Calvez explained that she informs the ministry “every week” of new arrivals at their shelter, so that accrual of fines stops, but that “they do not reply.”²⁷⁰ Al-Dahamisha said various parts of the Interior and Labor Ministries were working on the cases, and that fines continue to accumulate at embassy shelters and only stop if the police detain a MDW.²⁷¹

Ponnamma S. is a Sri Lankan domestic worker who had escaped abuse several years ago, but was unable to return home due to overstayer fines. She approached her embassy in 2006 where officials promised to contact her “when my name was coming up as cleared to leave. They never called,” she said.²⁷² In September 2009, she approached Tamkeen, which filed a request for exemption with the Central Amman Police station citing the employer’s initial obligations to procure the residency permit. “The police didn’t speak to us, but took the papers from Tamkeen and said they’d call back, but never did. I don’t have an escape or theft or any other case with the police,” Ponnomma S. said.²⁷³

²⁶⁶ Human Rights Watch interview with Public Security Directorate officials, August, 9, 2010.

²⁶⁷ “In practice, no domestic worker is made to pay the overstayer fine.” Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁶⁸ Human Rights Watch interview with Virginia Calvez, July, 27 2010.

²⁶⁹ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁷⁰ Human Rights Watch interview with Virginia Calvez, July, 27 2010.

²⁷¹ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁷² Human Rights Watch interview with Ponnamma S., Sri Lankan domestic worker, Amman, August 9, 2010.

²⁷³ Ibid.

Because exemptions take so long, Tamkeen has tried to persuade employers to pay or threatened legal action, with some success.²⁷⁴ Others remained reticent. In Tamilvaani G.'s case, her employers promised Tamkeen that they would pay her salary for the past 10 years, a ticket home, and her overstayer fines. A Tamkeen staff lawyer said the employers paid the ticket and most of the salary, "but not the fines, which should be over JOD5,000 (\$7067), as they are waiting for an 'amnesty.'"²⁷⁵ As a result, Tamilvaani G. was unable to leave.

The overcrowded embassy shelters, the inability to continue working while there, and their confinement, means that many MDWs opted to freelance after escaping. Freelancers could not rely on embassies to follow up on petitions for exemptions from overstayer fines, and constantly lived in fear of contact with Jordanian officials.

Fathima S., a Sri Lankan domestic worker, said her fines were JOD3,100 (\$4381): "I gathered that money and was going to pay, but then someone said there might be a problem in my file, so I didn't go to the ministry," she said.²⁷⁶ Fathima S. was freelancing after escaping an abusive employer. She could not immediately return home because of overstayer fines, accumulated while she was working because her employer had not applied for a residency permit for her.

Human Rights Watch spoke to three Sri Lankan freelancers who could not return home because of overstayer fines totaling thousands of dinars and whose undocumented residency status prevented their children from attending school.²⁷⁷ A faith-based worker taught 15 of these children in an informal school.²⁷⁸ One domestic worker said she escaped her abusive employers in 2003, worked as a freelancer, married, and had a child. Because she and her husband had no residency permits, their child did not, either, and would be unable to enroll in school when he turned six in a few months. She also could not leave, due to the overstayer fines.²⁷⁹ There are several dozen undocumented children of migrant

²⁷⁴ Human Rights Watch interview with Lilis H., August 3, 2010. Even where litigation is underway, a foreigner who is a party to a lawsuit does not receive legal residency status. Many labor-receiving governments, including the UAE, Bahrain, Singapore, and Malaysia granted migrants temporary residency for the purpose of litigation. Human Rights Watch interview with Calvez, July 26, 2010.

²⁷⁵ Human Rights Watch correspondence with Tamkeen, August 24, 2010.

²⁷⁶ Human Rights Watch interview with Fathima S., August 1, 2010.

²⁷⁷ Human Rights Watch interview with Chamali W. and her husband Kumari G., Sri Lankan workers, Amman, August 9, 2001, and with Anarkali T., August 6, and with Chemmani R., July 30, 2010.

²⁷⁸ Human Rights Watch interview with a Jordanian faith-based community worker, August 2, 2010. See also: Letter from Human Rights Watch to Khalid al-Karaki, Deputy Prime Minister and Minister of Education, Undocumented Migrant Children's Right to Education, September 9, 2010, <http://www.hrw.org/en/news/2010/09/09/letter-jordanian-minister-education-urging-access-education-all-children>.

²⁷⁹ Human Rights Watch interview with Chemmani R., August 9, 2010.

workers unable to attend school, a faith-based community worker told Human Rights Watch.²⁸⁰

Freelancers hoped for a general amnesty from overstayer fines. Jordan has issued several such amnesties, for example after King Hussein died in 1999, or in May 2009, when embassies applied pressure. On March 15, 2011, the government declared a 50 percent reduction in overstayer fines for MDWs only.²⁸¹ Diplomats disliked the term “amnesty,” as Sri Lankan ambassador, Mohottala, explained: “It is an amnesty for the sponsors,” who neglected their obligations, not for the workers.²⁸² A Philippines diplomat was equally adamant that “the worker has done nothing wrong.”²⁸³ Employers, too, hope for such amnesties. Tamilvaani G. said that “on December 17, 2009, my madam heard there was an amnesty from overstayer fines and took me to the embassy. The embassy said the amnesty will come into effect in three months. We filled out a form, and the embassy told me to go back.”²⁸⁴ However, the amnesty never took effect.

Besides amnesties, exemptions from fines, or paying them, workers could be returned home via deportation. Deportation for overstaying one’s legal residency is possible under article 37 of the Residency and Foreigners Law, al-Dahimisha said. Deportation is an alternative to the fine, not an addition, as the state does not impose “two alternative sanctions for the same violation.”²⁸⁵ Deportations carry a lifetime ban on reentry for violations of immigration laws, and a five-year ban for labor violations.²⁸⁶

Deportations are relatively uncommon. Mohottala told Human Rights Watch in August 2010 that the police had recently turned away two or three workers whom the Sri Lankan embassy had brought to them for deportation. “They are stuck and need an exemption from the fines to go home,” Mohottala said.²⁸⁷ In 2008, Jordan deported eight Filipinas, and in 2009, 32, the embassy lawyer told Human Rights Watch.²⁸⁸ A Philippines diplomat complained about one case of “a Filipina with diagnosed tuberculosis here for over one

²⁸⁰ Human Rights Watch interview with a Jordanian faith-based community worker, August 2, 2010.

²⁸¹ Human Rights Watch interview with A.W. Mohottala, August 11, 2010.

²⁸² Ibid.

²⁸³ Human Rights Watch interview with Philippines diplomats, August 2, 2010.

²⁸⁴ Human Rights Watch interview with Tamilvaani G., July 29, 2010.

²⁸⁵ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁸⁶ Ibid.

²⁸⁷ Human Rights Watch interview with A.W. Mohottala, August 11, 2010.

²⁸⁸ Human Rights Watch interview with a lawyer for the Indonesian and the Philippines embassies, July 31, 2010.

month, but the Jordanians haven't cleared her for deportation. Tuberculosis is a deportable condition."²⁸⁹

The police only detained undocumented workers if stopped on the street or arrested for crimes. In criminal cases, deportations only occurred after criminal proceedings. A faith-based worker said that, "Any girl in prison gets an amnesty from the fines, because they leave via deportation, but they usually have to stay one-and-a-half months in prison while the government sees whether it can recoup something from the agency or the employer."²⁹⁰

Officials were not contemplating speedier and more consistent enforcement against negligent employers, but instead proposed that agencies be responsible for residency permits, not individual employers.²⁹¹ Khalid Husainat of the recruitment agencies' lobby, and Calvez, the Philippines diplomat, supported such a move.²⁹² Several MDWs working as freelancers but with residency fines said they would accept deportation if they could return home that way.²⁹³

Cost of Repatriation

Even when cleared to go home, workers could not afford the tickets. The two main problems were getting employers to pay, and proving that an MDW was entitled to a return ticket because she quit for a valid reason before the end of two years' service.

Under the Unified Standard Contract and the 2009 MDW Regulation, employers are obliged to pay for the return journey, provided the worker has fulfilled her two-year contract or quit her job for cause. Furthermore, agencies must compensate the employer and bear the costs of repatriation in some other cases, such as workers who have an infectious disease, are pregnant, or unfit for work prior to their arrival, or who die or become unfit for work after arrival.²⁹⁴

²⁸⁹ Human Rights Watch interview with Virginia Calvez, August 8, 2010.

²⁹⁰ Human Rights Watch interview with a Jordanian faith-based community worker, August 2, 2010.

²⁹¹ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁹² Human Rights Watch interview with Khalid Husainat, August 4, 2010, and with Virginia Calvez, July 27, 2010. Al-Dahamisha also wanted to impose "fines on [persons] sheltering overstayer foreigners," to reduce the number of undocumented foreigners. Punishing those helping a stranded worker, however, will not solve a problem at the root of which are unscrupulous, and sometimes abusive, agencies and employers. Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

²⁹³ Human Rights Watch interviews with several MDWs, Amman, July and August 2010.

²⁹⁴ Recruitment Agencies Instructions, 2010, art. 5(d) and 5(e).

The law says that workers who “escape ... from the house without the employer being the reason” are legally liable for “all financial obligations” including repatriation costs.²⁹⁵ Because Jordan only recognizes labor contracts up to one year, “legally, a worker can stop working after one year and return home, without breach of the two-year [MDW] contract. However, she may not be entitled to the costs of repatriation,” Labor Ministry official Abu Nijma said.²⁹⁶ A recruitment agent supported this interpretation, saying if an MDW quit before the end of the two-year contract without valid reason she had to return “at her own expense.”²⁹⁷

‘Afi Jubur, head of the Labor Ministry’s MDW Department, asserted that his staff pro-rated the cost of the return ticket according to the length of employment, but no such instance has come to Human Rights Watch’s attention. Abu Nijma, Jubur’s predecessor, denied such a practice existed during his tenure.²⁹⁸

Under Jordanian law, if the MDW quit without a valid reason before the end of two years’ service, employers could also sue the worker for compensation for the remainder of the employment term (up to half the worker’s salary), though Abu Nijma said that no employers had made use of this theoretical possibility (equally theoretical were a worker’s rights to all salaries throughout the end of the contract if the employer ended her employment without cause beforehand).²⁹⁹

Employer payment of return ticket was a matter of negotiation if a worker escaped for a valid reason or finished her contract. Jayanadani A., from Sri Lanka, said her last employer, “a crazy old lady, who beat me with a stick from her wheelchair,” ended her employment after one year. When she returned to her agency, she found it closed.³⁰⁰ “I have my passport, and I had an *iqama* [residency permit], but no money to return home,” she said, and no means to make her employer pay.³⁰¹ Through Tamkeen, the Jordanian NGO, Human Rights Watch reviewed tens of cases of MDWs who escaped, often after years of service, but whose employers, and sometimes agencies, only paid for tickets home after Tamkeen

²⁹⁵ MDW regulations, 2009, 5(5)c, and Unified Standard Contract, art. 2(a), which exempts the employer from paying “a return ticket ... if the [worker] does not complete the contract due to reasons caused by him/her.”

²⁹⁶ Human Rights Watch interview with Hamada Abu Nijma, July 28, 2010.

²⁹⁷ Human Rights Watch interview with Husam, August 2, 2010.

²⁹⁸ Human Rights Watch interview with ‘Afi Jubur, August 2, and with Hamada Abu Nijma, July 28, 2010.

²⁹⁹ Human Rights Watch interview with Hamada Abu Nijma, July 28, 2010.

³⁰⁰ Human Rights Watch interview with Jayanadani A., Sri Lankan domestic worker, Amman, August 3, 2010.

³⁰¹ Ibid.

threatened legal action.³⁰² According to one Philippines diplomat, some agencies tried to charge workers \$2,000 to allow them to leave before the contract was up.³⁰³

Interior Ministry official al-Dahamisha believed sending countries should pay for the repatriation for domestic workers, but embassies were reluctant to pay for workers' repatriation in all but emergency cases, so as not to "insure the agencies against risk."³⁰⁴ Sri Lankan diplomats suggested that "agencies need to be responsible for any unpaid wages [and paying the] ticket home."³⁰⁵ Recruitment agencies do sometimes pay, as in 2009, when agencies purchased tickets for 450 Indonesian domestic workers costing \$178,000, according to Khalid Husainat, the head of the recruiters' lobby.³⁰⁶ It remained unclear whether agencies had any legal obligations to pay in these cases, because there had been no court cases to determine the responsible party for any contractual violations.

The International Labour Organization's (ILO) Migration for Employment Recommendation (R86) recommends that "the costs of the return of the migrant and the members of his family and of the transport of their household belongings to their final destination shall not fall on him" if the migrant is being removed."³⁰⁷ R86 does not regulate return costs where the employer violated legal or contractual rights. Proposed solutions include a charitable trust under Labor Ministry supervision to pay for domestic workers' repatriation "in humanitarian cases."³⁰⁸

³⁰² Human Rights Watch email correspondence over case files with Tamkeen, April 6, 2011.

³⁰³ Human Rights Watch interview with Philippines diplomats, August 2, 2010.

³⁰⁴ Ibid.

³⁰⁵ Human Rights Watch interview with Sri Lankan diplomats, August 2, 2010.

³⁰⁶ Human Rights Watch interview with Khalid al-Husainat, August 2, 2010.

³⁰⁷ ILO Recommendation concerning Migration for Employment Recommendation (Revised), July 1, 1949, ILO No.R86, art. 18.f.

³⁰⁸ Human Rights Watch interview with Ibrahim al-Sa'udi, head of Legal Affairs, Ministry of Labor, Amman, August 3, 2010.

V. Forced Labor

Indonesian domestic workers feel normal here. They have their rights violated at home, too

—Hamada Abu Nijma, head, Salaries Authority, Ministry of Labor, July 28, 2010

Various abuses against domestic workers combined with their diminished ability to leave employment may result in cases of servitude or forced labor. Conditions of forced labor are more clearly defined in international law than the “total of work conditions” considered for a charge of servitude.

Under ILO conventions 29 and 105 on forced labor and its abolition, Jordan is legally obligated to “suppress forced or compulsory labor,” defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”³⁰⁹ The ILO Committee of Experts explained that “menace of penalty” may be a penal sanction, or “loss of rights or privileges.”³¹⁰ Such privileges include loss of legal residency status and the ability to work legally, and the loss of the right to return to one’s own country is a further penalty.³¹¹

Even when workers voluntarily migrate for work, they often have limited or incorrect information about their employment arrangements and restrictions on rights. Recruitment “on the basis of false promises” of “good wages and good working conditions” does not constitute voluntary consent, according to the ILO.³¹²

³⁰⁹ ILO Convention No. 29 concerning Forced or Compulsory Labour (Forced Labour Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932., arts. 1 and 2. ILO Convention No. 105 concerning Abolition of Forced Labour (Abolition of Forced Labour Convention), adopted June 25, 1957, 320 U.N.T.S. 291, entered into force January 17, 1959, arts. 1 and 2.

³¹⁰ International Labor Conference, “1979 General Survey of the Reports relating to the Forced Labor Convention, 1930 (No. 29) and the Abolition of Forced Labor Convention, 1975, (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations,” 65th Session, Geneva, 1979, Report III, para. 21.

³¹¹ ILO, “A Global Alliance Against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2005,” International Labour Conference, 93rd Session, 2005, p. 6, http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_081882.pdf (accessed June 29, 2011).

³¹² International Labour Organization, “Report of the Committee set up to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the ILO Constitution alleging non-observance by Brazil of the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105),” GB.264/16/7, 1995, paras. 9, 22, 25, 61.

As described below, recruitment agencies and employers placed workers in situations of forced labor, prohibited under article 77 of the labor law, and under the definition of the crime of trafficking in persons under Jordan's 2009 anti-trafficking law.

Agencies' Forced Labor

Recruitment agency staff used physical and sexual violence, deception, confiscation of passports, and confinement – or threats thereof – against female migrant domestic workers in order to coerce them into working in conditions and locations they determined.

A contract lawyer for Tamkeen described the case of Bethari R., an Indonesian worker who had worked in Jordan for six years, four of which had been in different houses. Each time she left the home because she wanted to return to Indonesia, agency staff beat her, stripped her of her clothes, and sent her to a new house, the contract lawyer said.³¹³

The lawyer described another case of a recruitment agency. According to the lawyer, the agency brought a domestic worker to Jordan in early 2005 and placed her in a house where she worked for nine months without pay. The employers paid the agency instead, he said. The worker ran away eight times, and each time, agency staff beat her before returning her to the house. The agency then placed her in another house where she worked for 13 months, also with the pay going to the agency, he said.³¹⁴

Agency staff also confined and deceived workers and confiscated passports to force them to work. Sandra C., a Filipina, said that her agency owner confiscated her passport, locked her in his house, and made her work from 6 a.m. until 1 or 2 a.m. without pay for one week while awaiting placement with another employer.³¹⁵ Rohani S., from Indonesia, said that agency staff locked her inside for nine days, claiming no flights were available to take her home.

I had to pay JOD30 [\$42] for food to them out of my own pocket. Then agency [staff] said that there is someone who wants me to work for him for three days only. I wanted just to go home and [he] said, 'No.' He insisted. So I went to Karak with the new employer ... Whenever I called [staff at the] agency from Karak, she put down the phone. I stayed one and a half months in Karak. The employer always said, 'Tomorrow,' I would travel. [On

³¹³ Human Rights Watch interview with contract lawyer for Tamkeen, Amman, August 1, 2010.

³¹⁴ Ibid.

³¹⁵ Human Rights Watch interview with Sandra C., August 8, 2010.

March 7, I] went to the embassy ... My passport is still at the ... agency. At home, I have four children waiting for me.³¹⁶

Three workers separately told Human Rights Watch about agency staff locking them up to prevent escape. Wati S., from Indonesia, said, “There were about 10 Filipinas [at the agency and staff] locked the door at night.³¹⁷ Eni M., also Indonesian, stated that agency staff locked the door from 11 p.m. to 7 a.m., confining her with seven other Indonesians. “We got ... only leftovers, very little food,” she said.³¹⁸

Forced Labor Exacted by Employers

Employers also forced domestic workers to work for them against their will, mostly by confiscating their passport, withholding wages, and not providing a return ticket. Employers also forced domestic workers to work at relatives’ houses, a practice that the Unified Standard Contract and the 2009 MDW regulations prohibit.³¹⁹

Forced Labor after End of Contract

Employers forced workers to work against their will after their contracts ended using punishment, deception, and blocking escape. Besides these menaces, workers pointed out their essential inability to leave.

A lawyer for the Indonesian embassy said that half the 200 MDWs sheltering there had run away from employers who forced them to work after their contracts expired.³²⁰

Yuniarti W., an Indonesian, said her employer beat her when she demanded to return after her contract finished in 2006:

Mama said, ‘Wait until I get back from Oman, in two weeks.’ She went, came back, and nothing happened. After another two months I asked, and again nothing. Mama then said, ‘What are you going to do? You don’t have a passport or a residency permit.’ Then the beatings started.³²¹

³¹⁶ Human Rights Watch interview with Rohani S., Indonesian domestic worker, Amman, August 4, 2010.

³¹⁷ Human Rights Watch interview with Wati S., August 4, 2010.

³¹⁸ Human Rights Watch interview with Eni M., August 4, 2010.

³¹⁹ Unified Standard Contract, art.5, and MDW Regulation, 2009, art. 4(c).

³²⁰ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

³²¹ Human Rights Watch interview with Yuniarti W., August 4, 2010.

Four MDWs said their employers deceived them. The employers of Gloria J., a Filipina, promised to allow her to leave the house for church each week if she stayed. “But they only allowed me three or four times [the next year],” Gloria J. said. She escaped to the embassy shelter in her fourth year.³²² The employer of Siti Mujiati W., an Indonesian, made her believe the regular two-year contract was for three years, and she had no way of verifying. “I never got a copy. It is in the agency,” Siti Mujiati W. said.³²³ Tamilvaani G.’s employers promised to send her home after she had worked a third year locked inside the flat, but her employer took her to his “brother’s house instead of to the airport ... I stayed [another] seven years. The door was always locked there, too.”³²⁴

Three workers said they could not leave because they could not reach help.³²⁵ Lilis H. from Indonesia told Human Rights Watch that she could not leave because she did not know where the embassy was. Six years later, a neighbor told her where it was located. “Mama had kept my passport, but I knew where it was. So I took it and ran away,” Lilis H. said.³²⁶

Forced Work at another Employer

Migrant domestic workers were also subjected to another type of forced labor, employment with other parties, which the Unified Standard Contract and the 2009 MDW Regulations prohibit. Of over 200 Indonesian workers sheltering at their embassy, only 60 said they had worked in only one house at the same time.³²⁷ Employers made MDWs clean and cook in their relatives’ homes, sometimes for hours, at other times for weeks or months while the employer was abroad.

For example, Nining W.’s employer took her to work at her mother’s house each year when she left for Saudi Arabia for two to three months.³²⁸ Hamada Abu Nijmah, the Labor Ministry official, stressed the practice is illegal, although conceded “it happens all the time.”³²⁹

Employers did not seek their workers’ consent, but simply deposited them at another house. Marjorie L.’s employer loaned her services to a friend, who paid the employer, but

³²² Human Rights Watch interview with Gloria J., July 29, 2010.

³²³ Human Rights Watch interview with Siti Mujiati W., August 3, 2010.

³²⁴ Human Rights Watch interview with Tamilvaani G., July 29, 2010.

³²⁵ Human Rights Watch interview with Winarti N., August 4, 2010.

³²⁶ Human Rights Watch interview with Lilis H., August 3, 2010.

³²⁷ Human Rights Watch survey of over 200 Indonesian domestic workers, August 3, 2010.

³²⁸ Human Rights Watch interview with Nining W., August 3, 2010.

³²⁹ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

not Marjorie L., for seven months. A police raid on the friend’s house finally led her to move back to her employer.³³⁰ One employer acknowledged sending “both the first and second [domestic] workers to my sister over Christmas for three months, because I went to Abu Dhabi,” expressing surprise that the worker’s consent might be required.³³¹ Another worker said her employer made her work at the sister’s house every other week, as well as at a house of her employer’s daughter.³³²

³³⁰ Human Rights Watch interview with Marjorie L., January 29, 2010.

³³¹ Human Rights Watch interview with Khadija L., August 4, 2010.

³³² Human Rights Watch interview with Marisa G., August 4, 2010.

VI. Redress

Most of the complaints by domestic workers who run away to their embassies are not true

—Akram Mahmud, deputy head of the Labor Ministry’s MDW Department, Amman, August 2, 2010

Domestic workers who suffered abuses had little means of redress; most were physically unable to reach help, and lacked ways to vindicate their contractual and statutory rights. Police and prosecutors were lackluster in their pursuit of domestic worker complaints, and labor officials outright dismissive. NGOs and embassies tried to pursue redress in several cases, but often lacked resources to give MDWs material and legal support. Where cases made it to court, adjudication took time, sometimes over a year, and workers remained at risk of detention, accumulating fines, and long periods without income.

Lack of Inspection

International labor standards recommend that states with large numbers of migrant workers specially supervise “the conditions of employment of such workers ... either by a special inspection service or by labour inspectors or other officials specialising in this work.”³³³

Jordan belatedly extended its labor inspection service to migrant workers in the Qualified Industrial Zones around 2005 following international complaints of labor abuses there.³³⁴ In 2006, the Ministry of Labor established a Department for Migrant Domestic Workers in its Amman headquarters, although its reach remained unclear.³³⁵ In 2009, the Ministry of Labor appointed three labor inspectors for domestic workers, raising this number to five in 2010.³³⁶

³³³ R86, art.17.

³³⁴ Human Rights Watch email communication with Fathallah al-'Umrani, president, Textile Workers Union, Amman, December 16, 2010.

³³⁵ Human Rights Watch interview with Hamada Abu Nijma, July 28, 2010. “It is not clear if the Migrant Domestic Workers Department at the Ministry of Labor is responsible for Amman or all of the country. It issues work permits for all of the country, but only exercises powers in Amman. The Migrants Departments in the rest of the country should also deal with domestic workers.”

³³⁶ Human Rights Watch interview with Virginia Calvez, July 27, and with 'Afi Jubur, August 2, and with Hamada Abu Nijma, July 28, 2010. Abu Nijma commented that the Ministry of Labor did not allow MDW inspectors to carry out workplace inspections.

The inspectors have law enforcement powers and can issue fines and refer employers suspected of violations to court.³³⁷ According to the 2009 MDW Regulation, labor inspectors can summon the employer and inspect the workplace inside the home with employer consent; the minister may override an employer's refusal.³³⁸

In 2006, the Ministry of Labor established a 24-hour complaints hotline for migrant workers in their languages, Sinhala, Tamil, Bahasa Indonesia, Tagalog, and Chinese. When Human Rights Watch repeatedly called the number in 2009, there was no reply. When we visited the hotline's office in 2009, only a caretaker was present. In August 2010, the Labor Ministry's secretary-general Mazin 'Awda said the hotline had been activated "now," but in December 2010 Tamkeen, the NGO, reported that officials had yet to reply to complaints submitted via the hotline.³³⁹

MDW labor inspectors lacked the political will to address labor violations, Human Rights Watch found. An embassy lawyer said labor officials had never investigated violations of the MDW regulation, "other than salary payment."³⁴⁰ Inspectors did not monitor provision of a weekly day off and the 10-hour work day. 'Afi Jubur admitted that he "only hear[d] about the big problems."³⁴¹ MDW labor inspectors in August 2010 said they had not conducted onsite inspections of homes and were not planning to do so.³⁴²

Labor Ministry documents show that between January and June 2010, inspectors received between 120 and 189 complaints a month, including employer complaints of escape, and resolved between 80 and 133. Inspectors suspended the business license of some 20 recruitment agencies over several months, and issued warnings against a handful in other months, but did not fine employers.³⁴³

Tamkeen referred complaints to labor inspectors for resolution, with disappointing results. A Tamkeen staff lawyer said she approached the chief of inspection in August 2010 concerning two Sri Lankan domestic workers, one of whom – according to her brother,

³³⁷ Human Rights Watch interview with 'Afi Jubur, August 2, 2010. The minimum fine for labor violations is JOD50 (\$71). Labor Law, art. 139.

³³⁸ MDW Regulation, 2009, art. 11.

³³⁹ Human Rights Watch interview with Mazin 'Awda, August 3, 2010. Human Rights Watch interview with Linda al-Kalash, executive director, Tamkeen for Legal Aid and Human Rights, Amman, December 14, 2010.

³⁴⁰ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

³⁴¹ Human Rights Watch interview with 'Afi Jubur, August 2, 2010.

³⁴² Human Rights Watch interview with Muhammad Abu Naji, MDW labor inspector, Ministry of Labor, Amman, August 2, 2010. This state of affairs remained unchanged in December 2010. Human Rights Watch interview with Linda al-Kalash, December 14, 2010.

³⁴³ Ministry of Labor inspection documents for January to June 2010, on file with Human Rights Watch.

whom she called and who then contacted Tamkeen – had been in Jordan for 13 years, locked inside the home and not paid for three years. The labor official questioned the veracity of the claim from the outset, asking, “How can she be locked in if she contacted you’? Are you with the Jordanians or with them,” that is, the migrant domestic workers?³⁴⁴

The other Sri Lankan had been in Jordan for 10 months and had broken her hand in a work accident on July 27, 2010. Her employers arranged treatment, but immediately put her back to work. In great pain and unable to work, she contacted Tamkeen. The labor official again questioned the veracity of her claim, asking the staff lawyer, “Have you seen her work with a broken arm?”³⁴⁵ According to neighbors, the inspectors took no further action and the employer confiscated her MDW’s mobile phone and started locking the door when she learned the worker had contacted Tamkeen.³⁴⁶

In early December 2010, a Tamkeen staff lawyer presented another complaint on behalf of an Indonesian worker whose employers had not applied for residency permits or paid her for six years. Before learning about the details of the case, the labor inspector told the Tamkeen lawyer, “She is a liar,” and refused to register the case.³⁴⁷

Other officials also did not take seriously complaints by domestic workers. Sa’d al-’Ajrami, the deputy director of the Public Security Directorate for legal affairs, told Human Rights Watch in August 2010, “The embassies tell the domestic workers to lie.”³⁴⁸

Lack of Legal Aid, Case Workers, Interpreters

Migrant domestic workers seeking refuge from abuse and wanting to return home primarily turned to their embassies. In some cases, embassy staff – overstretched and unable to pursue all cases individually – turned away domestic workers seeking refuge from abuse.

Each embassy had a lawyer to represent MDW interests in court although understaffing – two lawyers for three embassies serving the over 450 sheltering MDWs there – inevitably meant weaker representation of MDW interests. For example, Philippines labor attaché Virginia Calvez told Human Rights Watch that the lawyer “wants us to bring workers to his office as soon as they arrive at the shelter. But that is too difficult for us logistically, so we

³⁴⁴ Human Rights Watch interview with Tamkeen staff lawyer, Amman, August 9, 2010.

³⁴⁵ Ibid.

³⁴⁶ Ibid.

³⁴⁷ Human Rights Watch interview with Tamkeen staff lawyer, Amman, December 16, 2010.

³⁴⁸ Human Rights Watch interview with Public Security Directorate officials, August, 9, 2010.

concentrate on bringing immediately to him cases of physical and sexual abuse.”³⁴⁹ Calvez added that rather than going to court to retrieve a single confiscated passport, the embassy collected similar cases before submitting them to the government.³⁵⁰ The Sri Lankan embassy lawyer involved judicial authorities in cases of physical or sexual assault, but directly negotiated settlements with employers in labor cases.³⁵¹

Besides embassies, only a handful of Jordanian organizations work with domestic workers. Since April 2009, Tamkeen has provided legal aid to migrant workers, and the National Center for Human Rights (NCHR), a statutory but independent body, also provides legal consultations and liaises with officials. In 2009, only prisoners submitted more complaints to the NCHR than migrant workers.³⁵² Caritas, an international humanitarian organization, provides health care and financial support, and a network of half a dozen faith-based groups, all Christian, provide spiritual and material assistance to the workers, regardless of their faith.

Over 90 percent of migrant workers who complained to Tamkeen were domestic workers – Tamkeen received 221 migrant worker complaints April – December 2009, the year it started receiving complaints, and 311 complaints January – mid-December 2010.³⁵³

Jordanian government agencies lacked qualified interpreters and MDWs had to rely on embassy or NGO-provided interpreters.³⁵⁴ Muhannad Duwaikat, chief of the anti-trafficking unit, told Human Rights Watch that all police stations “received instructions to call and to afford domestic workers an interpreter,” but workers still had to rely on embassy or NGO interpreters.³⁵⁵ Wati S., an Indonesian domestic worker, told Human Rights Watch, “I had a court hearing today. I don’t know what it was about. There was no interpreter.”³⁵⁶

³⁴⁹ Human Rights Watch interview with Virginia Calvez, July, 27 2010.

³⁵⁰ Ibid.

³⁵¹ Human Rights Watch interview with I.M. Samaraweera, labor and welfare attaché at the Sri Lankan embassy, Amman, August 11, 2010.

³⁵² Human Rights Watch interview with Atef Majali, labor affairs officer at the National Center for Human Rights, Amman, January 25, 2009.

³⁵³ Human Rights Watch interview with Linda al-Kalash, Amman, December 16, 2010.

³⁵⁴ The Labor Ministry and police had no interpreters, and the courts had one English-Arabic interpreter. Human Rights Watch interview with Hasan Abdallat, August 1, 2010.

³⁵⁵ Human Rights Watch interview with Public Security Directorate officials, August, 9, with Virginia Calvez, July, 27, and with two Tamkeen staff lawyers, and July 26, 2010.

³⁵⁶ Human Rights Watch interview with Wati S., August 4, 2010.

Escape, Countercharges, and the Police

Some MDWs could not access justice because police detained them for escaping, held them on spurious theft charges filed by employers, or simply did not take them seriously.

Officials contradicted one another over whether police were allowed to detain MDWs for escape or for being out of residency status. As a labor violation, “escape” should not be subject to criminal procedures such as detention, and as an immigration violation, special circumstances such as risk of flight would need to be present. Jordanian police said “escaping” or undocumented migrant workers can be detained. “We can lawfully detain a domestic worker for escaping if it is against the labor law or against the immigration law,” one senior policeman stated.³⁵⁷

However, judicial authorities insisted that “leaving the workplace” or being without valid residency status was no crime. An employer’s “notification of escape at the police station is not a grounds for arrest if the person’s residency permit is still valid,” Chief Judge Ratib Wazani said.³⁵⁸ Attorney general Mazin Qur’an asserted that, “Normally, there is no arrest for escape,” and Amman’s prosecutor-general, Hasan Abdallat, clarified that “[v]iolations of residency stipulations are not considered crimes warranting detention ... There is no crime or punishment for escaping [employers].”³⁵⁹

The reality follows the police interpretation. An employer can report an absconding domestic worker to the nearest police station, usually to avoid being held liable for overstayer fines. In the cases reviewed, such a report generated a general notice in a police database (and possibly others) alerting law enforcement officers that the worker was “wanted.”³⁶⁰

Sri Lankan ambassador, Mohottala, confirmed that “police sometimes detain workers for ‘escape’.”³⁶¹ Two faith-based activists said that in a visit to Juwaida women’s prison in July 2010 they encountered 15 Filipinas, 10 Sri Lankans, and one Indonesian in the holding facility for escaping cases.³⁶² Other faith-based activists said in July 2010 that an

³⁵⁷ Human Rights Watch interview with Public Security Directorate officials, August, 9, 2010.

³⁵⁸ Human Rights Watch interview with Ratib Wazani, chief judge, Amman, August 1, 2010.

³⁵⁹ Human Rights Watch interview with Mazin Qur’an, August, 1, and with Hasan Abdallat, August 1, 2010.

³⁶⁰ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

³⁶¹ Human Rights Watch interview with A.W. Mohottala, August 11, 2010.

³⁶² Human Rights Watch interview with a Jordanian faith-based community worker, August 2, 2010.

undocumented freelancing Sri Lankan MDW was “immediately taken into detention” in a hospital after giving birth.³⁶³

In one case, agency staff threatened to have a domestic worker detained for escaping. Rosa L. said that a Philippines diplomat took her to her agency to retrieve her passport, but that staff threatened to “put me in jail and my passport will be marked for deportation. The employer had filed an escape case with the police. I still have to pay the agency one month salary deduction.”³⁶⁴

Conversely, some undocumented domestic workers with overstayer fines could not persuade the police to detain and deport them. A faith-based activist said that without an escape notice “the police will not detain overstayers, even if they ask. Only if they get caught in a raid or stopped on the street by the police.”³⁶⁵

Employers insured themselves against trouble from an escaped domestic worker through other means, too. Filing a theft complaint at the police station led to the worker’s automatic detention if apprehended.³⁶⁶ Indonesian diplomats said that about one in five workers at their shelter “cannot leave ... because they have a police report for theft.”³⁶⁷

While improbable that all charges of theft against escaped domestic workers were made up, employers used spurious and frivolous charges of theft to pressure workers against suing them for abuse. One faith-based activist estimated that in at least half of the cases “employers falsely accuse their domestic workers of stealing.”³⁶⁸ The Sri Lankan ambassador commented, “We have 29 [Sri Lankan] girls in jail, 15 because of alleged theft cases, only one of which is true.”³⁶⁹ Human Rights Watch has heard of few credible allegations that domestic workers ran away taking employers’ valuables with them. One employer said that her domestic worker “stole one JD per day, we found 300 JD (\$424) in her piggy bank, a hidden part of her purse.”³⁷⁰ Activists acknowledged that domestic

³⁶³ Human Rights Watch interview with faith-based workers, July 27, 2010.

³⁶⁴ Human Rights Watch interview with Rosa L., August 8, 2010.

³⁶⁵ Human Rights Watch interview with a Jordanian faith-based community worker, August 2, 2010.

³⁶⁶ Besides major crimes, “Pre-trial detention is only allowed in three cases of minor crimes [جناح]: assault, attempted assault, and theft.” Human Rights Watch interview with Hasan Abdallat, August 1, 2010.

³⁶⁷ Human Rights Watch interview with Indonesian diplomats, August 2, 2010.

³⁶⁸ Human Rights Watch interview with faith-based workers, July 27, 2010. Quotation from one of the workers.

³⁶⁹ Human Rights Watch interview with A.W. Mohottala, August 11, 2010. Mohottala also related the case of three Sri Lankan jewelers who came in 2005 and 2006 and who sued their employer for nonpayment of salaries. The employer countersued them for theft, and they were only allowed to go home in 2009, before the case was adjudicated, by paying their overstayer fines and a JOD8,000 (\$11,307) deposit in case they were found guilty in the theft case.

³⁷⁰ Human Rights Watch interview with Selma A., August 4, 2010.

workers escaping abuse had no means to support themselves outside the home and sometimes took money or valuables.³⁷¹

Police and prosecutors did not investigate theft claims before issuing arrest warrants and ordering the worker's detention in the cases Human Rights Watch investigated. The two faith-based activists recounted how the police detained a Sri Lankan domestic worker whose employer, a UK diplomat, had accused her of stealing a ring. When the diplomat moved, she found the ring and alerted police. However, the Sri Lankan worker could not get out of prison because now she lacked a sponsor. "She stayed three months in prison. That was Ramadan 2009," one faith-based worker said.³⁷²

Embassy officials cited several examples of spurious and frivolous theft charges, including the case of a Filipina worker in Juwaida prison "accused of stealing a can of Pepsi. She has had 22 appearances in court, but the sessions are always postponed because not even the shadow of the employer shows up," a Philippines diplomat told Human Rights Watch.³⁷³ An Indonesian diplomat reported the case of an Indonesian MDW in Juwaida "accused of stealing JOD5 [\$7]!"³⁷⁴

Employers also filed charges in retaliation over threatened legal action. For example, on December 16, 2010, a Tamkeen staff lawyer tried to retrieve the passport of an MDW who had escaped abuse, informing the employer that passport confiscation is a crime. The employer responded by threatening to file a theft claim against the worker.³⁷⁵ In another case, the employer of a Sri Lankan MDW filed a theft case against her in retaliation for her demanding her unpaid salary. Police immediately arrested the worker from the embassy, where she had escaped to and she "spent six months in Juwaida [prison], before the court found her not guilty," according to a fellow Sri Lankan MDW worker who spoke to the MDW who had been jailed.³⁷⁶

Theft charges pressured a domestic worker to forgo claims against the employer. Marjorie L. , a Filipina domestic worker who had become undocumented after escaping an abusive employer, wanted to go home but could not do so because her employer had filed a

³⁷¹ Human Rights Watch interview with Virginia Calvez, July 27, with faith-based workers, July 27, and with a Tamkeen staff lawyer, July 26, 2010.

³⁷² Human Rights Watch interview with a Jordanian faith-based community worker, August 2, 2010.

³⁷³ Human Rights Watch interview with Philippines diplomats, August 2, 2010.

³⁷⁴ Human Rights Watch interview with Indonesian diplomats, August 2, 2010.

³⁷⁵ Human Rights Watch witness to telephone conversation between Tamkeen staff lawyer and an employer, Amman, December 16, 2010.

³⁷⁶ Human Rights Watch interview with Thanuja W., Sri Lankan domestic worker, Amman, August 3, 2010.

spurious theft charge against her. In February 2010, Human Rights Watch questioned Hasan 'Assaf, director of the Ministry of Interior's Residency and Foreigners' Affairs department, who confirmed that the police would automatically arrest her. Although her employer owed her months of unpaid salary, Marjorie L. was considering dropping any claims if her employer dropped the theft charge, allowing her to leave.³⁷⁷

In one instance, claims of theft against domestic workers precipitated deportation proceedings, despite workers claiming months of unpaid salaries. An embassy lawyer said he "barely was able" to petition the Supreme Court of Justice to stop the deportation of two Filipinas working for three and four years, and owed salaries for seven and eleven months, respectively.³⁷⁸ He said the employer in May 2010 "delivered them to the police and asked the police to deport them, saying they had stolen something."³⁷⁹ The governor in early June ordered their deportation within three days although both workers had valid residency permits. The court eventually upheld the deportation order, based on the executive's "wide discretion."³⁸⁰ Before being deported, the workers received only part of their outstanding salaries as part of the lawyer's negotiations with the employer; the accusations of theft were not investigated.³⁸¹

The response of police to domestic workers seeking help is mixed. The Irbid police earned praise for promptly rescuing Tamilvaani G, the worker locked up for seven years.³⁸² More often, police avoided domestic workers complaints, even criminal complaints, and referred them instead to their agency or embassy.

Wati S., an Indonesian domestic worker, said that she escaped to the police "after Mama beat me again, [but] they did not speak with me or ask me anything, but sent me straight to the embassy."³⁸³ Indonesian worker Yanti S. said that a neighbor brought her to the police after she escaped repeated beatings and one year without pay: "I told the police about the salary and the beatings. The police took me to the agency, and the agency took

³⁷⁷ Human Rights Watch interview with Hasan 'Assaf, director, Residency and Foreigners' Affairs, Ministry of Interior, Amman, January 31, 2010.

³⁷⁸ Human Rights Watch interview with contract lawyer for Tamkeen, Amman, August 9, 2010.

³⁷⁹ Ibid.

³⁸⁰ Ibid.

³⁸¹ Ibid.

³⁸² Human Rights Watch interview with faith-based workers, July 27, 2010.

³⁸³ Human Rights Watch interview with Wati S., August 4, 2010.

me back to mama. So I stayed and worked for another eight months there before I ran away again, but this time to the embassy.”³⁸⁴

The new, specialized anti-trafficking unit in the police’s Criminal Investigation Department (CID) also failed domestic workers who came prepared with lawyers and interpreters by not registering cases against their employers or agencies.

The facts in three cases, one of which is outlined below, suggest that employers committed crimes, possibly rising to the level of human trafficking and forced labor. Nevertheless, these officials detained the workers for “escape,” while only summoning employers to provide a statement.

Cristalina L.’s Case³⁸⁵

On August 24, 2010, Cristalina L., a Filipina domestic worker with claims to four years of unpaid salary, fled to her embassy. On October 23, 2010, a Tamkeen lawyer accompanied her to the police’s Criminal Investigation Department (CID)’s anti-trafficking unit. An official took Cristalina L.’s statement, then transferred her to South Amman-Bayadir police station because her employer had reported that she escaped. The lawyer accompanied her there, and the chief of the police station referred her to the judicial affairs officer who detained her there overnight.

When Cristalina L. was brought the next day at the prosecutor’s office there was no interpreter to take her statement, so she was returned to police – this time at al-Muqabilun police station. Here the chief ordered Cristalina L. detained in Juwaida prison.

On October 25, the embassy procured an interpreter and the prosecutor took Cristalina L.’s statement and verbally promised to close the case. Police returned Cristalina L. to Bayadir police station, where the judicial affairs officer refused to release her without proof that the criminal case was closed. When prosecutor’s office stated that the case was indeed not closed, Cristalina L. was sent back to al-Muqabilun to be detained or released on a guarantee. Station officers again refused to release her on an embassy guarantee and sent her to Juwaida as a “precautionary” measure, claiming this did not amount to detention. On October 26, the prosecutor told the Tamkeen lawyer that he had not yet made a final decision on a criminal investigation, but would do so that day. He later failed to respond to telephone inquiries. Cristalina L. remained in Juwaida for around one month before being released.

³⁸⁴ The embassy sent her to the agency, which sent her back to the employer, where she escaped again to the embassy, four years later, on June 5, 2010. Human Rights Watch interview with Yanti S., August 3, 2010.

³⁸⁵ Human Rights Watch email correspondence with Tamkeen, Amman, October 26, 2010.

Passport Retrieval

Passport confiscation prevents domestic workers from changing employers or returning home. International law guarantees every person the right to “return to one’s own country.”³⁸⁶ Jordanian law punishes confiscating passports with three years in prison.³⁸⁷

Tamkeen has sued on behalf of domestic workers to retrieve their passports, with mixed success. Amman’s prosecutor-general, Hasan Abdallat, asserted that judges ruled on a daily basis against those who unlawfully confiscate passports. However, Tamkeen said that courts had not yet ruled in any of its suits and the lawyer for the Philippines and Indonesian embassies also said he was unaware of any verdicts against persons confiscating domestic workers’ passports.³⁸⁸ “Jordanian authorities ... do nothing to enforce ... recuperating the passports of our nationals from their employers or agencies so that they can go home,” a Philippines diplomat said.³⁸⁹

Employers or agencies mostly brought the worker’s passport in return for workers reducing other demands such as payment for their flight home; the requests by Tamkeen for passport retrieval of several MDWs remained stuck at police stations.³⁹⁰

For example, on May 17, 2010, Tamkeen sued to retrieve around half a dozen workers’ passports from ‘Akka recruitment agency. The court referred the matter to Amman’s Tila’ al-’Ali police station, which summoned ‘Akka, but did not follow up when it failed to provide the passports. In another group of several cases of passport confiscation against ‘Akka in July 2010, the prosecutor also referred the Tamkeen staff lawyer to the same police station. This time, the police officer did not even summon ‘Akka, the lawyer said, “but laughed at me, saying ‘you are a lawyer for Sri Lankans?’” The court had not adjudicated the cases as of December 2010.³⁹¹ The ‘Akka manager eventually delivered three of the eight passports sought.³⁹²

In 19 cases between October 2009 and June 2010, MDWs received their confiscated passports after Tamkeen reached verbal understandings with the employer or recruitment agent who delivered the passports directly or via the embassies.³⁹³

³⁸⁶ ICCPR, art. 12.

³⁸⁷ Law of Passports Temporary Law No.5 of 2003, Official Gazette No. 4586, February 16, 2003, art. 18(b).

³⁸⁸ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

³⁸⁹ Human Rights Watch interview with Virginia Calvez, August 8, 2010.

³⁹⁰ Human Rights Watch interview with Tamkeen staff lawyer, December 15, 2010.

³⁹¹ Human Rights Watch interview with Tamkeen staff lawyer, July 29, 2010.

³⁹² Ibid.

³⁹³ Human Rights Watch correspondence with Tamkeen, August 24, 2010, and November 14, 2010.

In another 17 cases of passport confiscation between May and July 2010, Tamkeen failed to obtain the passports and petitioned the public prosecutor who referred six cases to the Court of First Instance (Criminal); faced with ongoing proceedings, employers or recruitment agents returned two passports. The public prosecutor in May and June 2010 referred the other 11 cases to police stations where they remained while the parties were being summoned. By December 2010, two workers had received their passports.³⁹⁴ Before May 2010, Tamkeen directly sought to enlist the help of police stations in retrieving MDWs' confiscated passports, succeeding in 12 out of several dozen cases between June 2009 and July 2010.³⁹⁵

Salary Disputes

Workers could not rely on courts to obtain their unpaid salaries. Getting employers to pay remained a matter of bargaining, although threatening or initiating a lawsuit helped. For example, in the case of the Sri Lankan worker locked up and unpaid for seven years in Irbid, the employer agreed to pay \$4,000, although the worker had earned at least \$9,600, faith-based activists said. The worker returned home and the case did not go to court.³⁹⁶

Arbitration by labor inspectors and a new MDW committee in the Labor Ministry fared little better. Under the MDW Regulation passed in October 2009, the Labor Ministry established a committee comprised of embassies, the National Center for Human Rights, recruitment agency representatives, and Labor and Interior Ministry officials to resolve MDW complaints. The MDW labor committee started work in July 2010, to move to “the implementation stage of the regulations for domestic workers.”³⁹⁷ However, by September 2010, the labor minister admitted that “the ministry was still not applying” the MDW regulation.³⁹⁸

MDW labor inspectors participated in the MDW labor committee to which they presented their cases.³⁹⁹ However, this committee has no internal guidelines on admissibility or due

³⁹⁴ Ibid.

³⁹⁵ Human Rights Watch interview with Tamkeen staff lawyer, July 29, 2010.

³⁹⁶ Human Rights Watch interview with faith-based workers, July 27, 2010.

³⁹⁷ Human Rights Watch interview with 'Afi Jubur, August 2, and with Khalid Husainat, August 4, 2010. At the same time that the new MDW labor committee was established in July 2010, a separate Labor Ministry entity, the Salaries Authority, lost competency to adjudicate salary disputes for any salaried workers after they left employment. Prior to this change, workers could claim salaries with the authority up to six months after leaving employment. “The reason is that the minister of justice did not want special courts like the salaries authority. We persuaded him to leave it in place, as the regular courts could not deal quickly with such disputes, but in a compromise, cancelled the six-month grace period.” Human Rights Watch interview with Hamada Abu Nijma, July 28, 2010.

³⁹⁸ Amal Dhamin [أمال ضامن], “Minister of Labor [Speaks] to Al-Arab al-Yawm (وزير العمل لـ العرب اليوم),” *Al-Arab al-Yawm* (Amman), September 26, 2010, http://db.alarabalyawm.net/pages.php?news_id=254672 (accessed December 17, 2010).

³⁹⁹ Human Rights Watch interview with Muhammad Abu Naji, August 2, 2010.

process of dispute resolution, except that its recommendations are non-binding.⁴⁰⁰ For example, Gina R. attended a committee meeting without understanding the proceedings and before consulting with a lawyer. She only had an official from the POLO, the Philippines Overseas Labour Office, to represent her.⁴⁰¹ In August 2010, Mazin ‘Awda, the Ministry of Labor’s secretary-general, promised the committee, meeting twice weekly, would take a “legal approach” to complaints.⁴⁰² Labor ministry officials did not provide information on which cases the MDW labor inspectors arbitrate and which they refer to the committee.

Diplomats had little praise for the new committee. Philippines labor attaché Calvez commented, “We comply with all Jordanian official requests. Every Sunday or Monday we submit a list of warm bodies to the Ministry of Labor, that is, the new arrivals at our shelter. But we don’t hear back from them.”⁴⁰³

In June 2010, the Philippines embassy submitted 101 cases of salary claims, but had received no reply by late July, and heard about only seven cases by early August.⁴⁰⁴ The Sri Lankan labor attaché said labor officials “refused to engage [after] I took the details of 30 cases of unpaid salaries [to them two months ago]. We inform the ministry usually once a month of all the outstanding cases that we can’t resolve ourselves.”⁴⁰⁵ Sri Lankan diplomats said in early August 2010 that they had not yet received a response to about 77 domestic workers’ cases of unpaid salaries sent to the ministry in recent weeks.⁴⁰⁶ Sri Lanka’s ambassador said he personally tried “many times” to engage the Labor Ministry, “but usually to no avail.”⁴⁰⁷ Indonesian diplomats echoed the frustration, noting that the sum of unpaid salaries owed workers in their shelter was \$300,000.⁴⁰⁸

Before turning to the authorities, embassies negotiated with employers and agencies to recuperate unpaid salaries. Embassy staff pressured recruitment agents by threatening to withhold authentication of contracts if outstanding salaries were not paid, although agencies bore no legal responsibility. “The Indonesian embassy is always onto the

⁴⁰⁰ Human Rights Watch interview with Ibrahim al-Sa’udi, August 3, and with a lawyer for the Indonesian and Philippines embassy, July 31, 2010, and MDW regulation, 2009, art. 9.

⁴⁰¹ Human Rights Watch interview with Gina R., August 8, 2010.

⁴⁰² Human Rights Watch interview with Mazin ‘Awda, August 3, 2010.

⁴⁰³ Human Rights Watch interview with Virginia Calvez, August 8, 2010.

⁴⁰⁴ Human Rights Watch interview with Virginian Calvez, July 27, and with Mark Hamoy, Philippines consul general, Amman, August 2, 2010.

⁴⁰⁵ Human Rights Watch interview with A.W. Mohottala, August 11, 2010.

⁴⁰⁶ Human Rights Watch interview with Sri Lankan diplomats, August 2, 2010.

⁴⁰⁷ Ibid.

⁴⁰⁸ Human Rights Watch interview with Indonesian diplomats, August 2, 2010.

agencies. Why don't they cooperate with the government agencies?," an agent complained.⁴⁰⁹

Negotiating with employers may cost the worker, who typically has much weaker bargaining power. Yuniarti W. from Indonesia said embassy officials negotiated with her employer after she ran away in February because he beat her and had not paid her. "Baba came on April 24, 2010, to the embassy and paid \$700" she said, adding he owed her at least \$4,100.⁴¹⁰

Diplomats preferred dealing with the labor committee over recourse to the courts, where cases took even longer. The Sri Lankan embassy only supported litigation "if there are more than three months of unpaid salaries."⁴¹¹

In theory, court procedures for labor claims favor workers. In salary claims, the employer must prove payment, rather than the worker proving non-payment.⁴¹² Furthermore, "any case of financial rights must be settled within three months in court. The maximum time between court hearings is 15 days. Otherwise, the judge needs to justify longer delays," Jordan's chief judge, Ratib Wazani, said.⁴¹³

In reality, however, "labor cases never get the expedited treatment as required by law," the embassy lawyer said.⁴¹⁴ For example, on March 29, 2010, Tamkeen sued Isdiah B.'s employer for three years of unpaid salaries, but by July the case was ongoing and Isdiah remained at the Indonesian shelter.⁴¹⁵

Domestic workers relied on NGO and embassy lawyers to pursue their interests because Jordanian authorities provided no assistance. At a hearing in the theft case against her, Gina R. from the Philippines told the judge that she wanted to sue her employer for unpaid salaries, "but they [the Jordanian authorities] didn't register the case."⁴¹⁶

⁴⁰⁹ Human Rights Watch interview with Khalid Husainat, August 4, 2010.

⁴¹⁰ Human Rights Watch interview with Yuniarti W., August 4, 2010.

⁴¹¹ Human Rights Watch interview with A.W. Mohottala, August 11, 2010.

⁴¹² Human Rights Watch interview with Hasan Abdallat, August 1, 2010, and with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

⁴¹³ Human Rights Watch interview with Ratib Wazani, August 1, 2010.

⁴¹⁴ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

⁴¹⁵ Human Rights Watch correspondence with Tamkeen, November 14, 2010.

⁴¹⁶ Human Rights Watch interview with Gina R., August 8, 2010.

Long trials for salary claims have led domestic workers to reach faster but less favorable settlements. Tamilvaani G.'s employer tried to send her straight home after the prosecutor classified her case of five years of forced labor and seven years of unpaid salaries as passport confiscation rather than trafficking. Tamkeen prevented her immediate departure, and negotiated for her salary, receiving \$2,200 out of the \$4,700 owed her. Tamilvaani G. did not want to go to court because she wanted to return as quickly as possible.⁴¹⁷

Prosecution Failures

Criminal prosecutions for abuse of domestic workers have a mixed record of success.

On the one hand, prosecutors have referred some physical and sexual abuse cases to court for trial without appearing to distinguish between these and cases that do not involve MDWs. In six cases of serious physical abuse that Human Rights Watch reviewed, but had not yet concluded, courts tried employers and agents. One of these was a medical doctor who, in September 2009, deposited his Indonesian domestic worker outside the health center for foreigners, where doctors found her weighing just 20 kilos and suffering from tuberculosis. Prosecutors charged the employer with beating, and the medical association suspended his approbation. At time of writing he remained free on bail pending trial.⁴¹⁸

In a second case, the lawyer for the Indonesian and Philippines embassies summarized a case in which an employer abandoned his Indonesian domestic worker at the embassy with grave injuries. Before she died, she told police that her employer and an agency employee had beaten and tortured her, he said.⁴¹⁹ In a third case, the prosecutor charged an agency employee with assault following the suicide of an Indonesian worker in Aqaba. Before she died from injuries sustained by jumping from the fifth floor, the worker told police that an agency employee had beaten her each of the previous six times she had escaped, and had forced her back to the employer.⁴²⁰

However, domestic workers faced formidable obstacles accessing justice. In three further cases, the trials dragged on for several months or years.⁴²¹ Two workers said the accused had failed to appear in court or they lacked interpreters, which had delayed their trials. For

⁴¹⁷ Human Rights Watch interview with Tamilvaani G., July 29, 2010, Human Rights Watch interview with a Tamkeen staff lawyer, Amman, July 29, 2010. Human Rights Watch was present during one of Tamkeen's negotiations with Tamilvaani G.'s second employer.

⁴¹⁸ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010. "Food deprivation" is not recognized as a crime in Jordanian law.

⁴¹⁹ Ibid.

⁴²⁰ Ibid.

⁴²¹ Human Rights Watch interview with Padma S., August 1, 2010.

example, Fatima N., a Filipina worker, said nothing happened in the trial against her employers for physical assault after “Mama and Baba did not show up” for one session.⁴²² Yanti S., from Indonesia, said “there was no interpreter” at her first court date and that she did not know where the case stood six months later.⁴²³ She said she had forensic reports documenting burn marks from a hot iron.⁴²⁴

Other cases never made it to the prosecutor, in part because embassy staff members were overstretched. MDWs’ lack of freedom of movement and communications, secure residency, legal expertise, and money and time to pursue claims resulted in few cases coming to the attention of Jordanian officials. Chief Judge Wazani stated apart from an occasional rape or sexual assault case, “We get few cases of migrant domestic workers.” Attorney General Qur’an concurred: “There are not many people who insult domestic workers. We do not get many cases,” he said.⁴²⁵

Of three Indonesian workers Human Rights Watch interviewed at the shelter – Sutiati S., who said her employers had beaten her so severely she now had only partial hearing in one ear; Eni M., who said agency staff beat her to force her to work short stints in various houses after her employers returned her when she fell ill; and Mina S., who told the embassy lawyer that employers beat her with a stick and had not paid her for 16 months – only one had seen the embassy lawyer and none had seen a prosecutor, months after escaping criminal abuse.⁴²⁶

In March 2009, Jordan passed the Law to Combat Human Trafficking (anti-trafficking law), which adopted the international definition of the crime of trafficking in persons, including the use of forced labor for the purpose of exploitation. In July 2010, Amman’s prosecutor-general assumed responsibility for all trafficking cases in Jordan.⁴²⁷ Similarly, Amman’s anti-trafficking unit within the Criminal Investigations Department covered cases throughout the kingdom.⁴²⁸

⁴²² Human Rights Watch interview with Fatima N., August 3, 2010.

⁴²³ Human Rights Watch interview with Yanti S., August 3, 2010.

⁴²⁴ Ibid.

⁴²⁵ Human Rights Watch interview with Ratib Wazani, and with Mazin Qur’an, August 1, 2010.

⁴²⁶ Human Rights Watch interview with Sutiati S., August 4, 2010. Sutiati S. said her employer also owed her five months’ salary. Human Rights Watch interview with Eni M., August 4, 2010. Eni M. said her passport was with the agency, which had not made her a residency permit, and also still owed her six months’ salary. Human Rights Watch interview with Mina S., August 4, 2010.

⁴²⁷ Hasan Abdallat, comment at a roundtable meeting, December 14, 2010.

⁴²⁸ Human Rights Watch interview with Public Security Directorate officials, August, 9, 2010.

Almost no investigations and prosecutions of trafficking cases where the victims are domestic workers took place.⁴²⁹ Part of the reason for this lack of action appears to be a focus on trafficking into forced prostitution or for the sale of organs and reluctance on the part of officials to consider MDWs at risk of trafficking, because that would involve a more complicated analysis of a variety of factors that in combination may amount to forced labor for exploitation. “There’s no trafficking case,” Chief Judge al-Wazani said, while a senior Interior Ministry official agreed that when it comes to domestic workers, “the problems have to do with labor issues, not with trafficking.”⁴³⁰ In an apparent change of policy in July 2010, though, the Philippines and Indonesian embassies’ lawyer said anti-trafficking police informed him in mid-July 2010 that they would start accepting domestic worker trafficking cases.⁴³¹

Human Rights Watch heard details of one case of trafficking involving a domestic worker that reached Jordanian authorities. On October 23, 2010, Tamkeen referred Asanthika W. from Sri Lanka to the anti-trafficking unit with an interpreter. After taking her statement, officers sent her to the prosecutor, who also questioned her, before entering criminal charges of sexual harassment, assault, and trafficking against her recruitment agency.

Asanthika W.’s agency confiscated her passport upon arrival in 2005 and transferred her to another agency, which placed her in a house. Asanthika’s employers made her work in two houses, and she escaped after a while to the embassy, which passed her on to her agency. The agency owner cut her hair and punched her jaw, and with another employee kicked her in the stomach, before stripping off her clothes. Asanthika remained at the agency for 15 days, then agency staff forced her to work in another house. She worked long hours, including nights caring for an infant, and escaped again to the embassy, which again returned her to the agency. Agency staff again forced her to work, and Asanthika again escaped, this time to the Evangelical Church, which contacted Tamkeen.⁴³²

⁴²⁹ No case from the POLO had ever been classified as trafficking. Human Rights Watch interview with Virginia Calvez, July, 27, 2010. In 2009, the police investigated 14 cases of trafficking, referring four to the prosecutor, who referred two to court. Until December 14, 2010, the police referred 13 cases to the prosecution, which referred six cases to court, closed five others, while two remained under consideration. Hasan Abdallat and Muhannad Duwaikat, comments at a roundtable meeting, December 14, 2010.

⁴³⁰ Human Rights Watch interview with Ratib Wazani, August 1, and with Basim al-Dahamisha, August 8, 2010.

⁴³¹ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

⁴³² Human Rights Watch email communication with Tamkeen, October 26 and 28, 2010.

Anti-trafficking chief Duwaikat explained that so few MDW cases had proceeded because it was difficult to prove the “intended purpose” of exploitation, one of three essential pillars of the crime of trafficking, besides a demonstrable act and the means to carry it out. He said he could prove the act, and means of threat, coercion, deception, or kidnapping, but “then you need the intention.” Prosecutor Abdallat also stressed it was impossible to proceed with a trafficking case without proving the exploitative intent of criminal and labor violations.⁴³³

This claim did not always stand up to scrutiny. In several cases, the authorities were aware of forced labor and exploitation yet did not investigate or prosecute them for trafficking or for forced labor. In all these cases, the worker’s passport was confiscated, she faced overstayer fines for undocumented residency status, and was confined to the home.

For example, prosecutors did not charge the employers of Siti Mujiati W., from Indonesia, despite additional elements of forced labor, including her assertion that: she did not voluntarily accept work, having been deceived by promises of a salary of \$130 a month, whereas in Jordan she was offered only \$100; her employer’s refusal to allow her to go home after two years, claiming the contract was for three years; and again refusing after three years, claiming not to have money for the ticket; and not receiving a copy of the contract. Siti Mujiati W.’s employers also did not pay her, but benefited from her services, indicating exploitation. Siti Mujiati W. escaped when the employer left the key in the front door one night.⁴³⁴

In further cases, anti-trafficking police probed and referred cases of MDWs to the prosecutor on suspicion of trafficking, but prosecutors did not pursue possible trafficking charges. Instead, prosecutors pursued other, lesser charges. For example, prosecutors charged with fraud, but not trafficking, a Jordanian agent who had recruited a migrant domestic worker to work in Iraq. The worker claimed she came to work in Jordan and was forced to go to Iraq against her will and without prior knowledge.⁴³⁵

In another example, following high-level judicial interventions by Tamkeen, prosecutors referred Krishnan S. to the anti-trafficking unit in July, where officers questioned her and other workers for only 10 to 15 minutes and did not allow the Tamkeen lawyer to speak. Krishnan S.’s employers had confined her, not paid her, and not allowed her to return home. When the case came back to the prosecutor, the Tamkeen lawyer said the prosecutor asked

⁴³³ Hasan Abdallat, comment at a roundtable meeting, December 14, 2010.

⁴³⁴ Human Rights Watch interview with Siti Mujiati W., August 3, 2010.

⁴³⁵ Human Rights Watch interview with a lawyer for the Indonesian and Philippines embassies, July 31, 2010.

Krishnan S. if she wanted to press charges for the passport confiscation but did not explore or record Krishnan S.'s complaint about not having received her salary.”⁴³⁶

In some cases, the problems of pursuing a charge of trafficking may lie in the lack of resources at prosecutors' disposal, including interpretation and ability to summon witnesses.

In the case of Tamilvaani G., a Sri Lankan domestic worker represented by Tamkeen, the lack of interpretation prevented the prosecutors from hearing the full story. Anti-trafficking police interviewed Tamilvaani G. after she told her story at a May 13, 2010 roundtable meeting on trafficking attended by police, prosecutors, and judges, and referred her to the prosecutor. The prosecutor questioned her in Arabic and with interpretation only into English, which she did not understand.⁴³⁷ The prosecutor did not consider forced labor or trafficking at a second hearing, which equally lacked interpretation to Tamilvaani G.'s local language. After Tamilvaani G. entered a statement through a Tamkeen-provided interpreter, the prosecutor classified her case as passport confiscation, but gave no consideration to coercion and exploitation amounting to trafficking.⁴³⁸

Additional witnesses in another case may have helped the prosecutor pursue trafficking charges. Tamkeen presented the case Bethari R., from Indonesia, on August 13, 2009, to the anti-trafficking unit, which referred her to the prosecutor. The prosecutor on August 14, 2009, took her statement, but not that of any witnesses, and entered a charge of sexual harassment, but not trafficking. Four months and nine court sessions later, the Major Crimes Court ruled that the accused was not guilty. Bethari's agency confiscated her passport upon arrival in 2005, placed her to work in a family for \$150 a month. Bethari was paid for three, but worked for nine months, from early morning past midnight every day. Her employers said they were paying the agency. Bethari complained, and agency staff arrived and beat her, and placed her in a new family, where she worked for 13 months, without pay. When she asked for payment, the employer threatened to accuse her of theft. The agency owner came, beat her, and took her to another family, where she worked for two years and was fully paid. This family gave her gifts of gold and clothes and after two years, brought her to the agency, paid overstayer fines, and the ticket for her to go home. The agency owner took her home, stripped off her clothes, took her gifts and possessions,

⁴³⁶ Human Rights Watch interview with a Tamkeen staff lawyer, July 26, 2010.

⁴³⁷ Human Rights Watch correspondence with Tamkeen, November 14, 2010.

⁴³⁸ *Ibid.*

and tried to make her work in various houses, but she refused. At one of these houses, she cried and explained her story, and the employers brought her to Tamkeen.⁴³⁹

Jordanian law prohibits “unlawful deprivation of liberty,” but there have been no prosecutions for the widespread crime of forced confinement perpetrated in particular against domestic workers.⁴⁴⁰ In an apparently illegal provision, however, the 2009 MDW Regulation authorizes confinement by conditioning a worker’s ability to leave the house where she lives and works, even outside working hours, on the employer’s “consent.”⁴⁴¹

A labor lawyer recognized the contradiction, saying one could mount a court challenge about the legality of the regulation, or litigate an individual case of confinement.⁴⁴² Jordan’s Chief Judge Ratib al-Wazani only noted the “difference between deprivation of liberty in the penal code and in a regulation.”⁴⁴³ This legal paradox, in which the law provides criminal sanction for forced confinement while a regulation sanctions the confinement of MDWs, may be one reason why prosecutors have not tried confinement cases.

⁴³⁹ Ibid.

⁴⁴⁰ Law of Punishments No. 16 of 1960, Official Gazette , no. 1487, January 1, 1960, p. 374 , art. 346, (penal code). Human Rights Watch interview with Virginia Calvez, July, 27 2010. Jordanian law does not recognize food deprivation or failure to provide medical care as crimes, and forced labor only if coupled with exploitation as trafficking.

⁴⁴¹ MDW regulation, 2009, art. 5.5..

⁴⁴² Human Rights Watch interview with Hamada Abu Nijma, July 28, 2010.

⁴⁴³ Human Rights Watch interview with Ratib Wazani, chief judge, , August 1, 2010.

VII. Employer Grievances

Migrant domestic workers are often backwards; they come from areas with no electricity and don't speak any other language besides their own.

There's no real training in their home countries, and when they arrive, they suffer a culture shock.⁴⁴⁴

—High-ranking official in the Public Security Directorate, Amman, August 9, 2010

Employers had two principal grievances toward domestic workers: lack of education and skills, including language abilities, leading to conflict because workers could not understand Arabic instructions; and forfeiture of recruitment fees if the worker ran away. Employers had no right to recoup these fees from the agencies, leading them to “insure” themselves against escapes with abusive practices such as confiscating passports, locking workers inside, and prohibiting workers’ communication.

Lack of Skills

Employer grievances about MDWs’ lack of skills were unrelated to legal entitlements and were mostly directed at recruitment agencies that misleadingly advertised providing workers sufficiently trained to work in Jordanian households. Nevertheless, employers blamed the workers, sometimes leading to abuse. A common refrain from employers was that workers could not understand Arabic instructions. Filipina domestic workers commanded higher salaries because many knew some English. Sri Lanka’s ambassador, A.W. Mohottala, acknowledged problems included “a lack of language abilities and cultural barriers.”⁴⁴⁵

Employers also pointed to a lack of skills, particularly lack of familiarity with electrical appliances used in housework, such as an iron, a washing machine, or kitchen appliances.

The ILO recommends that states “ensure, where necessary, vocational training so as to enable the migrants for employment to acquire the qualifications required in the country of immigration.”⁴⁴⁶ All three sending countries examined here trained workers but only those

⁴⁴⁴ Human Rights Watch interview with Public Security Directorate officials, August, 9, 2010. “The sending countries do not ensure that domestic workers are properly educated.” Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

⁴⁴⁵ Human Rights Watch interview with A.W. Mohottala, August 11, 2010.

⁴⁴⁶ R86, art. 10(b).

who went through official channels. In particular Sri Lankan workers told Human Rights Watch about their “13 days of training” in domestic work and cultural awareness.⁴⁴⁷

The lack of skills is not easily addressed. While some domestic workers underwent training before leaving to work abroad, more training on arrival could help.

Compensation for Recruitment Expenses

The Jordanian citizen is the victim, because the agency does not pay them back their money when the worker runs away

—Dr. Hasan Abdallat, Amman prosecutor, Amman, August 1, 2010

Employers feared forfeiting their recruitment fees and agents were similarly concerned about incurring the recruitment costs of providing free replacement workers to these customers to maintain their businesses’ reputation.

Some domestic workers left within months of arriving, because of abuse, family emergencies, or homesickness. A recruitment agent said that “Indonesians and Sri Lankans run away after the first week, because things may be unfamiliar, so that’s a problem. The Filipinas are more educated, whatever they do, they do on purpose.”⁴⁴⁸ Recruiters also alleged that “the secret why so many run away soon after coming here” was that home country agents paid domestic workers \$300 to \$500 as an incentive for deployment.⁴⁴⁹

The question of who should be responsible for costs associated with an MDW running away depends on the circumstances. There are three distinct scenarios in which the issue of compensation for recruitment expenses may arise: workers leaving employers to escape abuse (the most common scenario); an employee’s ability to work being compromised by prior undetected medical conditions, illness, or death; and a worker quitting her job without cause. It is possible to conceive of solutions for an equitable distribution of the risk to agents and employers that workers will not complete their contract.

Commentators conflated three distinct scenarios with different legal liabilities and practical consequences. In the first and most frequent scenario, workers escaped abuse. Neither workers nor agents should be liable, and are not liable under the law. Nevertheless,

⁴⁴⁷ Human Rights Watch interview with Farzana M., August 1, 2010.

⁴⁴⁸ Human Rights Watch interview with Khalid Husainat, August 4, 2010.

⁴⁴⁹ Human Rights Watch interview with Husam, August 2, and with Wati S., Amman, August 4, 2010. Human Rights Watch found two MDWs who had received such payments, see above.

agents and employers used blackmail to try to extort the value of the recruitment fees from the abused worker trying to escape. The agency demanded JOD1000 (\$1,413) from Chandrika M., a Sri Lankan worker who escaped abuse, in order to return her passport. “The boss said that this is for the recruitment fees,” Chandrika M. said.⁴⁵⁰ Rosa L. from the Philippines said her employer beat her, but demanded \$3,000 in recruitment fees back to allow her to leave. When she couldn’t pay “she took away my mobile phone,” Rosa L. said.⁴⁵¹ Better investigations into abuse and access to judicial enforcement of contracts can vitiate claims by employers to fee reimbursements.

In the second scenario, an employer should be insured against prior undetected medical conditions, illness, or death ending a worker’s employment through mandatory insurance policies of JOD20 (\$28) per year taken out by recruitment agencies. Agencies are legally liable for all associated costs.⁴⁵² Despite being insured, agencies did not send the worker home. Gina R. said her employer returned her to the agency after a medical check discovered she had tuberculosis. Instead of sending her home and compensating the employer, “[t]he agency then made me work at a second house. The agency told me not to tell them that I had TB ... They told me I needed to work freelance for one week in some house in order to earn my ticket home.”⁴⁵³

Only in the third scenario of a worker quitting her job without cause is there a question of employer risk versus agent liability. The employers of one worker prevented her from attending the funeral of her husband and child at home unless she repaid the recruitment fees. Under the contract, employers have no obligation to release a worker for a death in the family. The worker stayed. Had she quit, she would have been liable to repay her employers up to half her salary for the remaining months under contract, though not for the recruitment fees.⁴⁵⁴

Workers cannot be held fully liable because they do not have the means to compensate employers or agencies for breaking their contracts (for worker liabilities for the remainder of the contract, see above: Repatriation Cost). Holding them liable in such circumstances then increases the risk of exploitation.

⁴⁵⁰ Human Rights Watch interview with Chandrika M., July 30, 2010.

⁴⁵¹ Human Rights Watch interview with Rosa L., August 8, 2010.

⁴⁵² Human Rights Watch interview with Virginia Calvez July, 27 2010

⁴⁵³ Human Rights Watch interview with Gina R., August 8, 2010.

⁴⁵⁴ Human Rights Watch interview with A.W. Mohottala, August 11, 2010.

Human Rights Watch has frequently heard employer concerns about forfeiting recruitment fees worth close to the sum of the worker's salaries over two years not only in Jordan, but also in Kuwait, Saudi Arabia, and elsewhere. Al-Dahamisha of the Interior Ministry was so concerned about this employer risk that he said he opposed the term "protection" for domestic workers, "Why not give protection to the employers, too?"⁴⁵⁵

A new insurance scheme that is funded from recruitment fees (and thus employers as well as agency profits) could fairly distribute risk for the few workers who leave without cause. In fact, agencies already self-insure in this manner by sometimes compensating employers. As one agency owner told us, a loss of 10 percent from compensation for runaway workers was acceptable.⁴⁵⁶ On the other hand, if agencies were more responsible, or if the government held them accountable for the costs in such cases, they may find it in their interest to do a better job recruiting and training workers so they are better prepared for work abroad and less likely to "run away."

Offering better salaries and narrowing the salary gap between informal freelance workers and live-in MDWs may also help agencies to avoid MDWs breaking their contracts early.

⁴⁵⁵ Human Rights Watch interview with Basim al-Dahamisha, August 8, 2010.

⁴⁵⁶ Human Rights Watch interview with Ahmed al-Hababna, January 29, 2009.

VIII. Jordanian Law and International Standards

Security of the Person

Jordanian criminal law prohibits threats of murder⁴⁵⁷ or of assault,⁴⁵⁸ beating, assault,⁴⁵⁹ rape,⁴⁶⁰ driving someone to suicide,⁴⁶¹ torture,⁴⁶² and murder.⁴⁶³

The International Covenant on Civil and Political Rights (ICCPR) provides for security of person and, along with the Convention Against Torture, the right to be free from cruel, inhuman, and degrading treatment.⁴⁶⁴ According to the UN Human Rights Committee (HRC), article 7 of the ICCPR requires “public authorities to ensure protection by the law against [cruel, inhuman and degrading] treatment even when committed by persons acting outside or without any official authority.”⁴⁶⁵ The HRC also determined that states have a responsibility to “prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.”⁴⁶⁶ The UN Committee Against Torture explained that article 2 of the CAT obligates states to “exercise due diligence to prevent, investigate, prosecute and punish” acts of ill-treatment by private actors.⁴⁶⁷ In the Declaration on the Elimination of Violence against Women, in 1993, the UN General Assembly stated that governments have an obligation to “prevent, investigate, and ... punish acts of violence against women ... by states or by private persons.”⁴⁶⁸ A state’s consistent failure to do so amounts to unequal and discriminatory treatment, and constitutes a violation of the state’s obligation under CEDAW to guarantee women equal protection of the law.

⁴⁵⁷ Penal code, art. 350, sentences range from 6 months to 3 years.

⁴⁵⁸ Penal code, art.352, sentences of up to one year.

⁴⁵⁹ Penal code, arts. 334 and 344, fine or to one year if no injuries.

⁴⁶⁰ Penal code, art. 292, sentences of hard labor of a minimum of 15 years.

⁴⁶¹ Penal code, art.339, sentences range from three months if suicide remains attempt, to open-ended sentences.

⁴⁶² Penal code, art. 208.

⁴⁶³ Penal code, arts. 326-330, and art. 343, sentences range from 15 years to death penalty.

⁴⁶⁴ ICCPR, art. 7; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, art 16.

⁴⁶⁵ Human Rights Committee, General Comment 7, Prohibition of Torture or Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc. HRI/GEN/1/Rev.6 at 129 (2003), para. 2.

⁴⁶⁶ Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 8.

⁴⁶⁷ Committee Against Torture, General Comment 2, Implementation of Article 2 by States Parties, U.N. Doc. CAT/C/GC/2 (2008), para. 18.

⁴⁶⁸ UN General Assembly, Declaration on the Elimination of Violence against Women, U.N. General Assembly Resolution 48/104 (A/RES/48/104) (1993), art. 4(c).

Freedom of Movement

Jordanian law criminalizes forced confinement, punishing with a fine of up to 50 dinars (\$71) or one year in prison “anyone who holds someone or violates his freedom without lawful cause.”⁴⁶⁹ Article 5.5 of the MDW Regulation restricts a domestic worker’s freedom of movement, including outside working hours, by conditioning her ability to leave the house on employer consent and “his knowledge of her whereabouts.” Similarly, the Unified Standard Contract states that the worker “shall not leave the residence without the permission of the Employer.”⁴⁷⁰

The ICCPR in article nine provides for the “right to liberty,” further specified in article 12 as “right to liberty of movement and freedom to choose his residence.”⁴⁷¹ Article 12 also guarantees the “right to leave any country.”⁴⁷² The UN Committee on Migrant Workers urged states to protect MDWs’ “freedom of movement and residence, including by ensuring that migrant domestic workers are not required to live with their employers or stay in the house during their time off (article 39).”⁴⁷³

Article 18.b of the Jordanian Law of Passports prohibits confiscating the passport of another person for “any gain,” a crime punishable with up to three years in prison.⁴⁷⁴ The MDW Regulation does not specifically prohibit confiscating a worker’s passport. The Unified Standard Contract states that the “Employer has no right to withhold the [worker’s] passport or any other related personal documents.”⁴⁷⁵ Article 77 of the Labor Law prohibits employing a worker in a “coercive fashion,” which the former head of the ministry’s MDW Department believed could be interpreted to prohibit confiscation of passports.⁴⁷⁶

The United Nations Working Group on Contemporary Forms of Slavery recommended that “[m]easures should be taken to prohibit and prevent confiscation of passports by making it a criminal offense.”⁴⁷⁷ The Committee on Migrant Workers interpreted international

⁴⁶⁹ Penal code, art. 346.

⁴⁷⁰ Unified Standard Contract, art. 8.

⁴⁷¹ ICCPR, arts. 9 and 12.

⁴⁷² ICCPR, art. 12.

⁴⁷³ Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, General comment no. 1, “Migrant domestic workers,” November 30, 2010, Para.39.

⁴⁷⁴ Jordanian Law of Passports, 2003, art.18(b). “Whoever keeps as a security for any gain [a passport or travel document] with him [لديه مقابل أي منفعة [جواز سفره أو وثيقة سفره] قام برهن أي من] will be punished with prison of 6 months to 3 years.

⁴⁷⁵ Unified Standard Contract, art. 10.

⁴⁷⁶ Labor Law, art. 77, and Human Rights Watch interview with Hamada Abu Nijma, July 28, 2010.

⁴⁷⁷ Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, “Contemporary Forms of Slavery,” report of the Working Group on Contemporary Forms of Slavery on its twenty-sixth session, E/CN.4/Sub.2/2001/30, July 16, 2001.

standards on migrant workers to require that “States should also ensure that migrant domestic workers retain possession of travel and identity documents (article 21).”⁴⁷⁸

Residency Status

Article 16 of the Residency and Foreigners Law prohibits employing any foreigner without a residency permit.⁴⁷⁹ The MDW Regulation and the Unified Standard Contract oblige the employer to pay for and obtain residency and work permits.⁴⁸⁰

The law’s article 34(a) imposes a fine of JOD45 (\$64) per month on a foreigner who fails to obtain a residency permit or to renew it. The Unified Standard Contract makes an employer who failed to obtain permits for his or her domestic worker liable to paying the fines.⁴⁸¹ Instead of fines, the interior minister may deport any foreigner, banning reentry for life, and temporarily detain said foreigner for the purposes of deportation.⁴⁸²

Jordan has not signed the ILO’s Migrant Workers (Supplementary Provisions) Convention No. 143 of 1975 that provides that, if the migrant worker has been legally resident and working, he or she “shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself imply the withdrawal of his authorisation of residence or, as the case may be, work permit.”⁴⁸³

Fair and Decent Work

The MDW regulation defines “domestic work” as that which is the “natural functioning of a family,” and that “is possible for its members themselves to undertake,” such as cleaning, cooking, ironing clothes, preparing meals, caring for family members, buying household goods, and bringing and returning children.⁴⁸⁴

The Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) provide that everyone has the right to rest and leisure, including reasonable limitation of work hours and periodic holidays with pay,

⁴⁷⁸ Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, General comment no. 1, “Migrant domestic workers,” November 30, 2010, para. 39.

⁴⁷⁹ Foreigners and Residency Law, art. 35; fines range from JOD50 to JOD75 (\$71 to \$106).

⁴⁸⁰ MDW regulation, 2009, art. 4(a), and Unified Standard Contract, art. 3.

⁴⁸¹ Unified Standard Contract, art. 3.

⁴⁸² Foreigners and Residency Law, art. 37.

⁴⁸³ ILO Convention No. 143 concerning Migrant Workers (Supplementary Provisions) adopted June 24, 1975, entered into force December 12, 1978, art. 8.

⁴⁸⁴ MDW regulation, 2009, art. 2

as well as the right to just remuneration to ensure “an existence worthy of human dignity.”⁴⁸⁵ The ICESCR reiterates these rights in recognizing the right of all persons to just and favorable conditions of work.⁴⁸⁶

The Labor Law in article 46 prohibits employers from “deducting any part” from the salary, which shall be paid no later than seven days after it has been earned.⁴⁸⁷ The 2010 Recruitment Agency Instructions prohibit the agency from taking any amount of money from the worker.⁴⁸⁸ If the worker does overtime, she earns the right to additional pay. Article 59 specifies that workers shall earn 125 percent of their hourly wages for overtime, and 150 percent for work on weekly rest days, or religious and national holidays.⁴⁸⁹ The law also provides for pay during employer work stoppages.⁴⁹⁰ Article 4 of the 2009 MDW Regulation obliges the employer to monthly payment of her salary, and the Unified Standard Contract repeats this provision.⁴⁹¹ National legislation setting a minimum wage, currently JOD150 (\$212) per month, applies to MDWs.⁴⁹²

Jordanian law seems to satisfy the ILO Protection of Wages Convention C95 of 1949, which Jordan has not yet signed and that prohibits “[a]ny deduction from wages with a view to ensuring a direct or indirect payment for the purpose of obtaining or retaining employment, made by a worker to an employer or his representative or to any intermediary (such as a labour contractor or recruiter).”⁴⁹³ C95 also stipulates that “[w]ages shall be paid regularly.”⁴⁹⁴ The ILO Discrimination (Employment and Occupation) Convention No. 111 of 1958 (C111) obliges the state to seek to eliminate discrimination in employment based on national extraction, sex, or religion, among other factors.⁴⁹⁵ Jordan has not ratified the ILO’s Migration for Employment Convention (Revised) No. 97 of 1949, which obliges a state

⁴⁸⁵ Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), arts. 23 and 24. ICESCR, art.7.

⁴⁸⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, and ratified by Jordan May 28, 1975, Art. 7.

⁴⁸⁷ Labor Law, art. 46.

⁴⁸⁸ Recruitment agency instructions, art. 8(d).

⁴⁸⁹ Labor Law, art. 59.

⁴⁹⁰ Labor Law, art. 50.

⁴⁹¹ MDW regulation, 2009, art. 4, and Unified Standard Contract, art. 4.

⁴⁹² Human Rights Watch interview with Faisal Jubur, December 14, 2010.

⁴⁹³ ILO Convention No. 95 concerning the Protection of Wages, adopted July 1, 1949, entered into force September 24, 1952, art. 9 (C95).

⁴⁹⁴ C95, art. 12.1.

⁴⁹⁵ ILO Convention No. 111 concerning Discrimination in Respect to Employment and Occupation, adopted June 25, 1958, 362 U.N.T.S. 31, entered into force June 15, 1960, arts. 1 and 2 (C111).

party to afford migrant workers “treatment no less favourable than that which it applies to its own nationals [in] remuneration.”⁴⁹⁶

Under Jordan’s Labor Law it is prohibited to “employ a worker more than eight hours a day or 48 hours a week,” unless exceptional circumstances obtain, specified by law.⁴⁹⁷ In an apparent contradiction, the 2009 MDW Regulation sets a maximum of 10 working hours a day.⁴⁹⁸ There is no accounting for hours “on call,” but not working. The Regulation sets a minimum of eight hours of consecutive rest per day,⁴⁹⁹ and a weekly day of rest, a provision also found in the contract.⁵⁰⁰

Article 61 of the Labor Law provides for a minimum of 14 days of paid annual leave, rising to 21 days after five years of service. If service is for less than one year, leave is prorated. National and religious holidays and weekly rest days are not part of leave. A worker can postpone taking leave to the following year.⁵⁰¹ The 2009 MDW Regulation provides for 14 days of annual paid leave.⁵⁰²

Article 65 of the Labor Law provides for 14 days paid annual sick leave, and a further 14 days if the worker is in hospital or if a medical report so recommends.⁵⁰³ Article 7(c) of the MDW regulation gives the domestic worker labor protections of two weeks of medical leave.⁵⁰⁴

Servitude, Forced Labor, and Trafficking

Jordanian law does not define or criminalize holding a person in slavery, slavery-like conditions, or servitude, but definitions of trafficking in persons subsume those conditions.

International treaties, to which Jordan is a party, prohibit trafficking, slavery, servitude, and forced labor. The Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926 (Slavery Convention of 1926), defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership

⁴⁹⁶ ILO Convention No. 97 concerning Migration for Employment Convention (Revised), adopted July 1, 1949, entered into force January 22, 1952, art.6 (C97).

⁴⁹⁷ Labor Law, art. 56.

⁴⁹⁸ MDW regulation, 2009, art. 6(a).

⁴⁹⁹ MDW regulation, 2009, art. 6(c).

⁵⁰⁰ MDW regulation, 2009, art.7(a), and Unified Standard Contract, art. 8.

⁵⁰¹ Labor Law, art.61.

⁵⁰² MDW regulation, 2009, art. 7(b).

⁵⁰³ Labor Law, art. 65.

⁵⁰⁴ MDW regulation, 2009, art. 7(c).

are exercised.”⁵⁰⁵ The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 (Supplementary Convention of 1956) banned slavery-like institutions and practices, defined as debt bondage; serfdom; delivery of a minor to another by her parent or guardian for exploitation of the child or her labor; and the promise, surrender, or transfer of a woman in marriage through payment of consideration to another or through inheritance.⁵⁰⁶ Servitude, or “servile status,” was deemed to be the situation of a person that resulted from slavery or slavery-like institutions or practices.⁵⁰⁷ The ICCPR states that no one shall be held in slavery or servitude.⁵⁰⁸ The ICPRMW of 1990, to which Jordan is not yet a state party, provides that “[n]o migrant worker or member of his or her family shall be held in slavery or servitude.”⁵⁰⁹

Servitude is prohibited but not explicitly defined in international law. The history of the international law prohibition of servitude suggests that “servitude” is more expansive than “slavery” and not confined to the four “institutions and practices similar to slavery.”⁵¹⁰ However, the Council of the League of Nations, prior to adopting the Slavery Convention, recognized servitude as one of several practices – including the four specific conditions later prohibited as “institutions and practices similar to slavery” – that are “restrictive of the liberty of the person, or tending to acquire control of the person in conditions analogous to slavery.”⁵¹¹

Regarding the scope of servitude, the European Commission of Human Rights stated that “in addition to the obligation to provide another with certain services, the concept of servitude includes the obligation on the part of the ‘serf’ to live on another’s property and the impossibility of changing his condition.”⁵¹² Legal scholars interpreting the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) have suggested that servitude refers to “the total of the labour conditions and/or the obligation to work or to render services from which the person cannot escape

⁵⁰⁵ Convention to Suppress the Slave Trade and Slavery, 60 L.N.T.S. 253, September 25, 1926, Article 1(1). The Slavery Convention entered into force for the United States on March 21, 1929.

⁵⁰⁶ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 U.N.T.S. 3, September 7, 1956, art. 1 (Supplementary Convention).

⁵⁰⁷ Supplementary Convention, art. 7(b).

⁵⁰⁸ ICCPR, art. 8.

⁵⁰⁹ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), adopted December 18, 1990, G.A. Res. 45/158, annex, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/45/49 (1990), entered into force July 1, 2003., art. 11 (ICPRMW).

⁵¹⁰ Supplementary Convention, art. 1.

⁵¹¹ Report of the Temporary Slavery Commission to the Council of the League of Nations, A.17.1924.VI.B, 1924.

⁵¹² *Van Droogenbroeck Case*, Eur. Comm’n H.R. (July 9, 1980), para. 79, cited in 44 *Publications of the European Court of Human Rights* (ser. B) (Strasbourg, Council of Europe, 1985), p. 30.

and which he cannot change.”⁵¹³ Scholars interpreting the ICCPR have suggested that those “labor conditions” suffered must be economically abusive and create a dependent relationship between the individual and her employer.⁵¹⁴ Although no consensus exists regarding the definition of servitude, two likely elements of a definition can be extracted from the above interpretations: a dependent, economically abusive labor relationship; and no reasonable possibility of escape.

When abusive labor situations rise to the level of servitude or fall just short, they may constitute forced labor under international law. The ILO Convention No. 29 concerning Forced or Compulsory Labour of 1930 prohibits forced labor, defined as “all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” and the ILO Convention on Abolition of Forced Labor No. 105 of 1957 obliges states to suppress the practice.⁵¹⁵ The ICCPR states that “No one shall be required to perform forced or compulsory labor.”⁵¹⁶ The ICPRMW also provides that “[n]o migrant worker or member of his or her family shall be required to perform forced or compulsory labour.”⁵¹⁷

The ILO Convention does not define “menace of any penalty” or “voluntarily.” The ILO Committee of Experts explained “menace of any penalty” as a penalty that “need not be in the form of penal sanctions, but might take the form also of a loss of rights or privileges.”⁵¹⁸ The scope of such “rights or privileges” has not been defined, though the ILO Committee of Experts later identified entitlement benefits based on previous work or contributions, such as social security, as one such “right or privilege.”⁵¹⁹

“Voluntarily” has been even less explicitly defined than “menace of any penalty,” though the fora in which the issue has been addressed suggest that “voluntary” consent must be free and informed and made with knowledge of the employment conditions being accepted. The European Court of Human Rights (ECHR), in the recent case *Rantsev v Cyprus*

⁵¹³ P. van Dijk and G.J.H. van Hoof, *Theory and Practice of the European Convention on Human Rights* (The Hague, The Netherlands: Kluwer Law International, 1998), p. 334.

⁵¹⁴ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Strasbourg: N.P. Engel, 1993), pp. 148-49.

⁵¹⁵ ILO c105, art. 2(1). Both the ICCPR and the ILO Forced Labour Convention 105 contain exceptions to the prohibition of forced or compulsory labor, none of which are applicable to the labor situations of live-in migrant domestic workers.

⁵¹⁶ ICCPR, art. 8.3(a).

⁵¹⁷ ICPRMW, art. 11.

⁵¹⁸ International Labor Conference, “1979 General Survey of the Reports relating to the Forced Labor Convention, 1930 (No. 29) and the Abolition of Forced Labor Convention, 1975, (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations,” 65th Session, Geneva, 1979, Report III, para. 21.

⁵¹⁹ International Labor Conference, “General Report of the Committee of Experts on the Application of Conventions and Recommendations,” 1998, 85th Session, Geneva, 1998, Report III, paras. 106, 123.

involving trafficking in persons, found that “the Court had established that prior consent, without more, does not negate a finding of compulsory labour.”⁵²⁰ The European Court, interpreting the European Convention’s prohibition of forced labor,⁵²¹ found that “if an individual entered the profession ... with knowledge of the practice complained of,” there was no forced labor, as consent was “voluntary.”⁵²² Similarly, in a report addressing an alleged violation of the ILO Forced Labour Convention, the ILO found that impoverished workers, “recruited on the basis of false promises” of “good wages and good working conditions,” did not voluntarily consent to their employment relationships.⁵²³ The ILO Committee of Experts similarly found that mandatory overtime could not constitute forced labor if “within the limits permitted by the national legislation or collective agreements,” in other words, the limits of which a worker was “informed.”⁵²⁴

Jordanian criminal law does not include the term “forced labor,” but article 77 of Jordan’s Labor Law penalizes an employer who breaks the law by “forcibly employing any worker under threat or through deception, including by holding on to his travel document.”⁵²⁵

Until July 2010, an employer of a domestic worker could “sell” the worker’s services without her consent to another employer. In that month, the MDW Department changed its forms for the “release” of a domestic worker from one employer to another employer, adding a signature for the worker.⁵²⁶

⁵²⁰ European Court for Human Rights, *Rantsev v. Cyprus* (Application no. 25965/04), Judgment, Strasbourg, January 7, 2010, <http://cmiskp.echr.coe.int/tkp197/view.asp?item=3&portal=hbkm&action=html&highlight=rantsev&sessionid=63874036&skin=hudoc-en> (accessed December 22, 2010), para. 254.

⁵²¹ See van Dijk and van Hoof, *Theory and Practice of the European Convention on Human Rights*, pp. 335-336. Although the European Convention has been interpreted in light of the ILO Forced Labour Convention, the European Commission of Human Rights has added the requirement that the labor be “unjust,” “oppressive,” or an “avoidable hardship.” *Van der Mussele*, 70 Eur. Ct. H.R. (ser. A), para. 37. “Neither the wording nor the historical background of Art. 8 [of the ICCPR] permits the inference of [these] further definitional features that would limit the scope of this prohibition.” Nowak, *U.N. Covenant on Civil and Political Rights*, p. 150.

⁵²² *Van der Mussele*, 70 Eur. Ct. H.R. (ser. A), para. 40. Unlike the Court, the European Commission on Human Rights adopted the view that prior consent deprives work or services of their involuntary character, a view which experts have found to be “too restrictive.” See van Dijk and van Hoof, *Theory and Practice of the European Convention on Human Rights*, pp. 335-336.

⁵²³ International Labor Organization, “Report of the Committee set up to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the ILO Constitution alleging non-observance by Brazil of the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957” (*No. 105*), GB.264/16/7, 1995, paras. 9, 22, 25, 61.

⁵²⁴ International Labor Conference, “General Report of the Committee of Experts on the Application of Conventions and Recommendations, 1998,” 85th Session, Geneva, 1998, Report III, para. 107.

⁵²⁵ Labor Law, art. 77(b).

⁵²⁶ Human Rights Watch interview with ‘Afi Jubur, August 2, 2010. See also internal memorandum by the head of the MDW Department to the minister of labor, dated May 16, 2010 (copy on file with Human Rights Watch).

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 and the attendant 2000 Protocol requires states to take measures to “check the traffic in persons ... for the purpose of prostitution.”⁵²⁷ The Convention on the Elimination of All Forms of Discrimination against Women of 1979 (CEDAW) requires states to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”⁵²⁸ The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking, or “Palermo”, Protocol of 2000) defines trafficking in persons as

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.⁵²⁹

States have an obligation to investigate allegations of trafficking and to afford protection to victims or potential victims.⁵³⁰ In *Rantsev v Cyprus*, the European Court for Human Rights found that Cyprus “had violated their positive obligations ... in failing to take any measures to ascertain whether Ms Rantseva had been a victim of trafficking in human beings or had been subjected to sexual or any other kind of exploitation.”⁵³¹ Regarding the protection of victims of trafficking, the court stated:

In order for a positive obligation to take operational measures to arise in the circumstances of a particular case, it must be demonstrated that the State authorities were aware, or ought to have been aware, of

⁵²⁷ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, adopted December 2, 1949, G.A. Res. 317/IV, entered into force: July 25, 1951, art. 17, and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention on Transnational Organized Crime (Trafficking Protocol), adopted November 15, 2000, G.A. Res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol.I) (2001), entered into force December 25, 2003.

⁵²⁸ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, and ratified by Jordan July 1, 1992, art. 6.

⁵²⁹ Trafficking Protocol, art. 3(a).

⁵³⁰ Trafficking Protocol, art. 6.

⁵³¹ European Court for Human Rights, *Rantsev v Cyprus*, January 7, 2010, para. 258.

circumstances giving rise to a credible suspicion that an identified individual had been, or was at real and immediate risk of being, trafficked or exploited within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention. In the case of an answer in the affirmative, there will be a violation ... where the authorities fail to take appropriate measures within the scope of their powers to remove the individual from that situation or risk.⁵³²

Jordan's 2009 Law to Combat Trafficking in Persons, adopts the international definition of trafficking.⁵³³ The 2009 MDW Regulation and the Unified Standard Contract provide some protection against cross border trafficking, obliging the employer to employ her only in his home, and not to take her abroad without her consent and her embassy's knowledge.⁵³⁴

The International Labour Organization (ILO) has promulgated guidelines for legislation to protect vulnerable workers, including recommendations for domestic worker laws to prevent working conditions from deteriorating into forced labor under international law. Jordanian law does not fulfill the guideline to limit the hours of domestic workers by specifying a forty-hour work week, with adequate remuneration for overtime work; and to limit the hours spent "on call" and afford workers adequate remuneration for those hours. Jordanian law also does not provide as the ILO suggests that a domestic worker whose employment is to be terminated is entitled to a reasonable period of notice or compensation in lieu thereof, unless he/she is guilty of misconduct of such a nature that it would be unreasonable to require the employer to continue his/her employment during the notice period.⁵³⁵

Contractual Rights

Jordan recognizes work contracts with a specified length of time only as valid for up to one year. However, the Unified Standard Contract is for two years.⁵³⁶ This discrepancy is important regarding the contractual right of a domestic worker to a return ticket to her country only after having completed two years of service.⁵³⁷ This right is reiterated in the

⁵³² Ibid., para. 286.

⁵³³ Law Prohibiting Traffic in Persons No. 9 of 2009, Official Gazette, no.4952, March 1, 2009, p.920, art. 3(a) (anti-trafficking law).

⁵³⁴ MDW regulation, 2009, art. 4(f), and Unified Standard Contract, art. 5.

⁵³⁵ International Labor Organization, Labor Legislation Guidelines, <http://www.ilo.org/public/english/dialogue/ifpdial/lhg/index.htm> (accessed December 25, 2010).

⁵³⁶ United Standard Contract, Preamble.

⁵³⁷ Ibid., art. 2.

2009 MDW Regulation.⁵³⁸ The employer must pay the ticket if he or she terminates services before the two years, but if the worker quits without cause, she has no right to the costs of returning home. In the case of the transfer of her employment from one employer to another, there is no mechanism to determine how to pro-rate or allocate employer responsibilities for paying her ticket home. The new employer can claim that she has to work two years with him or her before earning a ticket home, regardless of her previous term of service with another employer. The contract specifies that in the case of transfer of service to a new employer, “an annex to contract shall regulate return ticket payment,” although this has not been applied.⁵³⁹

A worker can terminate her employment after one year without breaking the two-year contract, because Jordanian law only recognizes one-year contracts. If the worker quits her job before one year is up, she is liable for damages incurred by the employer, up to a maximum of one half of her salary for the remaining months of the contract year, if the case goes to court (this has never happened).

Article 29 of the Labor Law gives a worker the right to quit her job without notice for a number of reasons including physical or sexual assault. The reasons do not include failure to comply with articles on the 2009 MDW Regulation. However, if the Labor Ministry warned the employer about such other violations, and they persist, the worker may terminate retaining contractual privileges, including the right to payment of her salary for the remainder of the contract period. Furthermore, the Unified Standard Contract gives the worker the right to quit her job if the employer fails to apply for residency and work permits, or does not pay her.⁵⁴⁰

Employers may terminate employment for cause under the Labor Law’s article 28. If an employer terminates a worker’s employment without cause, the worker has the right to all remaining salary for the period under contract.⁵⁴¹

If the worker is found to have been infected with a dangerous disease, unfit to work, or pregnant prior to entering Jordan, the recruitment agency bears employer costs related to recruitment.⁵⁴²

⁵³⁸ MDW Regulation, 2009, art. 4(g).

⁵³⁹ Unified Standard Contract, art.2.b.

⁵⁴⁰ Ibid., art. 9.

⁵⁴¹ Lutfi ‘Isam al-Sharif, “Labor Law Guide for Defense and Litigation (الدليل القانوني العملي للدفاع و المرافعة),” Tamkeen, 2009, p.13.

⁵⁴² Unified Standard Contract, art. 11.

Judicial Redress

Jordanian law guarantees that all persons are equal before the law. Jordan has not taken steps to ensure that domestic workers can access the justice system while confined to the house or sheltering at their embassy or by hiring qualified interpreters.

The penalties of accruing overstayer fines further militate against worker's access to justice, because in Jordan, unlike for example the UAE, foreigners with ongoing court litigation do not receive leave to stay legally in the country.⁵⁴³ Abdallat, the prosecutor, told Human Rights Watch that the attorney general in July 2010 issued a directive not to deport persons with ongoing litigation.⁵⁴⁴

The Human Rights Committee, interpreting the ICCPR, has stated that article 14 of the ICCPR “encompasses the right of access to the courts,” and that:

[a]ccess to administration of justice must effectively be guaranteed ... to ensure that no individual is deprived, in procedural terms, of his/her right to claim justice. The right of access to courts and tribunals and equality before them ... must also be available to all individuals, regardless of nationality or statelessness, or whatever their status, [including] migrant workers.... A situation in which an individual's attempts to access the competent courts or tribunals are systematically frustrated de jure or de facto runs counter to the guarantees of Article 14.⁵⁴⁵

The committee interpreting the ICRMW in its first General Comment recommends:

States of employment should ensure that all migrant domestic workers have access to mechanisms for bringing complaints about violations of their rights (articles 18 (1) and 83). States parties should ensure that such complaints are investigated in an appropriate manner and within a reasonable period of time and that cases of violations are appropriately sanctioned. To facilitate access to redress mechanisms, States parties could for example designate a domestic workers' Ombudsperson ... In order to ensure the effective access to justice and remedies, the Committee

⁵⁴³ Human Rights Watch interview with Virginial Calvez, July 27, 2010.

⁵⁴⁴ Hasan Abdallat, comment at a roundtable, December 14, 2010.

⁵⁴⁵ Human Rights Committee, General Comment No. 32, “Right to Equality Before Courts and Tribunals and to a Fair Trial,” U.N. Doc. CCPR/C/GC/32 (2007), para. 9.

considers that migrant domestic workers should be able to access courts and other justice mechanisms without fear of being deported as a consequence, and that migrant domestic workers should have access to temporary shelter when needed due to the abusive circumstances of their employment.⁵⁴⁶

In its General Comment No. 32, the HRC declared that article 14 of the ICCPR means that “delays in civil proceedings that cannot be justified by the complexity of the case or the behaviour of the parties detract from the principle of a fair hearing,” and “where such delays are caused by a lack of resources and chronic under-funding, to the extent possible supplementary budgetary resources should be allocated for the administration of justice.”⁵⁴⁷

⁵⁴⁶ Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, General Comment No. 1, “Migrant Domestic Workers,” November 30, 2010, paras.49 and 50.

⁵⁴⁷ Human Rights Committee, General Comment No. 32, para. 27.

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Domestic Plight

How Jordanian Law, Officials, Employers, and Recruiters Fail Abused Migrant Domestic Workers

Despite significant legal reforms in recent years, the chances of a migrant domestic worker (MDW) having all her human rights respected and protected in Jordan are slim, if non-existent.

Domestic Plight records systemic and systematic abuses, in some cases amounting to forced labor, experienced by some of the 70,000 Indonesian, Sri Lankan, and Filipina MDWs in Jordan. Abuses included beatings, forced confinement around the clock, passport confiscation, and forcing MDWs to work more than 16 hours a day, seven days a week, without full pay. MDWs who escaped or tried to complain about abuse found little shelter and agencies forcibly returned them to abusive employers. Jordanian officials provided little help, including prosecutors, who rarely applied Jordan's anti-trafficking law to MDWs.

The report traces abuse to a recruitment system in which employers and recruitment agencies disempower workers through deceit, debt, and blocking information about rights and means of redress; and a work environment that isolates the worker and engenders dependency on employers and recruitment agencies under laws that penalize escape. Jordanian law contains provisions, such as allowing confinement and imposing fines for residency violations, which contribute to abuse.

The Convention Concerning Decent Work for Domestic Workers, which the International Labour Organization adopted in June 2011 with Jordan's support, could change that. Human Rights Watch calls on Jordan to promptly ratify and implement the convention by changing laws and practices that restrict MDWs freedom of movement, such as clauses sanctioning their confinement in the house, and blocking them from returning home unless they pay fines. Labor inspectors should investigate and fine employers who violate Jordan's labor code and prosecutors should more forcefully pursue cases of forced labor for exploitation.

Filipina domestic workers seeking refuge from abusive employers sit in the basement of their embassy's shelter in Amman, Jordan, October 6, 2008.

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