



Shadow Report on Article 6 to the 40th CEDAW Session

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Introduction

Data describing the state of human trafficking in Lebanon is extremely limited. For the purpose of drafting this report and collecting information about the scope of the problem, Kafa (enough) Violence & Exploitation held a series of meetings with different parties involved in the issue of human trafficking including embassies, non-governmental organizations, international agencies, and governmental authorities. However given the difficult, sensitive, and hidden nature of human trafficking, Kafa could not collect valuable and meaningful information. For that reason, the information presented in the herein report is mainly taken from the report of the U.N Special Rapporteur on the human aspects of the victims of trafficking in persons upon her mission to Lebanon in February 2005.²

¹ Kafa (enough) Violence & Exploitation is a Lebanese is a non-profit, non-political, non-confessional civil society organization that seeks to mitigate the causes and results of violence and exploitation of women and children through advocacy and lobbying, raising awareness, and by offering social and legal services to vulnerable cases. Kafa is part of the coalition of organizations that prepared the shadow report to CEDAW. www.kafa.org.lb

² Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Sigma Huda, Mission to Lebanon (7 to 16 February 2005), E/CN.4/2006/62/Add.3

According to the report of the Special Rapporteur as well as other international reports³, Lebanon is a transit and destination country for domestic migrant workers with a considerable number trafficked into exploitative labor situations. Lebanon is also a destination and transit country for foreign women exploited in the sex industry.

The true extent of the human trafficking problem is unknown for much of the Lebanese society and as indicated by the Special Rapporteur, there have been seemingly no initiatives by Lebanese authorities to compile information about human trafficking networks and modes of operation. In addition, civil society (and relevant official authorities as highlighted by the Special Rapporteur) lacks a clear understanding of the concept of human trafficking. On the other hand, the plight of Lebanon's victims of trafficking is hidden to significant parts of Lebanese society, often because the victims tend to be foreign nationals or are considered to be of low social status. Victims are often invisible because they suffer in places that remain hidden to the public such as private homes, men's amusement clubs, or hotel rooms. Other factors such as discrimination on the basis of race, color, ethnicity, and gender contribute to the prevalence of human trafficking and keep it hidden. Moreover, social and cultural taboos prevent public discussion of issues related to sexual exploitation in general, and cases related to trafficked women in particular.

Domestic Migrant Workers

It is estimated that 120,000 to 200,000 domestic migrant workers are present in Lebanon; most of them come from Asia and Africa, particularly Sri Lanka, Philippines, and Ethiopia.

Migrant workers involved in domestic labor are excluded from the protection of the labor law (Labor Code of 1946) and do not benefit from its regulations such as the limitation on working hours, weekly day off, annual leave, etc. In fact, domestic migrant workers are subject to a separate legal regime; more specifically to a set of administrative directives – Housemaids: Rights and Obligations - issued by the General Security, the Ministry of Interior.

The process of recruitment and the employment conditions of domestic migrant workers do not guarantee their full rights but instead place them in vulnerable position where they can easily become victims of exploitation.

³ United States Department of State, Trafficking in Persons Report 2007, <http://www.state.gov/g/tip/rls/tiprpt/2007/> and the Human Rights Report – Lebanon, Protection Project, www.protectionproject.org

Given the lack of a Lebanese migration and employment policy, private agencies and in cooperation with partner agencies in the countries of origin organize the recruitment of domestic workers and place them with individual employers in Lebanon.

Most of the workers find themselves deceived by the employment conditions and are subjected to economic exploitation upon arrival to Lebanon. It is often the case that the worker signs in her country of origin a standard employment contract with the employer represented by the recruitment agency. However, once she arrives to Lebanon, the Lebanese authorities require of her to sign a second contract before granting her the work permit. Generally the second contract is distinctly less advantageous compared with the original one. For instance, the new contract – drafted only in Arabic thus incomprehensible to foreigners - does not detail conditions of work, but only stipulates the duration of employment and the monthly salary, which is often considerably lower than the one agreed up originally. At any rate, the domestic migrant worker is anyway in no position to refuse or request changes to the contract because her passport is taken away by the authorities the exact minute she embarks from the plane. The passport is then given to the employer who generally keeps it for the entire duration of the contract.

Moreover, the directives of the General Security prohibit domestic migrant workers from changing employers freely. They can do so only if they have a "release paper" from the original employer. Workers thus totally depend on their employer (who acts as their sponsor for the visa) and they cannot, by their free will, choose to “resign” and leave their place of employment. If they do so, they will be breaking the law and would face arrest, be convicted under the charge of having the status of undocumented workers, and subsequently get deported.

According to the Special Rapporteur, it is common for domestic workers to be exploited. Cases include working 15 to 17 hours per day and seven days a week, being unpaid, isolated, or not allowed to move freely and meet people. In fact, the directives of the General Security stipulate that a domestic migrant worker cannot leave the place of employment without the employer’s permission. Cases of physical and emotional violence as well as extreme cases of sexual exploitation have been also reported by the Special Rapporteur.

A complete and efficient monitoring system of the conditions of work of the domestic migrant workers is inexistent. The Ministry of Labor delegates the monitoring duty to the employment agencies which are required to report cases of exploitation and abuse. Domestic migrant workers have the right to lodge a complaint with the Ministry of Labor or the General Security Department; however this is highly unlikely that they will do so (e.g., language barrier, poor financial situation, legal ignorance) and that the process will be successful given the weak legal

infrastructure and the exclusion of migrant workers from the labor law and its associated protective provisions.

The Trafficking in Persons Report (US Department of State, 2007) states that many victims are still held in detention centers for violating the directives and running away from their employer and adds that workers are not encouraged to take part in court proceedings. The Special Rapporteur highlighted the bad conditions of detention and reported cases of ill-treatment.

A limited number of organizations in Lebanon are working to assist migrant workers victims of exploitation and abuse. Among these organizations is the Caritas Migrant Centre which held in March 2007 an awareness campaign aiming at alerting the Lebanese society on migrants' issues and preventing mistreatment and trafficking in human beings. Caritas and the Catholic Migration Commission signed a memorandum of understanding with the Ministry of Interior to identify and refer potential trafficking victims to a safe house operated by Caritas. However the Ministry requires that victims protected by the safe house leave Lebanon within two months and therefore it becomes practically impossible for these victims to testify against their abusers and be present at the court hearings. Two other organizations offer support and help to migrants workers and they are: The Afro-Asian Migrant Center (AAMC) and the Pastoral Case of Afro-Asian Migrants (PCAAM).

Most recently CESMO (Centre d'Etudes Stratégiques pour le Moyen-Orient) launched a project on migrant workers with the following objectives: raising awareness of the Lebanese Society about foreign workers' rights, informing foreign workers about their rights, drafting a law to better regulate the situation of foreign workers, and protecting foreign workers (mainly domestic helpers) through legal assistance and physical protection in case of ill-treatment.

With respect to awareness, the written, audio, and visual media have recently played a growing role in raising awareness on the situation of domestic migrant workers. Articles, television and radio shows covering this subject are becoming more frequent. A relevant article on the plight of Sri Lankan domestic workers as described by the Sri Lankan ambassador was recently published in the daily newspapers As-Safir on the 31st of August 2007. According to the Ambassador, the Sri Lankan embassy in Lebanon receives on a daily basis an average of 25 to 30 complaints about ill-treatment, abuse, beating, rape and non-payment of wages.⁴

The article in the As-Safir newspaper was important but it did not get the large exposure or generate the debate a documentary aired on French TV (France 2) succeeded in doing.⁵ The

⁴ As-Safir newspaper, No. 10788, 31/08/2007, <http://www.assafir.com/>

⁵ Envoyé Spécial of France 2 TV Channel, "Liban: Bonnes à vendre" 18 octobre 2007, by the journalist Dominique Torrès.

journalist, Dominique Torrès highlighted the ill-treatment of domestic migrant workers by their employers in her documentary “Liban: Bonnes à Vendre” and while unfortunately most of the feedback either ignored or denied the cases of abuse that domestic maids succumb to, such public debate is welcomed because it is for the first time that the issue of ill-treatment of migrant domestic workers is highlighted and discussed at this large scale in Lebanon.

Women in the sex industry

The legal position with regard to prostitution is ambivalent. Prostitution is legal under certain conditions. The opening of brothels and maisons de rendez-vous is subject to specific conditions and women in prostitution must register and undergo medical examinations. However the government has stopped granting permits to such establishments for several decades. The same law prohibits secret prostitution and practicing or allowing secret prostitution is punishable by imprisonment from one month to one year. Today the law enforcement agencies tend to interpret this provision as a prohibition of all forms of sexual relations in exchange of money and this in an attempt to gradually eliminate legal prostitution. While all women engaged in prostitution are criminalized, the law does not punish or criminalize the customers.

However and at the same time, the commercial sex industry employing foreign women for prostitution is officially tolerated and regulated. These women are involved mainly in the “super nightclubs” industry and come mostly from Eastern Europe, particularly Russia, Ukraine, Belarus, and Moldova.

These women enter the Lebanese territory under an “Artist Visa” (valid for six months) and are contracted as dancers, bar tenders, models and the like in adult clubs. The employment contracts are signed (between the woman and the so-called impresario) at the General Security Department upon their arrival to Lebanon. General Security officials then briefly inform the women that they must not engage in prostitution; however officials are aware that these women will engage in prostitution. And as highlighted by the Special Rapporteur, the mere fact that the women are required to periodically test for HIV/AIDS and sexually transmitted diseases supports the claim that the authorities are aware of the purpose of their employment in Lebanon.

According to the information provided by the Special Rapporteur, approximately 5,000 artist visas are issued every year and there are 2,500 artists in the country at any given time. A concern was raised that a considerable number of the women are trafficked persons and have been deceived about the type or the exact conditions of their involvement in the sex industry, when they were recruited in their country of origin.

The Labor Code of 1946 is interpreted as not applying to women in the sex industry although the women have concluded employment contracts and are given visas as “artists”. Just like the domestic migrant workers, women in prostitution are subject to a separate legal regime set by the General Security in a booklet titled “Females working at nightclubs, un-medical massage and modeling: rights and obligations.” Some of the directives facilitate in fact the exploitation of women in the sex industry. For instance, one of the directives states that “the Night Club Dancer has the full right to accompany a customer voluntarily, but not for prostitution purposes”. Therefore, the nightclub owner can claim that he does not know whether the woman prostituted herself with the client. The woman on the other hand faces arrest and deportation (within 48 hours) if she is caught prostituting herself (and in case she has contracted HIV/AIDs or any other STDs). Another directive allows the women to reside only in hotels authorized by the General Security and they must not leave the hotel between 5 a.m. and 1 p.m. In case they are sick, they are allowed to take a sick leave only if a physician from the General Security diagnosis them as ill. Other directives violate international norms and basic rights, such as prohibiting domestic migrant workers and women in the sex industry to marry during their stay in Lebanon or face deportation if they do.

Very few specialized non-governmental organizations deal with the problem of human trafficking for the purpose of sexual exploitation. The House of Hope (DAR EL AMAL) offers assistance and rehabilitation services for Lebanese and Arab women involved in prostitution or at risk of prostituting themselves. The Safe House operated by Caritas is, as mentioned earlier, officially mandated to receive victims of trafficking. However, the Center reported that the majority of its beneficiaries are primarily domestic migrant workers and only a very limited number of trafficked victims into the sex industry were referred to the Center by the relevant authorities.

What is to be done / recommendations

The Government created in 2006 two Steering Committees looking into trafficking among other related issues. A Steering Committee was established by the Government in 2006 composed of a representative of Ministry of Justice, UN Office on Drugs and Crime, General Security and Caritas who are exerting their efforts on trafficking issues. Another Steering Committee (composed of the Ministry of Labor, Justice, and Interior, OHCHR, ILO, and national stakeholders such as Caritas and other NGOs, religious institutions, as well as Embassies of sending countries) was created on the same year and is working on improving labor laws, drawing up unified contracts securing the rights of migrant workers and employers, and producing a “know your rights” booklets. It is not known when and if these measures will come into effect.

Despite this progress, the Government of Lebanon has not done enough to prevent trafficking, prosecute and punish traffickers, and assist and protect trafficked persons.

Although the Lebanese Penal Code criminalizes trafficking for the purpose of commercial sexual exploitation (mainly in Articles 523, 526, 527), however Lebanese legislation still lack a clear definition of human trafficking and does not criminalize all forms of trafficking. Therefore Lebanon should amend its Penal Code to criminalize all forms of trafficking and become aligned with the Protocol to Prevent, Suppress and Punish Trafficking in Persons.

Lebanon, being a transit and a destination country, ought to develop a national strategy on trafficking to bring Lebanon into compliance with its international obligations. The strategy should also take into account the U.N Recommended Principles on Guidelines on Human Rights and Human Trafficking.

Lebanon should refrain from criminalizing women involved in prostitution and work on providing options for alternative livelihoods to the victims. The government needs to revise its law on prostitution (law of 1931) with the objective of abolishing prostitution and criminalizing the customers and sign the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The protection provisions of the 1946 Labor Code should be also extended to all domestic migrant workers and women in prostitution.

In addition, Lebanon should review its legislative framework on migration. A modification of the sponsorship system has to be considered to allow migrant workers to freely change their employers. General Security directives and any other rules limiting the freedom of movement of women holding artists visas or domestic workers (and allowing the confiscation of passport and other identity documents by private persons) should be prohibited.

The legislative reform agenda should be accompanied by serious efforts to tackle the demand side and the roots causes of prostitution and trafficking such as discrimination, poverty, early marriage, as well as the lack of education and vocational training.

The Ministry of Labor should systematically monitor employment agencies and periodically inspect households and places of employment before and after hiring the domestic workers. The Ministry's officials should monitor and inspect adult clubs and other places where women holding employment as nightclub dancers, models etc, are present. The Ministry of Labor and the General Security should approve employment contracts that are drafted simultaneously in Arabic and a language that the migrant worker can read and understand. Contracts should set out detailed employment conditions.

Trafficked persons have to be identified as such. They should not in any circumstances be detained or punished for committing unlawful acts as a result of being trafficked. Victims of trafficking should be provided with safe and adequate shelter and assistance services. They should also be granted the right to stay in Lebanon until they have a chance to testify before a court or provide any evidence against their traffickers and until it is established that repatriation would not constitute a major security risk to the trafficked person and her family.

Lastly all cases of trafficking or exploitation should be thoroughly and effectively investigated and more importantly increased efforts should be made to raise awareness on the problem of human trafficking in general, and internal trafficking in particular.