



**Exported and Exposed**  
**Abuses against Sri Lankan Domestic Workers in**  
**Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates**

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## I. Summary

*Even if I went to bed at 3:30 a.m., I had to get up by 5:30 a.m... I had continuous work until 1:00 a.m., sometimes 3:00 a.m.... Once I told the employer, "I am a human like you and I need an hour to rest." She told me, "You have come to work; you are like my shoes, and you have to work tirelessly."*

*The conditions were getting worse. I told the employer that I wanted to leave but she would not take me to the agency.... [Her husband] would say, "You want to go, you want to go?" and he would pull my hair and beat me with his hands. He went to the kitchen and took a knife and told me he would kill me, cut me up into little pieces, and put the little pieces of me in the cupboard... By this time they owed me four months' salary....*

*There are more and more innocent women going abroad, and planning to go. It is up to the women to care of themselves. The [Sri Lankan] government gets a good profit from us; they must take care of us. They must do more to protect us.*

—Kumari Indunil, age 23, a former domestic worker in Kuwait

Desperate to support themselves and their families, and with few viable options at home, over 125,000 Sri Lankan women migrate to the Middle East as domestic workers each year. Their earnings have made a significant contribution to the Sri Lankan economy, yet many migrant women resort to this survival strategy at profound personal cost.

Unscrupulous labor agents and subagents in Sri Lanka often charge illegal, exorbitant recruitment fees and deceive women about their prospective jobs. In Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates (UAE), labor laws exclude domestic workers, who are typically confined to the workplace and labor for excessively long hours for little pay. In some cases, employers or labor agents

subject domestic workers to physical abuse, sexual abuse, or forced labor. While current figures likely underestimate the scale of abuse, the Sri Lankan government reports that 50 migrant domestic workers return to Sri Lanka “in distress” each day, and embassies abroad are flooded with workers complaining of unpaid wages, sexual harassment, and overwork.

The exploitation that migrant domestic workers confront is not secret, and the media in the region regularly carries stories of horrific abuse. This stream of news articles includes such headlines as, “Broken Finger and Wrist Bone Tell Tale of Torture,” “Lankan Maid’s Hand ‘Burnt for Cooking Tasteless Food,’” “Woman Tortured, Killed Maid for Being ‘Lazy,’” and “Lankan Housemaid ‘Forced to Eat Pet Cat’s Food.’”<sup>1</sup>

Despite this awareness, the governments of Sri Lanka, Saudi Arabia, Kuwait, Lebanon, and the UAE have failed to extend even standard labor protections to these workers. Sri Lanka has yet to rein in a competitive and corrupt recruitment industry, and has not created adequate support services or effective complaint mechanisms for abused workers. The countries of employment have balked at guaranteeing rights that all other workers enjoy, including rest days, limits on working hours, and in some countries, a minimum wage.

Labor migration is extremely lucrative for Sri Lanka. In 2006, Sri Lanka’s mobile labor force brought in US\$2.33 billion in remittances—more than 9 percent of the gross domestic product and US\$526 million more than the country received in foreign aid and foreign direct investment combined. Remittances are now a greater source of revenue than tea exports, Sri Lanka’s second most important commodity export (after apparel). Labor migration relieves unemployment in Sri Lanka and serves as a crucial source of foreign exchange for the island.

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<sup>1</sup> Meraj Rizvi, “Broken Finger and Wrist Bone Tell Tale of Torture,” *Khaleej Times* (Dubai, UAE), October 11, 2004, [http://www.khaleejtimes.com/Displayarticle.asp?section=theuae&xfile=data/theuae/2004/october/theuae\\_october218.xml](http://www.khaleejtimes.com/Displayarticle.asp?section=theuae&xfile=data/theuae/2004/october/theuae_october218.xml) (accessed September 6, 2007); Debasree S., “Lankan Maid’s Hand ‘Burnt for Cooking Tasteless Food,’” *Khaleej Times* (Dubai, UAE), August 18, 2004, [http://www.khaleejtimes.com/DisplayArticleNew.asp?section=theuae&xfile=data/theuae/2004/august/theuae\\_august408.xml](http://www.khaleejtimes.com/DisplayArticleNew.asp?section=theuae&xfile=data/theuae/2004/august/theuae_august408.xml) (accessed September 6, 2007); Ali Huwash, “Woman Tortured, Killed Maid for Being ‘Lazy,’” *Arab News* (Jeddah, Saudi Arabia), June 8, 2007, <http://www.arabnews.com/?page=1&section=0&article=97227&d=8&m=6&y=2007&pix=kingdom.jpg&category=Kingdom> (accessed September 6, 2007); “Lankan Housemaid ‘Forced to Eat Pet Cat’s Food,’” *Daily News* (Colombo, Sri Lanka), June 19, 2007, [http://www.dailynews.lk/2007/06/19/main\\_News.asp](http://www.dailynews.lk/2007/06/19/main_News.asp) (accessed June 19, 2007).

Because remittances are critical to the Sri Lankan government's strategy for poverty reduction and lowering its trade deficit, the government actively pursues a policy of foreign employment promotion. Despite recent reforms, described below, these policies often lack a human element, treating migrant women as an export commodity marketed to wealthy, oil-producing countries where demand is high, yet falling short on human rights protections. Migrants' rights groups in Sri Lanka have referred to the Sri Lankan government's approach to its migrant workers as the "commodity supply approach," characterized by the formula "select, train, pack, insure, and export," with the imperative to protect workers noticeably absent.

Migration holds both risk and promise, and migrant women have experienced both abuse and success. Supporting an average of five family members back home, women workers migrate with the often illusory promise of earning as much as ten times more than they earn in Sri Lanka. With wages earned abroad, migrant domestic workers have built homes, started businesses, supported elderly relatives, and purchased children's school books and uniforms. Many female migrant domestic workers have become the primary wage earner for their family, gained enhanced status in their families and communities after their return, and enjoyed increased decision-making power in the family and control over family resources.

The Sri Lankan government's policies have improved over recent years and it deserves credit for initiating important steps to manage the outflow of migrant workers and to start providing protections. The government of Sri Lanka set up an institutional structure, the Sri Lanka Bureau of Foreign Employment (SLBFE), in 1985 to ensure workers migrate through legal channels, minimize corruption and exploitation by recruitment agencies, and facilitate the flow of workers' remittances. Yet significant gaps in protection remain.

The migration industry that has developed to facilitate Sri Lankan women's labor migration is rife with irregularities that expose prospective domestic workers to the threat of later abuse. Unscrupulous labor agents and their unlicensed and unregulated subagents charge illegal and exorbitant fees to prospective migrant domestic workers for job placement services and other migration-related costs, charging fees that are triple or quadruple officially sanctioned rates. Domestic

workers often incur heavy debts at usurious interest rates to cover these fees, circumscribing domestic workers' options when they face abuse. Labor agents and subagents often deceive women about the country where they will work, their conditions of employment, and the salaries they will receive. These deceptive recruitment practices place migrant domestic workers at risk of exploitation after they migrate to the Middle East.

Migrant domestic workers are among the least protected workers of the labor force. They work in an unregulated and undervalued job sector, and they are at high risk of abuse and exploitation. In Saudi Arabia, Kuwait, Lebanon, and the UAE, Sri Lankan women domestic workers face a range of abuses and forms of exploitation, many of which are gender-specific. Our research shows that they face pervasive workplace abuses: they generally work excessively long working hours, get no rest days, and are paid discriminatory wages, including earning less than their male migrant counterparts. In these four labor-receiving countries, Sri Lankan women domestic workers also suffer physical, psychological, and sexual abuse; nonpayment of wages; food deprivation; confiscation of their identity documents; forced confinement in the workplace; and limitations on their ability to return to their home countries when they wish to do so. In some cases, the combination of these pervasive workplace abuses create a situation in which women workers are trapped in forced labor.

Countries of employment in the Middle East admit migrant domestic workers as short-term contract laborers and accord them few rights. The labor laws of Saudi Arabia, Kuwait, Lebanon, and the UAE categorically exclude migrant domestic workers from protection. The governments of those countries deny migrant domestic workers equal protection under their country's laws and limit their ability to change employers, even in cases of abuse.

This lack of legal protection, and limitations on women's ability to vindicate their rights equally under the law when they seek remedy, compounds the violations women experience. Without clear legal rights and excluded from the protection of existing labor legislation, domestic workers have little recourse when they experience abuse or exploitation. Workers who seek assistance from the authorities to hold abusive employers accountable or recover unpaid wages often receive little

or no protection and encounter numerous legal and practical obstacles to obtaining redress. Trapped by immigration policies that limit their ability to change employers, with nowhere to turn for help, many migrant domestic workers are unable to escape from abusive work situations and must endure ongoing abuse.

Largely excluded from local justice mechanisms, migrant domestic workers sometimes flee to their embassies or consulates in the countries of employment in a desperate bid for assistance. Sri Lankan migrant domestic workers who are able to flee their employers often end up living in poor, overcrowded conditions in Sri Lankan embassies and consulates. Women we spoke with told us that Sri Lankan consular officials often provide little or no assistance to domestic workers who approach them with cases of severe physical abuse, sexual abuse, unpaid wages, or exploitative working conditions. Domestic workers returning to Sri Lanka said they confronted obstacles to filing complaints and obtaining victim services.

Sri Lanka, Saudi Arabia, Kuwait, Lebanon, and the UAE are failing to uphold their international human rights treaty obligations. To reduce domestic workers' exposure to abuse when they migrate, the Sri Lankan government must do more to provide prospective domestic workers with information about their rights before they migrate, monitor and regulate labor agents and their subagents, provide fuller support to domestic workers at embassies and consulates in times of crisis, and enhance redress mechanisms and services provided to domestic workers upon return to Sri Lanka. Sri Lanka's ability to protect prospective domestic workers and to assist migrant women in times of crisis depends heavily on the cooperation of the countries of employment. Increased cooperation between the Sri Lankan foreign missions and the countries of employment is necessary to arrange rescue of domestic workers in distress, create effective complaints mechanisms, and to craft and enforce mutually recognized contracts that provide real protections.

Human Rights Watch conducted research for this report in Sri Lanka in October and November 2006, and in Saudi Arabia in November and December 2006, and was in contact with numerous sources since that time. This report is based on in-depth interviews with 100 women migrant domestic workers. In Sri Lanka, Human Rights Watch conducted interviews with 80 migrant domestic workers who had returned to

Sri Lanka from the Middle East in the past 14 months. These women had worked in Saudi Arabia, Kuwait, Lebanon, and the UAE. Thirty-nine of these 80 migrant domestic workers interviewed had worked in more than one country in the Middle East, including Bahrain, Qatar, Oman, and Jordan. Human Rights Watch interviewed migrant domestic workers in seven of the eight districts with the highest concentration of returned migrant domestic workers in Sri Lanka: Colombo, Kalutara, Kegalle, Kurunegala, Gampaha, Kandy, and Galle, as well as in Nuwara Eliya. In Saudi Arabia, Human Rights Watch conducted interviews with 20 Sri Lankan migrant domestic workers. With a few exceptions, expressly noted in the footnotes, the names of domestic workers cited in this report have been changed to protect their identity.

In Sri Lanka, Human Rights Watch also interviewed nongovernmental organization activists and service providers; trade union leaders; and labor agents and subagents, including leaders of the Association of Licensed Foreign Employment Agencies (ALFEA). We also met with government officials, including officials from the Sri Lanka Bureau of Foreign Employment, Ministry of Labour, Ministry of Foreign Relations' consular division, Department of Immigration and Emigration, Human Rights Commission of Sri Lanka, and the Legal Aid Commission. In Saudi Arabia, Human Rights Watch interviewed three Sri Lankan embassy and consular officials, and conducted 12 individual and group interviews with Saudi government officials, including Labor, Social Welfare, Foreign Affairs, Prison, and Police officials.

## **Key Recommendations**

The governments of Sri Lanka, Saudi Arabia, Kuwait, Lebanon, and the UAE should act immediately to ensure migrant domestic workers can migrate and work in conditions of dignity and respect for their human rights. Human Rights Watch's central recommendations are listed below. More detailed recommendations are set forth at the end of this report.

- Reform of the recruitment process in Sri Lanka is critical to prevent abuses against migrant domestic workers. The Sri Lanka Bureau of Foreign Employment (SLBFE) should establish mechanisms for regular and independent monitoring of labor agencies and their subagents. They should



- require labor agents to register their subagents, and hold agents responsible for their subagents' actions.
- Abuses against migrant domestic workers would be less frequent if workers were aware of their rights at each stage of the migration process. The SLFBFE should enhance its existing pre-departure training program for domestic workers by increasing the rights-awareness and foreign language components of training and providing more detailed information about redress mechanisms. It should also expand public awareness-raising programs to provide prospective migrants with model job contracts and inform prospective migrant domestic workers about legal limits on recruitment fees, the availability of low-interest loans, and mechanisms for lodging complaints against recruitment agents and subagents who violate the law.
  - Migrant women workers' rights need to be recognized and enforced in the countries of employment. The governments of Sri Lanka, Saudi Arabia, Kuwait, Lebanon, and the UAE should cooperate to create mutually recognized and enforceable employment contracts and mechanisms to ensure redress for workers with complaints.
  - Migrant domestic workers should not be excluded from the protections afforded other workers. The governments of Saudi Arabia, Kuwait, Lebanon, and the UAE should revise and enforce national labor laws to provide equal legal protection for domestic workers. The governments of Saudi Arabia, Kuwait, and the UAE should transfer responsibility for migrant domestic workers' welfare from the Ministry of Interior to the Ministry of Labor.
  - Domestic workers need to be able to more readily change employers so that abuses do not persist. The governments of Saudi Arabia, Kuwait, Lebanon, and the UAE should reform immigration sponsorship laws to facilitate the transfer of sponsorship for migrant domestic workers wishing to change employers.
  - There is a pressing need for reforms in the countries of employment to ensure redress for abuses against domestic workers when they do occur. The governments of Saudi Arabia, Kuwait, Lebanon, and the UAE should ensure prosecution of employers responsible for sexual abuse, physical abuse, and labor rights abuses that violate existing national laws.

- The government of Sri Lanka should improve protections for migrant domestic workers who have faced abuse, including through accessible complaints mechanisms and trauma counseling upon return to Sri Lanka and improving services at Sri Lankan embassies and consular offices in Saudi Arabia, Kuwait, Lebanon, and the UAE. Such services should include increasing the number of trained staff available to handle complaints, providing shelter, cooperating with local authorities to free workers confined to employers' homes, providing legal assistance with labor and criminal complaints, and facilitating access to health care and counseling.

## II. Background

*I think the government should pay more attention to the housemaids because we are one of the leading foreign exchange earners in the country.*<sup>2</sup>

—Susanthika W., age 37, first migrated at age 24, and worked as a domestic worker in Lebanon, Kuwait, and Jordan

### Status of Women and Girls in Sri Lanka

While Sri Lankan women have among the highest literacy rates and highest levels of health care access in South Asia, they experience many forms of gender-based violence and gender inequality, including discrimination in economic activity. These manifestations of women's unequal status in Sri Lanka are linked to women's decisions to migrate.

Gender inequality manifests itself in labor force participation and earning power. In 2006, Sri Lankan women's labor force participation was 36 percent, about half the participation rate of men (68 percent).<sup>3</sup> Women's unemployment rate has been more than double that of men's for over three decades.<sup>4</sup> Sri Lankan women earn at the lower end of the wage spectrum. Women's estimated earned income for 2003 was half that of men, and in 2007 the International Labour Organization (ILO) characterized the gender pay gap in Sri Lanka as "rocketing."<sup>5</sup> Sri Lankan trade unions have reported the existence of "men's rates" and "women's rates" for the

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<sup>2</sup> Human Rights Watch interview with Susanthika W., Panadura, Sri Lanka, November 15, 2006.

<sup>3</sup> Central Bank of Sri Lanka, *Annual Report 2006* (Colombo: Central Bank of Sri Lanka, 2007), [http://www.cbsl.gov.lk/pics\\_n\\_docs/10\\_publication/\\_docs/efr/annual\\_report/Ar2006/Content.htm](http://www.cbsl.gov.lk/pics_n_docs/10_publication/_docs/efr/annual_report/Ar2006/Content.htm) (accessed September 6, 2007), p. 64.

<sup>4</sup> In 2006, women's unemployment rate in 2006 was 9.7 percent, while men's was 4.7 percent. *Ibid.*, p. 66; Asian Development Bank, *Country Gender Assessment: Sri Lanka* (Manila: ADB, 2004), <http://www.adb.org/Documents/Reports/Country-Gender-Assessments/CGA-Women-SriLanka.pdf> (accessed June 1, 2007), p. viii.

<sup>5</sup> United Nations Development Programme, *Human Development Report 2005* (New York: UNDP, 2005), [http://hdr.undp.org/reports/global/2005/pdf/HDR05\\_complete.pdf](http://hdr.undp.org/reports/global/2005/pdf/HDR05_complete.pdf) (accessed September 6, 2007), p. 300, table 25; International Labour Conference, *Equality at Work: Tackling the Challenges* (Geneva: ILO, 2007), [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---webdev/documents/publication/wcms\\_082607.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---webdev/documents/publication/wcms_082607.pdf) (accessed September 6, 2007), p. 20.

same work in garment factories,<sup>6</sup> and the Sri Lankan Wages Board established different wage rates for women and men workers for work of equal value in the tobacco and cinnamon trades.<sup>7</sup> A March 2007 study by the University of Peradeniya found that the wage gap between similarly-situated males and females at the bottom end of the wage spectrum can be as large as 33 percent in the private sector and 27 percent in the public sector.<sup>8</sup>

Most jobs available to women within Sri Lanka are low-skilled and low-paying jobs with poor working conditions. Women are concentrated in unpaid family agricultural labor, in plantation labor (tea estates), and in informal or non-unionized sectors such as factory work in garment and other labor-intensive industries within and outside export processing zones, home-based economic activities usually as subcontracted piece-rate workers, and small-scale self-employment.<sup>9</sup> Men earn significantly higher salaries in male-dominated informal sectors, including the coconut sector, carpentry, and masonry, than women working in other informal sectors.<sup>10</sup>

Although Sri Lanka has achieved the highest literacy rates in South Asia, gender inequality manifests itself in higher education and in the poorest sectors of society. While Sri Lankan women have parity in primary school enrollments, and higher secondary school enrollment nationally, only 7 percent of women have received at least 12 years of schooling.<sup>11</sup> Women's enrollment in tertiary education (university level and beyond) is 69 percent of male enrollment.<sup>12</sup> The literacy rate among women

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<sup>6</sup> For example, the American Center for International Labor Solidarity reported in 2003 that in the Koggala EPZ factories male packers' monthly salary was 1,800 rupees, while female packers received 1,525 rupees. Solidarity Center, "Justice for All: The Struggle for Worker Rights in Sri Lanka," 2003, <http://solidarity.timberlakepublishing.com/files/SriLankaFinal.pdf> (accessed August 1, 2007), p. 27.

<sup>7</sup> Ibid.

<sup>8</sup> Dilani Gunewardena, et al., *Gender Wage Gaps in Sri Lanka: Glass Ceilings or Sticky Floors?* (Colombo: University of Peradeniya Department of Economics and Statistics, 2007).

<sup>9</sup> Asian Development Bank, *Country Gender Assessment: Sri Lanka*, p. viii.

<sup>10</sup> Central Bank of Sri Lanka, *Annual Report 2006*, p. 63, table 4.6.

<sup>11</sup> Center for Reproductive Rights, *Women of the World: Laws and Policies Affecting their Reproductive Lives, South Asia* (New York: CRR, 2004), p. 228.

<sup>12</sup> Dilani Gunewardena, "Exploring Gender Wage Differentials in Sri Lanka: A Quantile Regression Approach," PMMA Network Session Paper, 2006, <http://132.203.59.36:81/HTML/Meetings/Addis/Papers/Dilani%20Gunawardena.pdf> (accessed September 6, 2007), p. 1.

and girls is lower than that for men and boys (91 percent, compared to 95 percent), and the literacy rate among women in the tea estate sector is significantly lower at 67 percent (where it is 87 percent for men).<sup>13</sup>

Women in Sri Lanka also face obstacles to equality in the family and protection from violence. Legal reforms in past years include amendments to the penal code in 1995 modifying the rape laws to establish more equitable burden of proof and enhancing punishment for rape, and the enactment of specific legislation on domestic violence in 2005.<sup>14</sup> However, violence against women remains a serious problem. A 2006 survey by the Ministry of Child Development and Women's Empowerment estimated that 60 percent of women nationwide experience domestic violence.<sup>15</sup> While the constitution prohibits gender-based discrimination, it continues under law and in practice. Marital rape is criminalized only when spouses are judicially separated. Sri Lankan divorce laws are fault-based, and since these laws do not consider cruelty and physical ill-treatment grounds for divorce, women seeking divorce from an abusive spouse often have few options available to them.<sup>16</sup>

### **“Push Factors” and Sri Lankan Women’s Decisions to Migrate for Work**

*I have built a house with the money that I have earned, given money to my son and daughter, and opened a bank account for them. My husband doesn't have any permanent job. I take care of all of them.... The main thing is money.... I love my country.... I am crying inside my heart.... If I can solve my financial problems this time, I will never migrate again.*

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<sup>13</sup> Central Bank of Sri Lanka, *Annual Report 2006*, Special Statistical Appendix, table 9; Center for Reproductive Rights, *Women of the World*, p. 228; Centre for Women's Research (CENWOR), *Sri Lanka Shadow Report on the UN Convention on the Elimination of All Forms of Discrimination against Women* (Colombo: CENWOR, 2001), [http://www.iwraw-ap.org/using\\_cedaw/srilanka.doc](http://www.iwraw-ap.org/using_cedaw/srilanka.doc) (accessed September 6, 2007), p. 21.

<sup>14</sup> Sri Lankan Penal Code, No. 2, 1883, sections 363-364, amended by Penal Code (Amendment) Act, No.29, 2005, sections 12-13; Prevention of Domestic Violence Act, No. 34, 2005.

<sup>15</sup> “Sri Lankan Ministry: Survey Reveals Statistics on Violence against Women,” *One World South Asia*, June 26, 2006, <http://southasia.oneworld.net/article/view/135416/1/> (accessed September 6, 2007). See also Indrani Iriyagolle, “The Problem of Violence against Women,” *Daily News* (Colombo), July 19, 2003, <http://www.dailynews.lk/2003/07/19/fea01.html> (accessed September 6, 2007).

<sup>16</sup> Marriage Registration Ordinance, No. 19, 1907, art. 19(2); Center for Reproductive Rights, *Women of the World*, p. 222.

—Chandra Malkanthi, age 45, preparing to migrate to the Middle East as a domestic worker for the ninth time, having worked as a domestic worker in Saudi Arabia, Dubai, Oman, Kuwait, and Qatar

For many of the hundreds of thousands of Sri Lankan women migrating to work as domestic workers in the Middle East, migration is a survival strategy pursued largely out of desperation. Nearly all the migrant domestic workers Human Rights Watch interviewed cited financial necessity as a reason for their decision to migrate and said they had no option other than to migrate for work. Although many had a tenth- or twelfth-grade education, they were unemployed or underemployed in Sri Lanka before and after migrating.



A domestic worker with the family members she supported by working as a domestic worker in Saudi Arabia. With her earnings from working abroad, she built a house for her family and supported her children, husband, and other relatives.

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Women told Human Rights Watch that they migrated to build a house; purchase land; pay off family debts; escape from an abusive spouse; pay for education-related costs for their children; pay for the care of sick, unemployed, or elderly relatives; provide dowries for themselves or their children; meet their families' daily needs for food

and clothing; replace family resources depleted by an alcoholic husband; and purchase necessary equipment for micro-enterprises they planned to launch. Divorced and widowed women reported that they had to migrate for work as the primary breadwinners. Some of the factors that contribute to women's decisions to migrate for work are gender-specific, and differ from those relating to men's labor migration.

A significant number of migrant domestic workers we spoke to had migrated in order to purchase building materials to construct a house, and sometimes had to migrate repeatedly to do so. Asanthika W., a mother of four who had previously worked as a domestic worker in Saudi Arabia twice, said, "Now I'm going because I'm building a house. I estimate it will cost 3 lakhs [300,000 rupees, or US\$2,664<sup>17</sup>] to build a normal house. Otherwise I can't afford the materials.... We can't earn such money in Sri Lanka, but abroad we can earn a lot of money and have a lot when we return."<sup>18</sup> Although education is free in Sri Lanka, many women said that local employment options were insufficient to cover the education-related costs for their school-age children. These costs include the cost of exercise books, a book bag, and transportation costs to school, totaling approximately 4,000-10,000 rupees [US\$36-89] to be paid at the beginning of each school term.<sup>19</sup>

An important factor influencing women's decisions to migrate was their inability to earn sufficient income in Sri Lanka. Although Sri Lankan women earn only US\$100-140 a month as domestic workers abroad, these wages are two to ten times higher than what they can earn in Sri Lanka, assuming they can even find work. The migrant women workers Human Rights Watch interviewed reported that the jobs available to them in Sri Lanka paid extremely low wages: they said they could earn 4,000-8,000 rupees [US\$36-71] a month, including overtime, in garment factories; 1,500-3,000 rupees [US\$13-27] a month in a tea estate; 5,000-6,000 rupees [US\$44-53] a month as a cook in a private home; 5,000 rupees [US\$44] a month as an agricultural laborer;

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<sup>17</sup> At the time of writing, US\$1 was worth 112.60 Sri Lankan rupees, 0.28 Kuwaiti dinars, 3.75 Saudi Arabian riyals, and 3.67 UAE dirhams.

<sup>18</sup> Human Rights Watch interview with Asanthika W., Kurunegala, Sri Lanka, November 4, 2006.

<sup>19</sup> Human Rights Watch interview with Erandathi P., Rambe, Sri Lanka, November 5, 2006; Human Rights Watch interview with Soida W., Kegalle, Sri Lanka, November 19, 2006; email communication from Manori Witharana to Human Rights Watch, March 16, 2007.

or 2,500 rupees [US\$22] a month making cigarettes. Paramitha E., a 29-year-old mother of an infant, previously earned 40 dinars [US\$142] a month as a domestic worker in Kuwait and now works as an agricultural laborer for only 200 rupees [US\$1.78] a day.<sup>20</sup> Selvakumari W., a 26-year-old mother of three, earned only 90 cents a day making *bidis* [cigarettes] in Sri Lanka before migrating to Saudi Arabia, where she earned 400 riyals [US\$107] a month. She said she was so poor she had to migrate and leave behind her two-year-old daughter.<sup>21</sup>

Many of the women Human Rights Watch interviewed for this report were the sole income-earners for their families, including their extended relatives. The number of female single-headed households is 23 percent nationwide,<sup>22</sup> and studies indicate that each migrant woman worker from Sri Lanka supports an average of five family members back home.<sup>23</sup> In one such case, Vadivukarasi H., a 36-year-old divorced mother of two, said, “Only I am earning money in the family to look after my parents, two children, and younger sister. I sent my earnings to my father, which he used to feed five family members. I think I sent about 500,000 rupees [US\$4,440] to my family.”<sup>24</sup> Vadivukarasi H. has a sixth-grade education, and before she migrated twice to work as a domestic worker in Kuwait, she earned 1,500-2,000 rupees per month [US\$13-18] as a tea plucker on a tea estate.

Some domestic workers cited their limited access to education and vocational training as a barrier to their obtaining adequate employment in Sri Lanka, and therefore a factor in their decision to migrate. Studies show that female migrants are

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<sup>20</sup> Human Rights Watch interview with Paramitha E., Rambe, Sri Lanka, November 5, 2006.

<sup>21</sup> Human Rights Watch interview with Selvakumari W., Katunayake, Sri Lanka, November 9, 2006.

<sup>22</sup> The number of female-headed households is estimated to be as high as two-thirds among displaced households in the conflict-affected north and east of the country. United States Agency for International Development, “Gender Assessment for USAID/Sri Lanka,” February 17, 2004, [http://www.usaid.gov/our\\_work/cross-cutting\\_programs/wid/pubs/ga\\_srilanka.pdf](http://www.usaid.gov/our_work/cross-cutting_programs/wid/pubs/ga_srilanka.pdf) (accessed July 1, 2007), pp.10-11; Nadira Gunatilleke, “Plans Afoot to Raise Women’s Participation in Politics,” *Daily News* (Colombo), January 31, 2003, <http://www.dailynews.lk/2003/01/31/polo3.html> (accessed September 6, 2007).

<sup>23</sup> Michele Ruth Gamburd, “‘Lentils There, Lentils Here!’ Sri Lankan Domestic Labour in the Middle East,” in Shirlena Huang, Brenda S.A. Yeoh and Noor Abdul Rahman, eds., *Asian Women as Transnational Domestic Workers* (Singapore: Marshall Cavendish, 2005), p. 94. See also S. Jayaweera, M. Dias and L. Wanasundera, *Returnee Migrant Women in Two Locations in Sri Lanka* (Colombo: CENWOR, 2002), p. 1; N. Weerakoon, “Sri Lanka: A Case Study for International Female Labour Migration,” in S. Sta. M. Amparita et al., eds., *Legal Protection for Asian Women Migrant Workers: Strategies for Action* (Philippines: Ateneo Human Rights Center, 1998), p. 109.

<sup>24</sup> Human Rights Watch interview with Vadivukarasi H., Talawakelle, Sri Lanka, November 12, 2006.



at the lower end of the spectrum of educational qualifications.<sup>25</sup> Fathima Razana, a 42-year-old mother of five who has worked as a domestic worker in Saudi Arabia and Qatar, said she could not find work in Sri Lanka because she has only a first-grade education: “I didn’t work in Sri Lanka. Because I didn’t complete my studies I couldn’t find work in Sri Lanka.... Without any education I can’t try for any jobs.”<sup>26</sup>

## Sri Lankan Women’s Labor Migration to the Middle East

The proportion of Sri Lankan migrants who are women has increased significantly over the past 20 years, from 33 percent of departing migrants in 1986, peaking at 79 percent in 1994, and now estimated at 59 percent.<sup>27</sup> The mass migration of Sri Lankan workers to the Middle East began in 1976, following a sharp escalation in oil prices in the oil-rich Gulf countries.<sup>28</sup> As demand for male construction workers decreased in the 1980s, a growing percentage of Sri Lankan women migrated to the Middle East to work as domestic workers. In the 1990s, 84 percent of all migrants from Sri Lanka to the Middle East were women, most of whom were domestic workers. Remittances from Sri Lankan migrant workers working in the Middle East have grown steadily in the past three decades and, adjusted for inflation, were five times higher in 2005 than in 1980.<sup>29</sup>

Sri Lankan women’s migration is part of a global phenomenon in which over 20 million Asians are estimated to be working outside their home countries. Women comprise almost half of all migrants in Asia, and estimates suggest women have

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<sup>25</sup> Gamburd, “‘Lentils There, Lentils Here!’” in Huang, Yeoh and Rahman, eds., *Asian Women as Transnational Domestic Workers*, p. 96; Jayaweera, Dias and Wanasundera, *Returnee Migrant Women in Two Locations in Sri Lanka*, pp. 24, 55.

<sup>26</sup> Human Rights Watch interview with Fathima Razana (real name used upon request), Attanagalla, Sri Lanka, November 8, 2006.

<sup>27</sup> While female migration has increased since it peaked at 79 percent in 1994, male migration has increased more rapidly. Human Rights Watch, *Bad Dreams: Exploitation and Abuse of Migrant Workers in Saudi Arabia*, vol. 16, no. 5(E), July 2004, <http://hrw.org/reports/2004/saudio704/>, p. 14; Sri Lanka Bureau of Foreign Employment, *Annual Statistical Report of Foreign Employment 2005* (Battaramulla: SLBFE, 2005), p. 1; Gamburd, “‘Lentils There, Lentils Here!’” in Huang, Yeoh and Rahman, eds., *Asian Women as Transnational Domestic Workers*, p. 93.

<sup>28</sup> Michele Ruth Gamburd, *The Kitchen Spoon’s Handle: Transnationalism and Sri Lanka’s Migrant Housemaids* (Ithaca: Cornell University Press, 2000), pp. 27, 30.

<sup>29</sup> Calculated using the Colombo Consumer Price Index to adjust for inflation, based on figures in F. Eelens, T. Schampers and J.D. Speckmann, eds., *Labour Migration to the Middle East: From Sri Lanka to the Gulf* (London: Kegan Paul International, 1992); Sri Lanka Bureau of Foreign Employment, *Annual Statistical Report of Foreign Employment 2005*, p. 88.

surpassed the number of male migrants in East and Southeast Asia.<sup>30</sup> The dominance of women in transnational labor migration is particularly evident in Sri Lanka, Indonesia, and the Philippines,<sup>31</sup> and the Middle East is a primary destination for domestic workers from these countries.<sup>32</sup>

Over 90 percent of Sri Lankan women migrating overseas, more than 660,000 women, are working as domestic workers on temporary contracts.<sup>33</sup> Ninety-seven percent of Sri Lankan women migrating to work as domestic workers in 2005 departed for jobs in the Middle East, and 87 percent were bound for four primary destination countries: Saudi Arabia, Kuwait, Lebanon, and the UAE.<sup>34</sup> Less than 3 percent departed for other countries, including Cyprus, Singapore, Malaysia, the Maldives, and Hong Kong.<sup>35</sup> In 2005, twice as many Sri Lankan women workers departed for Saudi Arabia than men, and women departing for Kuwait outnumbered men four to one.<sup>36</sup> According to the Sri Lankan embassy in Abu Dhabi, about 70 percent of the 165,000 Sri Lankans registered in the UAE are domestic workers.<sup>37</sup>

Remittances of Sri Lankan migrant women workers' wages are an important source of foreign exchange for the country's economy. In 2006, migrant workers' remittances

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<sup>30</sup> Graeme Hugo, "Migration in the Asia-Pacific Region," paper prepared for the Global Commission on International Migration, September 2005, <http://www.gcim.org/mm/File/Regional%20Study%202.pdf> (accessed September 6, 2007), p. 8; International Organization for Migration, *World Migration 2005: Costs and Benefits of International Migration* (Geneva: IOM, 2005), p. 109; International Labour Organization, *Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers: An Information Guide, Booklet 1, Introduction: Why the Focus on International Migrant Workers* (Geneva: ILO, 2003), pp. 9-10.

<sup>31</sup> Women comprised 42 percent of Indonesian migrants in 1983, and 73 percent of legal migrant workers by 2003. Women began outnumbering male migrants from the Philippines in 1992, and by 2005, over 65 percent of the nearly 3,000 migrants leaving the Philippines every day to work abroad were women. Gamburd, *The Kitchen Spoon's Handle*, p.35; Asian Migrant Centre and Migrant Forum in Asia, *Asian Migrant Yearbook 2004: Migration Facts, Analysis and Issues in 2003* (Hong Kong: Asian Migrant Centre, 2004), p. 175; Asian Development Bank, *Workers' Remittance Flows in Southeast Asia* (Manila: ADB, 2006), <http://www.adb.org/Documents/Reports/workers-remittance/workers-remittance.pdf> (accessed June 2, 2007), pp.12, 120-121; United Nations Population Fund, *State of the World Population 2006, A Passage to Hope: Women and International Migration* (New York: UNFPA, 2006), p. 23.

<sup>32</sup> United Nations Population Fund, *State of the World Population 2006*, p. 25.

<sup>33</sup> Sri Lanka Bureau of Foreign Employment, *Annual Statistical Report of Foreign Employment 2005*, pp. 5, 58.

<sup>34</sup> *Ibid.*, p. 11. The UAE is a federation of seven emirates: Abu Dhabi, 'Ajman, Al Fujayrah, Dubai, Ra's al Khaymah, Sharjah, and Umm al Qaywayn.

<sup>35</sup> *Ibid.*, p. 26.

<sup>36</sup> Calculations based on statistics provided in Sri Lanka Bureau of Foreign Employment, *Annual Statistical Report of Foreign Employment 2005*, p. 13.

<sup>37</sup> IRIN, "United Arab Emirates: Domestic Workers Face Abusive Employers," July 2, 2006, <http://www.irinnews.org/Report.aspx?ReportId=27089> (accessed September 6, 2007).

amounted to US\$2.33 billion, representing Sri Lanka's second-highest form of foreign-exchange earnings and equivalent to over 9 percent of the country's gross domestic product.<sup>38</sup> Remittances are a greater source of revenue than tea exports, Sri Lanka's second most important commodity export (after apparel), and are critical to Sri Lanka's economic strategy for poverty reduction.<sup>39</sup> Sri Lanka finances about 70 percent of its US\$3.37 billion trade deficit by remittances from Sri Lankan migrant workers, and such remittances amount to almost twice the amount Sri Lanka receives in foreign aid and more than two-and-a-half times the amount it receives in foreign direct investment.<sup>40</sup> In its annual report for 2006, the Central Bank of Sri Lanka highlighted "the importance of...worker remittances in achieving a desirable rate of economic growth given the limitations in raising domestic savings," and noted that "[s]avings by Sri Lankan residents abroad by way of worker remittances helped to reduce the [external current account deficit]."<sup>41</sup>

Increasing exposure of mistreatment and abuse of Sri Lankan women workers abroad has prompted concern among both Sri Lankans and the government. Trade unions have organized around migrant workers' rights and, as this report discusses, the government has created initiatives to begin addressing these problems.

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<sup>38</sup> Over 57 percent of remittances in 2006 were remitted from migrants working in the Middle East, and migrant women workers contributed over 62 percent of remittances in 1999. Central Bank of Sri Lanka, *Annual Report 2006*, pp. 14, 85, table 87; International Organization for Migration, *World Migration 2003: Managing Migration Challenges and Responses for People on the Move* (Geneva: IOM, 2003), p. 17; International Labour Organization, *Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers, Booklet 1*, p. 11.

<sup>39</sup> Second only to earnings generated by the garment industry (US\$3.08 billion), workers' private remittances brought US\$2.33 billion in foreign earnings to Sri Lanka in 2006, while tea exports brought only US\$881 million in foreign earnings. Central Bank of Sri Lanka, *Annual Report 2006*, p. 81; Central Bank of Sri Lanka, *Annual Report 2005* (Colombo: Central Bank of Sri Lanka, 2006), [http://www.cbsl.gov.lk/pics\\_n\\_docs/10\\_publication/\\_docs/efr/annual\\_report/Ar2005/Index%20AR2005.htm](http://www.cbsl.gov.lk/pics_n_docs/10_publication/_docs/efr/annual_report/Ar2005/Index%20AR2005.htm) (accessed September 6, 2007), p. 90, box 10.

<sup>40</sup> Central Bank of Sri Lanka, *Annual Report 2006*, pp. 75, 86, 87.

<sup>41</sup> *Ibid.*, p. 7.

### **III. Abuses of Prospective Women Migrants in Sri Lanka**

Human Rights Watch identified three primary areas in which prospective women migrants face abuse and exploitation in Sri Lanka. First, agents and subagents overcharge prospective women migrants for migration-related services or documents, causing domestic workers to incur significant but avoidable debt that they struggle to repay throughout their employment period. Second, agents and subagents deceive prospective domestic workers about the nature and conditions of work they will perform, their wages, and the country in which they will be employed, exposing women migrants to the risk of exploitation and trafficking. Third, Sri Lankan authorities require prospective migrant domestic workers to undergo discriminatory pre-departure medical testing without their informed consent and in a manner violating their right to privacy.

#### **Regulatory Framework in Sri Lanka and the Recruitment Process**

In a positive measure to respond to reports of abuse of migrant Sri Lankan workers, the Sri Lankan government in 1985 enacted the Sri Lanka Bureau of Foreign Employment Act, which established the Sri Lanka Bureau of Foreign Employment (SLBFE) as the institutional mechanism to regulate and promote the recruitment of Sri Lankans for employment abroad.<sup>42</sup> The SLBFE is a self-financed public corporation funded by migrant workers' recruitment fees and commissions paid by employment agencies.<sup>43</sup> Under the purview of the Ministry of Foreign Employment Promotion, the SLBFE licenses recruitment agencies, runs training programs for prospective migrant workers, registers migrants, administers an insurance scheme for migrant workers, and runs a welfare program for migrants' families that includes a scholarship fund for migrants' children.

Sri Lankan women wishing to work as domestic workers abroad can migrate through a recruitment agency or through personal contacts.<sup>44</sup> The majority initially make

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<sup>42</sup> Sri Lanka Bureau of Foreign Employment Act, No. 21, 1985.

<sup>43</sup> Human Rights Watch interview with L.K. Ruhunage, deputy general manager, Foreign Relations and Conciliation, SLBFE, Colombo, Sri Lanka, November 16, 2007.

<sup>44</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, October 30, 2006.

arrangements with agencies through a local subagent located in their village, although some go directly to agency offices in district capitals.<sup>45</sup> Women traveling through personal contacts usually learn of an open position through a relative or friend already working in the Middle East, and contact employers directly to obtain a ticket. Employers or labor agencies in the Middle East who wish to hire a Sri Lankan domestic worker must register a job order or individual recruitment request to obtain clearance from the Sri Lankan foreign mission in the country of employment.<sup>46</sup> Approval must be obtained from the foreign mission before an employment contract is signed, whether hiring domestic workers through personal contacts or a recruitment agency.<sup>47</sup>

When recruitment agents in Sri Lanka receive a job order request from a labor agent in the Middle East, they must submit a cover letter and copy of the order to the SLBFE for approval of its terms.<sup>48</sup> Under SLBFE procedure, the SLBFE should not grant approval of job order requests if the terms and conditions of employment are not satisfactory, or if workers would be exposed to serious risks to their lives because of civil war or other political disturbances.<sup>49</sup> Because Sri Lankan recruitment agents must obtain job approvals before any recruiting action can be taken, agencies generally obtain approvals in blocks, even if they cannot guarantee placements for all workers they recruit. After the SLBFE approves the job order request, Sri Lankan labor agents may begin recruiting and selecting prospective domestic workers.

A 1995 SLBFE policy announcement requires all migrant workers to register with the SLBFE prior to departure.<sup>50</sup> Labor agents or their subagents usually assist selected domestic workers with the registration process, which begins with obtaining a

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<sup>45</sup> Sri Lanka is divided into 9 provinces with 25 districts.

<sup>46</sup> L.K. Ruhunage, "Institutional Monitoring of Migrant Recruitment in Sri Lanka," in Christiane Kuptsch, ed., *Merchants of Labour* (Geneva: International Institute for Labour Studies, 2006), <http://www.ilo.org/public/english/bureau/inst/download/merchants.pdf> (accessed September 6, 2007), p. 59.

<sup>47</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, October 30, 2006.

<sup>48</sup> Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006.

<sup>49</sup> International Organization for Migration, *Labour Migration in Asia: Protection of Migrant Workers, Support Services and Enhancing Development Benefits* (Geneva: IOM, 2005), p. 32.

<sup>50</sup> Ruhunage, "Institutional Monitoring of Migrant Recruitment in Sri Lanka," in Kuptsch, ed., *Merchants of Labour*, p. 56.

passport.<sup>51</sup> Prospective migrant domestic workers are required to undergo a pre-departure medical examination, and those with no prior experience working in the Middle East must complete the SLBFE's 12-day free training course. A certificate of completion of the training or six months' experience in the Middle East, original passport valid for two years, a bank receipt for SLBFE charges, a valid visa, and an embassy-approved work agreement are required for registration of all migrant domestic workers.<sup>52</sup>



Prospective domestic workers learn about visas and passports during the Sri Lankan government's compulsory training session. The Sri Lanka Bureau of Foreign Employment trains domestic workers prior to migrating for employment in the Middle East.  
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<sup>51</sup> Gamburd, *The Kitchen Spoon's Handle*, p.61.

<sup>52</sup> Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

After the prospective migrant domestic worker has completed the training course, the Sri Lankan agent must obtain final departure approval from the SLBFE.<sup>53</sup> The agent or the agent's representative must go in person to the SLBFE to show the worker's original passport, the service contract from the foreign embassy, and the worker's training or experience certificate.<sup>54</sup> The SLBFE cross-checks this information with the foreign mission until the foreign mission grants approval, ensuring there is no duplicate for the job request.<sup>55</sup> The SLBFE records its grant of final departure approval in a computer database so that the foreign mission may cross-check whether SLBFE approval has been granted.<sup>56</sup> The SLBFE maintains a desk at the departure lounge of the international airport to verify registration of outbound migrant domestic workers or to complete on-the-spot registration for unregistered migrant workers.<sup>57</sup>

When domestic workers are registered, the SLBFE records information about their visas, wages, contact information for next of kin, and the employer's contact information in its database.<sup>58</sup> If the domestic worker registers the employer's contact information, the SLBFE dispatches this data to the foreign mission in the country of employment.<sup>59</sup> Both the SLBFE and the foreign mission in the country of employment are required to have the name and address of the domestic worker and the employer.<sup>60</sup> Either the prospective employer or the labor agent registers the job order at the Sri Lankan embassy in the country of employment, but this registration does not necessarily include the employer's complete contact information.<sup>61</sup> If the

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<sup>53</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, October 30, 2006.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Human Rights Watch interview with SLBFE official, Katunayake, Sri Lanka, November 1, 2006; Human Rights Watch interview with Feizal Samath, Colombo, Sri Lanka, October 30, 2006; Human Rights Watch interview with Al-Haj U.T.M. Anver, ALFEA, Colombo, Sri Lanka, October 31, 2006; Ruhunage, "Institutional Monitoring of Migrant Recruitment in Sri Lanka," in Kuptsch, ed., *Merchants of Labour*, p. 58.

<sup>58</sup> Human Rights Watch interview with Shiranthi Ekanayake, country coordinator, SLBFE, Colombo, Sri Lanka, November 16, 2006.

<sup>59</sup> Human Rights Watch interview with Sumedha Ekanayake, deputy director, United Nations and Multilateral Affairs, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

<sup>60</sup> Human Rights Watch interview with Shiranthi Ekanayake, SLBFE, Colombo, Sri Lanka, November 16, 2006.

<sup>61</sup> Human Rights Watch interview with Sumedha Ekanayake, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

domestic worker changes her sponsor legally, the new sponsor has a responsibility to register the visa change with the foreign mission, but the SLBFE has no procedure for tracking domestic workers when their employers fail to comply with this requirement.<sup>62</sup>

Labor recruiters often falsify workers' passports in order to meet age requirements for jobs abroad and often alter passports to bear Muslim names and religious designations because of many employers' preference for Muslim domestic workers. Domestic workers who are unfamiliar with immigration regulations may be unaware that labor agents have made these alterations or have misrepresented them to potential employers. When passports contain incorrect names and ages, it can be difficult to find accurate personal data or locate workers' families when necessary.

### **Recruitment Fee System and Debt Payments**

*The subagents say they want money for the passport, registration fee, et cetera. The passenger doesn't know that the agent has already paid for these.*<sup>63</sup>

—A Sri Lanka Bureau of Foreign Employment official

Recruitment-related debts haunt domestic workers throughout the migration process. Labor agents and subagents generally extract fees from prospective domestic workers for recruitment and placement services, and at times exorbitantly overcharge them for these services. These fees place domestic workers at risk of later exploitation by employers, because domestic workers feel trapped in abusive employment situations as a result of the debts they must repay to labor agents, subagents, banks, and moneylenders.<sup>64</sup>

Padma S.'s story illustrates the consequences of high recruitment fees for migrant domestic workers. To pay the 22,000 rupee [US\$195] recruitment fee demanded by a

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<sup>62</sup> Ibid.

<sup>63</sup> Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>64</sup> See Section V of this report, "Response of the Sri Lankan Government," for information about government efforts to license and regulate labor agents and subagents.



subagent for a job as a domestic worker in Saudi Arabia, Padma S. borrowed 15,000 rupees [US\$133] from a local moneylender. She also borrowed a gold chain from a woman in the village to use as collateral against a bank loan carrying 700 rupees' interest per month. She also sold her furniture, television, and VCR for the travel expenses, and the subagent confiscated her mobile phone at the airport as a deposit until she paid the remaining balance.<sup>65</sup> After her employer's brother tried to rape her, Padma S. returned to Sri Lanka before she received any salary, with an unpaid debt of over 15,000 rupees [US\$133]. She remarked, "I was thinking that I would be able to make money, but it's the other way around."<sup>66</sup>

In about 75 percent of the 100 cases documented in this report, domestic workers like Padma S. incurred heavy debt burdens because of overcharging by local labor agents and subagents. Sri Lankan law permits labor recruiters to charge migrant domestic workers only for the SLBFE's official registration fee, which ranges from about US\$50 to \$100. We found that the actual fees women paid were as much as US\$315, much higher than official fees. Given that many of these women support their households on only US\$20-50 per month, these fees represent a significant financial liability. In most of these cases, labor agents and subagents overcharged prospective migrant domestic workers by inflating costs, such as visa and government registration fees, or levied large fees in exchange for their placement services, in violation of the Sri Lanka Bureau of Foreign Employment Act.<sup>67</sup>

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<sup>65</sup> Human Rights Watch interview with Padma S., Katunayake, Sri Lanka, November 1, 2006.

<sup>66</sup> Ibid.

<sup>67</sup> The Sri Lanka Bureau of Foreign Employment Act prohibits agents from directly charging prospective migrant workers for these commissions. Sri Lanka Bureau of Foreign Employment Act, No. 21, 1985, repealing the Foreign Employment Agency Act, No. 32, 1980, section 42.

**Table 1 – Official and reported recruitment fees paid by prospective domestic workers:**

Item	Official cost	Actual amounts prospective domestic workers pay, as reported to Human Rights Watch
Agent or subagent's commission	0 rupees	<b>UAE:</b> 10,000-16,000 rupees [US\$89-142] to subagent; 35,000 [US\$311] to agent <b>Kuwait:</b> 7,500-16,000 rupees [US\$67-142] to agent; 13,500-20,500 [US\$120-182] to subagent <b>Lebanon:</b> 10,000-20,000 rupees [US\$89-178] to subagent; US\$100-\$300 (1-3 months' salary) to agent <b>Saudi Arabia:</b> 0-22,000 rupees [US\$0-195] to subagent; 0-15,000 rupees [US\$0-133] to agent
SLBFE registration fee	5,980 rupees [US\$53], for salaries below US\$90 8,855 rupees [US\$79], for salaries US\$90-\$180 11,730 rupees [US\$104], for salaries above US\$180	Included in commission fee above
SLBFE insurance	2,500 rupees [US\$22], included in SLBFE registration fee above <sup>68</sup>	5,000-8,000 rupees [US\$44-71]
Passport	2,500 rupees [US\$22], or 10,000 rupees [US\$89] for replacement passport	2,500-10,000 rupees [US\$22-89]
Visa	N/A	<b>Kuwait:</b> 4,000 rupees [US\$36] <sup>69</sup> -US\$40 <sup>70</sup> <b>Saudi Arabia:</b> 1,500 rupees [US\$13] <sup>71</sup>
Medical testing	500 rupees [US\$4]	1,500-7,500 rupees [US\$13-67]
Travel to Colombo for medical testing and appointments with agent	N/A	5,000-10,000 rupees [US\$44-89]
Return plane ticket	0, in most cases <sup>72</sup>	0-3 months' salary
Total	8,980-14,730 rupees [US\$80-131]	<b>UAE:</b> 16,000-35,000 rupees [US\$142-311] <b>Kuwait:</b> 12,000-20,500 rupees [US\$107-182] <b>Lebanon:</b> 10,000-33,255 rupees [US\$89-\$295] <b>Saudi Arabia:</b> 5,000-22,000 rupees [US\$44-195]

<sup>68</sup> International Organization for Migration, *Labour Migration in Asia*, p. 182.

<sup>69</sup> Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>70</sup> Human Rights Watch interview with N.M. Sisira Bandara, labor agent, Samasi Manpower Services, Kurunegala, Sri Lanka, November 3, 2006.

<sup>71</sup> Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>72</sup> See Section IV of this report, "Unpaid and Underpaid Wages."

Human Rights Watch's research indicates that both recruitment agents and subagents charge migrant domestic workers inflated recruitment and placement fees. Subagents charge more exorbitant fees and do so more consistently than agents. Licensed recruitment agencies are generally located in city centers, far from the villages where prospective migrant domestic workers live. Subagents are unlicensed and unregulated job brokers who serve as intermediaries between migrant domestic workers and licensed agencies. There are over 580 registered agencies in Sri Lanka, and informed observers estimate there are 10,000-20,000 subagents operating throughout the island to link migrant workers with these agencies.<sup>73</sup> One licensed labor agent estimated that "75 to 80 percent of maids are channeling through subagents."<sup>74</sup>

Prospective domestic workers frequently make their initial arrangements to migrate through subagents because subagents live nearby, and prospective migrants generally trust these known neighbors to assist them to migrate. One domestic worker described the role of subagents: "A subagent is known in a village like a fish market; everybody knows where a fish market is in a town, likewise everybody knows where and who the subagent is. Then the subagent goes from house to house asking if anyone wants to work abroad."<sup>75</sup> An SLBFE official explained, "Most migrants go to a subagent... They are the people who persuade people to go abroad... The subagent comes to the passenger...[t]he passenger thinks, 'The subagent is a fellow villager, I know him well, I trust him.'"<sup>76</sup> A labor agent added, "The women trust the subagents in their village more than the agent. Women might have an agency in mind, but they will still go through the subagent because they trust the subagent more and if anything happens, it is easier for her people to contact the subagent."<sup>77</sup> Some women also expressed concern about traveling to the capital Colombo alone to obtain a passport or to undergo compulsory pre-departure medical testing, because they were unfamiliar with the procedures and because of the stigma of traveling

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<sup>73</sup> Human Rights Watch interview with Viola Perera, ACTFORM, Colombo, Sri Lanka, November 2, 2006; Human Rights Watch interview with Feizal Samath, Colombo, Sri Lanka, October 30, 2006.

<sup>74</sup> Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006.

<sup>75</sup> Human Rights Watch interview with Chemmani R., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>76</sup> Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>77</sup> Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006.

without male accompaniment. One domestic worker who paid 23,000 rupees [US\$204] to a subagent to migrate to Kuwait explained, “I went through a subagent because I don’t have anybody, a male, who can accompany me to the agency in Kurunegala [the district capital] and to accompany me to the medical [tests]... [A]t the time I didn’t know where to go, how to do it.”<sup>78</sup>

Domestic workers are at the mercy of subagents who regularly charge workers more than officially sanctioned rates. Because many domestic workers are unable to make arrangements directly with labor agencies or are unaware of this option, and because they do not have access to information about Sri Lankan government policies regulating recruitment fees, they pay subagents the inflated amounts they demand.

Human Rights Watch documented cases of overcharging by registered labor agents as well. Prospective employers in the Middle East generally pay very high fees to hire a Sri Lankan domestic worker, ranging from US\$450-1,600, and these fees are meant to cover the agents’ commissions, as well as offset domestic workers’ airfare and other placement costs.<sup>79</sup> In practice, recruitment agents in Sri Lanka sometimes pocket substantial portions of the fees paid by employers, and transfer placement and migration costs to migrant domestic workers. In a seminal study on the migration of Sri Lankan domestic workers to the Middle East, anthropologist Michele Gamburd noted that in other cases, “in order to pay competitive commissions to Arab recruiters, agencies in Sri Lanka charged higher fees from prospective migrants.”<sup>80</sup> While from 1976 to 1985 employers paid prospective migrant domestic workers’ airfare, passport, and medical costs, as a result of recruitment agents’ practices, “by 1994 migrants footed most of these charges as well as job agents’ commissions; fees increased more rapidly than inflation.”<sup>81</sup>

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<sup>78</sup> Human Rights Watch interview with Nirmali C., Giribawa, Sri Lanka, November 7, 2006.

<sup>79</sup> The fees employers pay labor agents range between US\$750-1,600 in Saudi Arabia, US\$1,000-1,100 in Kuwait and Lebanon, and US\$450-1,100 in UAE. Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006; Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006.

<sup>80</sup> Gamburd, *The Kitchen Spoon’s Handle*, p.64.

<sup>81</sup> Ibid.

A migrant rights' activist working at the Sri Lankan NGO Action Network for Migrant Workers (ACTFORM) explained how the fee system works in practice: "For example, for Saudi Arabia, a month's pay is given to the agent [to pass on to the worker] for purchase of the ticket and to ensure the woman comes. The agent doesn't necessarily tell the woman, and demands money and makes the woman pay the fee, and she ends up in debt."<sup>82</sup> One domestic worker observed, "The agents are getting money...for selling us... The employers pay this to the agents. The agents are trying to make money from both the parties."<sup>83</sup> Sri Lankan government officials maintained that labor agents charge women for migration to the UAE and Lebanon, where the fees employers pay are substantially lower than in Saudi Arabia and Kuwait, but officials did acknowledge that, "sometimes the agent recovers the cost from the women" bound for Saudi Arabia and Kuwait as well.<sup>84</sup>

In interviews with Human Rights Watch, licensed labor agents revealed that they are aware that subagents overcharge prospective domestic workers, but they claimed that all instances of overcharging were not attributable to the labor agents who hire them. This argument that labor agents bear no responsibility for the illegal actions of subagents is specious at best. Labor agents pay a commission to subagents for performing necessary tasks, such as identifying prospective migrants, obtaining passports for prospective domestic workers, or accompanying them to mandatory pre-departure medical tests. Subagents' practice of illegally overcharging prospective migrants for these services is well-known. One SLBFE official noted, "The people in the agencies say they don't like subagents, but they keep hiring them."<sup>85</sup> An ILO official predicted that labor agencies will continue to hire subagents to supply recruitment services at the local level: "The subagents have been filling a vacuum that exists... You can't say that just by opening up [licensed recruitment agency] offices in districts will help, because they will probably just get the subagents to run their offices."<sup>86</sup>

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<sup>82</sup> Human Rights Watch interview with Viola Perera, ACTFORM, Colombo, Sri Lanka, November 2, 2006.

<sup>83</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>84</sup> Human Rights Watch interview with L.K. Ruhugane, SLBFE, Colombo, Sri Lanka, November 16, 2006; Human Rights Watch interview with Sumedha Ekanayake, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

<sup>85</sup> Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>86</sup> Human Rights Watch interview with Shafinaz Hassendeen, ILO, Colombo, Sri Lanka, November 2, 2006.

In most of the cases Human Rights Watch documented, labor agents and subagents overcharged women before they left the country. However, in some cases labor agents made arrangements to deduct fees from women's salaries once they arrived in the country of employment. One domestic worker told us that a licensed labor agency claimed her entire first three months' salary in Saudi Arabia: "I paid 5,000 rupees [US\$44]. I went through [agency name withheld]; they said they will never deduct our salary. After I went there, they deducted three months' salary."<sup>87</sup> Because prospective employers in Lebanon pay much lower fees to hire a domestic worker as compared to employers in Saudi Arabia, Kuwait, and the UAE, labor agents often make arrangements for deductions of the salaries earned by Sri Lankan domestic workers in Lebanon. Domestic workers who had recently worked in Lebanon told Human Rights Watch that labor agents deducted one to three months' salary to cover recruitment fees. One domestic worker told Human Rights Watch, "I went through an agent which was registered in the Sri Lanka Bureau of Foreign Employment, in Anuradhapura district. I went to the agency in person; with the help of that agent I have come to Colombo to prepare my passport. I had to pay three months' salary, US\$300 (US\$100 a month). I did not pay the agent directly; the first three months I was working, my employer did not pay me and they sent the money to my agency here."<sup>88</sup>

Because of overcharging by agents and subagents, domestic workers often incur large debts at high interest rates. Prospective migrant domestic workers generally do not have the capital to pay inflated recruitment fees outright and must borrow from local moneylenders or pawn jewelry to cover these fees. Many of the women Human Rights Watch interviewed had obtained loans from moneylenders who provide loans to domestic workers at a 20 percent interest rate *per month*. These debts limit women's ability to flee abusive employers. Because of high monthly interest rates on these loans, domestic workers whose employers paid their salaries irregularly suffer spiraling debt. A migrant rights' activist explained, "A key problem is that when women get into debt before they go and they can't repay it, because of the debt they go back to work another time, or a third time, or lose their property or whatever is

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<sup>87</sup> Human Rights Watch interview with Sakthipriyah M., Giribawa, Sri Lanka, November 7, 2006.

<sup>88</sup> Human Rights Watch interview with Sujeejwewami Matharachchi (real name used upon request), Colombo, Sri Lanka, November 3, 2006.

mortgaged. Or the agent says, ‘Don’t worry, we’ll deduct your salary from the receiving country,’ but there’s no written agreement about the amount of the debt, so three, four months she’s losing pay and has no idea for how long or how much the debt is.”<sup>89</sup>

Dayani S. borrowed 40,000 rupees [US\$355] to cover fees to a subagent for her job in Saudi Arabia. She told Human Rights Watch:

I got the money from two different [moneylenders] for 20 percent interest, in my same village.... Although they paid my salary in Saudi Arabia they did not pay me on time. They paid me for two months when I finished five months working there. Here [in Sri Lanka] the interest was just growing. Finally I managed to pay the capital only, to settle the capital without interest. But I did not manage to save any money for me from my Saudi trip... The interest was 20 percent per month on 40,000 rupees [US\$355]. I still pay, and I have to settle 20,000 rupees [US\$178] still. I am not paying any interest [yet].<sup>90</sup>

For her job as a domestic worker in Abu Dhabi, Manaranjani S. borrowed 17,500 rupees [US\$155] to cover the recruitment fee charged by a subagent in her hometown. The terms of the loan are typical of those taken out by other migrant domestic workers we interviewed: “For 1,000 rupees we pay 200 rupees interest and if you don’t pay the interest on time you have to pay 500 rupees per 1,000 rupees.”<sup>91</sup> Over time interest rates cause these debts to multiply. One domestic worker said, “I borrowed the money from someone, I asked to borrow 5,000. Five months ago that person asked me to repay 11,000 for that 5,000.”<sup>92</sup>

In practice, as noted above, these heavy debts and high interest charges make it difficult for domestic workers to leave abusive work situations and return to Sri Lanka. One domestic worker completed her entire contract period in Dubai working

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<sup>89</sup> Human Rights Watch interview with Viola Perera, ACTFORM, Colombo, Sri Lanka, November 2, 2006.

<sup>90</sup> Human Rights Watch interview with Dayani S., Kandy, Sri Lanka, November 10, 2006.

<sup>91</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>92</sup> Human Rights Watch interview with Kumari S., Vallalgude, Sri Lanka, November 6, 2006.

in conditions that amounted to forced labor, despite facing ongoing and severe physical abuse by her employer and labor agent in Dubai, because otherwise she would have been unable to repay her debt of 30,000 rupees [US\$266], 10,000 rupees [US\$89] of which was interest. She said, “We have given my mother’s place, the house, as collateral. If I did not settle the money which I borrowed, with interest, we agreed that he could take the house.... Although I wasn’t happy with where I worked for two-and-a-half years, I knew I had to settle the debt plus interest, and there was no way I could return to Sri Lanka and [earn enough to] settle it here.”<sup>93</sup>

Human Rights Watch interviewed a 32-year-old domestic worker who had been raped by her employer in Saudi Arabia, gave birth to a child as a result of the rape, and was living in an SLBFE-run shelter at the time Human Rights Watch interviewed her. She was unable to return to her husband and four young children because she needed to go abroad again to repay the debt she incurred to migrate to Saudi Arabia in the first place. She said, “I feel sad that I am unable to return to be with the rest of the family.... I borrowed 17,000 rupees [US\$151, to go abroad], but with one-and-a-half years’ interest it will be 50,000 rupees [US\$444]. I got the 17,000 from a person from my village.... If I go back without paying the debt that will be a problem.”<sup>94</sup>

International labor law places strict limits on labor agencies’ and subagents’ practice of levying recruitment and job placement fees. ILO Convention No. 96 on Fee-Charging Employment Agencies, which Sri Lanka ratified in April 1958, requires the progressive abolition of fee-charging agencies within a period of time determined by the competent authority of states parties, and requires that for-profit employment agencies and other intermediaries charge fees only “on a scale submitted to and approved by the competent authority.”<sup>95</sup> Wage deductions to cover recruitment costs are prohibited under international law as well. ILO Convention No. 95 on the Protection of Wages, which Sri Lanka and Lebanon have ratified, specifies that, “Any

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<sup>93</sup> Human Rights Watch interview with Chandrika H., Kurunegala, Sri Lanka, November 4, 2006.

<sup>94</sup> Human Rights Watch interview with Amanthi K., Katunayake, Sri Lanka, November 1, 2006.

<sup>95</sup> ILO Convention No. 96 concerning Fee-Charging Employment Agencies (revised 1949), adopted July 1, 1949, entered into force July 18, 1951, arts. 3(1), 4(1)(b). The Convention defines for-profit fee-charging employment agencies as, “any person, company, institution, agency or other organization which acts as an intermediary for the purpose of procuring employment for a worker or supplying a worker for an employer with a view to deriving either directly or indirectly any pecuniary or other material advantage from either employer or worker.” Art. 1(1)(a).



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 labor contractor or recruiter), shall be prohibited.”<sup>96</sup> The Convention prohibits deductions from wages for payments to fee-charging agencies for the purpose of obtaining or retaining employment.<sup>97</sup>

## Deception and Lack of Information in Recruitment and Trafficking

*I was told by the agent I would have to look after an old lady, but after I got there [to Saudi Arabia] I found out I had to work for four houses. I was not aware that I would be working for four houses, and I was getting only one salary from one house, 400 riyals [US\$107] a month... The agent must have cheated me.*<sup>98</sup>

—Noor F., age 36, worked as a domestic worker in Saudi Arabia

Workers told us that labor agents and subagents who recruit Sri Lankan women to work as domestic workers in the Middle East regularly make false promises about the country where they will work, the conditions of work they can expect, and the salaries they will receive. Workers also told us that recruitment agents and subagents frequently fail to provide full information to prospective migrant women about their job responsibilities, their salary, or their rights. In 2004, the SLBFE received 1,112 pre-departure complaints from prospective migrant workers against recruitment agencies.<sup>99</sup> Deception and lack of information during the recruitment process place migrant domestic workers at risk of exploitation and trafficking into forced labor.

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<sup>96</sup> ILO Convention No. 95 concerning the Protection of Wages, adopted July 1, 1949, entered into force September 24, 1952, art. 9. The Convention includes a provision allowing governments to exclude domestic workers from provisions of the Convention only if the state indicates in their first report submitted to the ILO under article 22 of the ILO Constitution the categories of workers to be excluded. After the date of the first annual report no further exceptions are permissible. Art. 2(2)-(3).

<sup>97</sup> International Labour Conference, “General Survey of the Reports Concerning the Protection of Wages Convention (No. 95) and the Protection of Wages Recommendation (No. 85), 1949: Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19, 22 and 35 of the Constitution),” Report III, Part I(B), 91<sup>st</sup> Session (Geneva: ILO, 2003), <http://www.ilo.org/public/english/standards/relm/ilc/ilc91/pdf/rep-iii-1b.pdf> (accessed June 1, 2007), p. 145, para. 267.

<sup>98</sup> Human Rights Watch interview with Noor F., Attanagalla, Sri Lanka, November 8, 2006.

<sup>99</sup> Human Rights Commission of Sri Lanka, *Report of the Committee on the Rights of Women Migrant Workers* (Colombo: Human Rights Commission of Sri Lanka, 2005), p. 36.

Human Rights Watch documented several cases in which labor agents and subagents deceived women workers about the true location of their work. In these cases, agents and subagents had promised prospective domestic workers they would be working in Kuwait, the UAE, or Lebanon, but placed these workers with employers in Saudi Arabia. One domestic worker who had recently fled her abusive employers in Saudi Arabia said, “I didn’t know that I was not going to Dubai, I only found out on the day that I was leaving. When they handed me the ticket I saw that I was going to Riyadh.”<sup>100</sup> An 18-year-old domestic worker told us she was sent to work in Saudi Arabia, although the labor agent had agreed to find her employment in Dubai: “I paid 22,000 rupees [US\$195] to the agent to go to Dubai, but he sent me to Saudi Arabia; he played it wrong [tricked me].”<sup>101</sup>

Profit is a likely motive for this form of deception; labor agents earn a higher profit for recruiting women for employment in Saudi Arabia, because employers there pay higher recruitment fees.<sup>102</sup> Labor agencies in Sri Lanka receive US\$800-\$1,000 to recruit one domestic worker for work in Saudi Arabia, yielding a significantly larger profit margin than for recruitment of workers to other countries.<sup>103</sup> The commission subagents earn for recruiting women to work in Saudi Arabia is seven to nine times higher than for the UAE, three to five times higher than for Lebanon, and two to four times higher than for Kuwait.<sup>104</sup> A labor agent acknowledged that profit is a motive in deception regarding women’s country of employment: “She may want to go to country X, but the subagent may want her to go to a different country Y to get more benefit, and he may cheat her by hook or crook to send her to that country.”<sup>105</sup>

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<sup>100</sup> Human Rights Watch interview with Indrani P., Riyadh, Saudi Arabia, December 15, 2006.

<sup>101</sup> Human Rights Watch interview with Padma S., Katunayake, Sri Lanka, November 1, 2006.

<sup>102</sup> Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006; Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006; Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>103</sup> Human Rights Watch interview with Al-Haj U.T.M. Anver, ALFEA, Colombo, Sri Lanka, October 31, 2006; Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>104</sup> Human Rights Watch interview with N.A. Piyaratne, subagent, Kurunegala, Sri Lanka, November 4, 2006; Sri Lanka Bureau of Foreign Employment, *Annual Statistical Report of Foreign Employment 2005*, p. 65; Human Rights Watch interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>105</sup> Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006.

Recruitment agents and subagents frequently misinform prospective migrant domestic workers about their working conditions. Some domestic workers told Human Rights Watch that the agent or subagent promised they would work only eight-hour days or receive a weekly day off, conditions of employment none of the migrant domestic workers Human Rights Watch interviewed received in practice. Sathi R. said, “Both the subagent and the agent...verbally told me I’d usually work eight hours, but sometimes I’d have to work more.”<sup>106</sup> In practice, Sathi R. worked 14-18 hours each day. Another domestic worker told us her agent deceived her about working conditions in Lebanon: “The agency said I can get leave on Sunday, but I didn’t get it. I quarreled with [my employers], I said ‘I want a day off,’ but [they] wouldn’t give it to me. They said, ‘You don’t have any holiday, the agency lied to you.’”<sup>107</sup>

In other cases labor agents and subagents made false promises about workers’ job responsibilities, deceiving them about the size of the household or whether their jobs would entail childcare. Lakmini J., a domestic worker who experienced horrific physical abuse in Kuwait, said, “The subagent promised that I would only do housework, but I had to cook and take care of babies. I had to do all of the work.”<sup>108</sup> In another case, Selvakumari W., age 26, said, “[The subagent] said there are three people in the employer’s house and it’s good. There were actually seven people and the kids were not good.”<sup>109</sup> In an additional case, a labor agent deceived Chitra G. about the size of the household for which she would work in Saudi Arabia. She said, “I came here to work for only one family, but instead, there were three families in the house.”<sup>110</sup> Chitra G.’s agent also made false promises about her workload and salary; she never received a day off as promised, and was paid two-thirds the salary the labor agent guaranteed. A licensed labor agent acknowledged that subagents engage in these deceptive recruitment practices. He said, “A problem is the

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<sup>106</sup> Human Rights Watch interview with Sathi R., Panadura, Sri Lanka, November 15, 2006.

<sup>107</sup> Human Rights Watch interview with Upeksha R., Vallalgude, Sri Lanka, November 6, 2006.

<sup>108</sup> Human Rights Watch interview with Lakmini J., Katunayake, Sri Lanka, November 9, 2006.

<sup>109</sup> Human Rights Watch interview with Selvakumari W., Katunayake, Sri Lanka, November 9, 2006.

<sup>110</sup> Human Rights Watch interview with Chitra G., Riyadh, Saudi Arabia, December 6, 2006.

subagent lies. He says to the maid, this [employer has] just two children, just two rooms [to clean, even if there are more].”<sup>111</sup>

In many cases, labor agents and subagents promised domestic workers salaries that were higher than what they actually received. A domestic worker who had worked abroad five times in Kuwait and Saudi Arabia told us that before she last migrated to Saudi Arabia in 2005, “[The agents] told me [the salary] was 500 riyals [US\$133], but when I went it was 400 [US\$107].... I asked why not 500 and [my employers] showed me some type of book, ‘We only have to pay this amount. Your agency lied to you.’”<sup>112</sup> Labor agents in Sri Lanka revealed that they are aware that actual wages often are lower than the wages stipulated in labor contracts.<sup>113</sup> The president of the Sri Lankan professional association of labor agencies acknowledged that deception about wages is common: “Take a housemaid, maybe the salary is US\$125, but the subagents will say it is US\$150, \$200.”<sup>114</sup>

In other cases, subagents made false promises to domestic workers about the salaries they would receive, and informed them their actual salaries would be much lower only after preparations for their trip were complete. For example, a 28-year-old domestic worker who worked in Dubai, UAE, said, “The subagent promised I would earn 750 dirhams [US\$204] a month.... The subagent came along with the contract and the ticket on the day of departure and it was then that I came to know that I would be paid only 450 dirhams [US\$123]... I asked him, ‘Why did you promise I would be paid 750 dirhams?’ and we got into an argument, and since the ticket was paid for, I had to leave. I didn’t have any option.”<sup>115</sup> She was paid only 450 dirhams.

Labor agents and subagents at times also deceive workers by using employment contracts written in languages the woman does not know. In some cases, labor

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<sup>111</sup> Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006.

<sup>112</sup> Human Rights Watch interview with Sithy S., Tihari, Sri Lanka, November 8, 2006.

<sup>113</sup> Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006. He said, “Officially, the salary [for Saudi Arabia] is 500-450 Saudi riyals. Actually, they get 400 riyals, but experienced [workers] get 450.”

<sup>114</sup> Human Rights Watch interview with Al-Haj U.T.M. Anver, ALFEA, Colombo, Sri Lanka, October 31, 2006.

<sup>115</sup> Human Rights Watch interview with Savindi P., Kurunegala, Sri Lanka, November 4, 2006.

agents and subagents translate only a portion of the work contract, such as the provision stipulating salary, into a language the worker understands. In other cases, domestic workers had to sign a new contract upon arrival in the Middle East, even if they had already signed a contract in Sri Lanka. In all of these cases, the contract was in Arabic and workers did not receive a copy of the contract, making it difficult to ascertain later whether the terms differed from the original contract the worker signed or the terms orally promised to her. Chandrika H. explained, “The agent there [in Dubai] told me that this is your contract from your employer. It was in Arabic so I did not know what it said. He said put your signature, so I put my signature on it. On arrival [in Dubai] they came to the airport, picked me up, brought me to the agency, and had me sign the contract, all on the same day. He did not tell me the terms of the contract. He did not give me a copy... Before I left the subagent promised me I would be paid 500 dirhams [US\$136] a month, but I was paid only 400 dirhams [US\$109] a month.”<sup>116</sup>

Recruitment-related deception and lack of information contribute to exploitation, as domestic workers have little negotiating power once they arrive in the country of employment. One domestic worker who had previously worked in Kuwait before migrating to Saudi Arabia said, “I didn’t know it would be like this in Saudi Arabia before I left Sri Lanka... [M]y agent didn’t tell me anything.”<sup>117</sup> In Saudi Arabia, she experienced heavy workload with no rest, forced confinement, and verbal abuse. In another case, Mahilam G.’s subagent and agent did not inform her of her salary or provide a work contract before she migrated to Saudi Arabia. The subagent had approached her at the tea plantation where she worked and told her only, “the place [you are] going is very good”:

I learned my salary only after I arrived there [in Saudi Arabia], when my employer told me.... My salary was 400 riyals [US\$107] a month. It was not enough because it wasn’t enough for my children’s education and meals. I asked for more salary; [my employers] refused and told me to go back to Sri Lanka and come again, and then they would increase my

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<sup>116</sup> Human Rights Watch interview with Chandrika H., Kurunegala, Sri Lanka, November 4, 2006.

<sup>117</sup> Human Rights Watch interview with Nayanadini B., Rambe, Sri Lanka, November 5, 2006.

salary... I did not have any idea how much I would be paid before I left Sri Lanka.<sup>118</sup>

Many domestic workers Human Rights Watch interviewed reported they never signed or received a copy of a work contract. Subagents generally do not provide work contracts; usually prospective domestic workers sign work contracts at the offices of the licensed agent, and prospective migrants who do not meet the agents handling their migration often do not sign work contracts at all.<sup>119</sup> Susanthika W., a domestic worker who migrated to Lebanon, said, “I asked the agent whether I should sign an agreement and he told me, ‘Do not worry, I will take care of everything with the employer.’ He said, ‘Don’t be afraid, your salary will be US\$125; if you have any problems you can call us and we will sort it out.’ He told me he had signed a work agreement with the employer for all the domestic workers who went through that particular agent... I asked the agent if I would be cheated and he said no.”<sup>120</sup> In practice, Susanthika W. was paid only US\$100 per month.

In other cases, recruitment agents or subagents misinform domestic workers about their rights in the country of employment. A domestic worker who migrated to Lebanon said, “Both the subagent and the agent....didn’t tell me about my rights to change employers or leave... They told me that I would not be able to come back before the contract ends, in two years and 90 days—no other explanation.”<sup>121</sup> Recruitment agents or subagents at times ask domestic workers to sign undertakings that renounce their rights to terminate the work contract and return to Sri Lanka before the contract is completed. These undertakings are separate from the work contracts. Dilinekaa M., a migrant domestic worker to Kuwait, said, “At the agency I signed a piece of paper where it stated I would stay until the end of the contract, even if I face some difficulties, and the agent will not take me back for whatever reason. I did not sign any other paper with information about my duties or salary.”<sup>122</sup>

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<sup>118</sup> Human Rights Watch interview with Mahilam G., Maskeliya, Sri Lanka, November 13, 2006.

<sup>119</sup> Human Rights Watch interview with Feizal Samath, Colombo, Sri Lanka, October 30, 2006.

<sup>120</sup> Human Rights Watch interview with Susanthika W., Panadura, Sri Lanka, November 15, 2006.

<sup>121</sup> Human Rights Watch interview with Sathi R., Panadura, Sri Lanka, November 15, 2006.

<sup>122</sup> Human Rights Watch interview with Dilinekaa M., Kurunegala district, Sri Lanka, November 5, 2006.

Some of these cases of deception during recruitment may amount to trafficking into forced labor.<sup>123</sup> Trafficking is characterized by the presence of force, coercion, or deception at some stage of the migration process. Although these cases of deception took place during legal labor recruitment, some of the cases Human Rights Watch documented may meet the definition of trafficking. Deception or coercion during the recruitment process, high recruitment fees and resulting debt, misinformation about one's rights as a migrant and as a worker, and lack of legal protection in countries of employment expose migrant women to the threat of trafficking and to the workplace abuses documented later in this report. In cases of labor trafficking through legal recruitment, agents may misinform, deceive, or coerce women workers after they decide to migrate, and trafficked women experience grave workplace abuses following their job placement.

For example, Praveena A., a 24-year-old mother from the war-torn northern region of Sri Lanka, had been long separated from her six-year-old child and family. When she returned to Sri Lanka from working as a domestic worker in Saudi Arabia, Praveena A. wished to rejoin her family in India, but she was deceived into resuming domestic work in Saudi Arabia, where she worked for one-and-a-half years in conditions of forced labor. She explained:

When I came [back to Sri Lanka] in May 2004 I had nobody. I met a lady at the airport. She promised that she would be able to get me a visa, she took my passport and money and took everything and kept it.... I didn't know [I was being sent back to Saudi Arabia] and I wasn't willing. That lady made all the arrangements. She didn't give me the passport when we got to the airport. The man [at the airport counter] told me "You're going to Saudi Arabia, not India." Once you get to the [airport] counter there is nothing you can do—you can't go back. I

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<sup>123</sup> The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children defines trafficking as "the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of 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." 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, art. 3(a). Sri Lankan law prohibits trafficking in persons, pursuant to a 1995 amendment to the penal code. Penal Code, No. 2, 1883, section 360(C), amended by Penal Code (Amendment) Act, No. 22, 1995.

didn't know of any officials who could have helped me at the airport. The lady [employer in Saudi Arabia], refused to send me back.... I was not able to leave at all and when I asked they said no and they locked me up.<sup>124</sup>

In another case, Noor F.'s employer in Kuwait required her to serve tea and coffee to men in a café, in addition to her responsibilities cooking for 20 people and cleaning their five-story house.<sup>125</sup> Her agent in Sri Lanka had assured her a job placement as a domestic worker, not a waitress. She said, "I went directly to an agent and dealt with him. An agent met me at the airport [in Kuwait]...he did not send me to the home in the photo the agent showed me earlier, the house where he had said I would be working... On the fifth day I called the agent and I said I don't want to work here. I told him I came here to work [as a domestic worker]. The agent told me to wait some more time. I decided to run away."<sup>126</sup>

When states fail to regulate employment agencies' and subagents' recruitment practices, migrant workers are at greater risk of becoming trapped in exploitative and abusive work situations that may rise to the level of trafficking in forced labor. While precise figures are impossible to obtain, the International Labour Organization (ILO) estimates that globally at least 2.45 million trafficking victims are currently working in exploitative conditions amounting to forced labor, and represent about 20 percent of victims of forced labor worldwide.<sup>127</sup>

## **Pre-Departure Medical Testing and Coerced Contraception**

Prospective migrant domestic workers undergo pre-departure medical testing, often without their informed consent or access to the test results. Some women also told Human Rights Watch that labor agents forced them to take long-term contraception to prevent pregnancy during employment.

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<sup>124</sup> Human Rights Watch interview with Praveena A., Katunayake, Sri Lanka, November 1, 2006.

<sup>125</sup> Human Rights Watch interview with Noor F., Attanagalla, Sri Lanka, November 8, 2006.

<sup>126</sup> Ibid.

<sup>127</sup> International Labour Organization, *ILO Minimum Estimate of Forced Labour in the World* (Geneva: ILO, 2005), [http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD\\_BLOB?Var\\_DocumentID=5073](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5073) (accessed June 8, 2007), pp. 4, 33.



All prospective migrant domestic workers undergo mandatory pre-departure medical testing at private medical clinics based in Colombo<sup>128</sup> for a range of health conditions, including pregnancy, human immunodeficiency virus (HIV) infection, and elevated cholesterol levels.<sup>129</sup> They also undergo chest x-rays to test for tuberculosis, and eye, speech, and hearing tests.<sup>130</sup> According to a Ministry of Foreign Affairs official, the tests are to ensure that workers are “physically fit to work.”<sup>131</sup> Women who test positive for pregnancy or HIV are declared unfit and are not permitted to migrate.<sup>132</sup>

Most migrant women workers Human Rights Watch interviewed said they were not informed about what tests were being performed, and none received pre- or post-test counseling. Informed consent and confidentiality of medical information are cornerstones of medical ethics, yet neither is respected when it comes to prospective migrant workers in Sri Lanka. Most women we spoke with were told they were being tested for “any diseases,” but received no information specifying those diseases. For instance, a domestic worker who had recently undergone medical testing before migrating to Lebanon told Human Rights Watch, “I was not told why I was doing the medical.”<sup>133</sup> A Sri Lankan migrants’ advocate told Human Rights Watch, “Many times they don’t tell people why the blood is taken.”<sup>134</sup>

Most migrant domestic workers interviewed for this report did not receive the results of their medical tests, and assumed the medical clinic instead disclosed the test results to their labor agents and/or employers. One woman told Human Rights Watch, “The reports [from the medical tests] were given to the employer. They did not tell me anything about the results.”<sup>135</sup> Another domestic worker told us, “They tested my

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<sup>128</sup> There are 13 medical clinics approved by the Gulf Cooperation Council (GCC) countries, collectively called the GCC Approved Medical Centres Association, Inc. (GAMCA), and GCC embassies honor only medical certificates issued by GAMCA clinics. CARAM Asia, *State of Health of Migrants 2007* (Kuala Lumpur: CARAM Asia, 2007), [http://www.caramasia.org/reports/SoH2007/SoH\\_Report\\_2007-online\\_version.pdf](http://www.caramasia.org/reports/SoH2007/SoH_Report_2007-online_version.pdf) (accessed September 6, 2007), p. 90.

<sup>129</sup> Human Rights Watch interview with Sumedha Ekanayake, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

<sup>132</sup> Ibid.

<sup>133</sup> Human Rights Watch interview with Susanthika W., Panadura, Sri Lanka, November 15, 2006.

<sup>134</sup> Human Rights Watch interview with Viola Perera, ACTFORM, Colombo, Sri Lanka, November 2, 2006.

<sup>135</sup> Human Rights Watch interview with Soma W., Kurunegala, Sri Lanka, November 4, 2006.

blood, urine, took my x-ray. They don't give us the results; they gave [the results] to the agent."<sup>136</sup> The director of the Sri Lankan NGO Action Network for Migrant Workers (ACTFORM) told Human Rights Watch that patient confidentiality is commonly violated.<sup>137</sup> A Ministry of Foreign Affairs official confirmed that there are no procedures for protecting the confidentiality of test results for migrant domestic workers: "The doctor will inform the agent whether she is HIV-positive... The test results are sent to the agents. If [the women] really want a copy, it will be given. They are [usually] just informed they are cleared."<sup>138</sup> As described, the procedure for disclosing test results violates patients' right to confidentiality of test results under international law and Sri Lankan ethical guidelines for medical professionals.<sup>139</sup>

Human Rights Watch documented cases in which female prospective domestic workers have been administered injectable contraceptives without their informed consent and, in some cases, against their expressed will. The right to bodily autonomy and integrity guarantees the right of all individuals to refuse unwanted medical treatment.<sup>140</sup> In some cases, clinic personnel told prospective domestic workers the injection was to prevent pregnancy, and in other cases, medical personnel did not tell domestic workers anything until after they administered the injection. One domestic worker said that at the medical exam,

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<sup>136</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>137</sup> Human Rights Watch interview with Viola Perera, ACTFORM, Colombo, Sri Lanka, November 2, 2006.

<sup>138</sup> Human Rights Watch interview with Sumedha Ekanayake, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

<sup>139</sup> Such breaches of confidentiality are contrary to the right to privacy. 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, art. 17. Interpreting this provision of the ICCPR, the UN Human Rights Committee further specifies that states must take effective measures "to ensure that information concerning a person's private life does not reach the hands of persons who are not authorized by law to receive, process and use it." UN Human Rights Committee, General Comment 16, The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation (Art. 17), (Twenty-third session, 1988), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 (2003), p. 142, para. 10; Ethics Committee, Sri Lanka Medical Council, *Guidelines on Ethical Conduct for Medical and Dental Practitioners Registered with the Sri Lanka Medical Council* (Colombo: Sri Lanka Medical Council, 2003), p. 43 (providing that "confidentiality is implied in the contract between doctor and patient and any unauthorized disclosure...would constitute a breach of contract, with grounds for civil proceedings against the doctor").

<sup>140</sup> ICCPR, art. 9(1); Rebecca Cook, Bernard M. Dickens and Mahmoud F. Fathalla, *Reproductive Health and Human Rights: Integrating Medicine, Ethics, and Law* (Oxford: Clarendon Press, 2003), pp. 109, 164-170; UN Committee on Economic, Social and Cultural Rights, "Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights," General Comment 14, The Right to the Highest Attainable Standard of Health (Art. 12), (Twenty-second session, 2000), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 (2003), p. 85, para. 37 (referring to a State obligation to support people in making informed choices about their health).

They asked me to get an injection, but I refused. The doctor told me at the medical center that I had to take an injection which prevents me from giving birth to a child if anything goes wrong. I refused and the doctor called the agent... He told me....that if anything [sexual] happens without my consent they would not be responsible, because I refused to take the injection.<sup>141</sup>

CARAM Asia, a regional network working on migrant health issues, confirms that a number of prospective female migrant workers in Sri Lanka have been given the contraceptive medroxyprogesterone during mandatory pre-departure medical tests.<sup>142</sup>

Several women told Human Rights Watch that their labor agent or subagent coerced them into getting the birth control injection. In some cases, labor agents told domestic workers that if they declined the injected contraceptive, the agency would not assist them if they became pregnant, even in case of rape by their employer. For example, Paramitha E. said, “I did not have any choice. I was told if I went without the injection and if I get pregnant, then I would have to pay my own way and the agent wouldn’t be responsible. But if I went with the injection and anything happened then the agent would be responsible.”<sup>143</sup> Another domestic worker explained,

The main agent instructed me to go to a private doctor...and get the injection...they did not tell me I had a choice not to get the injection. They did not force me, but on the other hand I didn’t have a choice... [T]he main agent told me that you may have to face some problems in the house where you will work and the employer may give you trouble,

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<sup>141</sup> Human Rights Watch interview with Sathi R., Panadura, Sri Lanka, November 15, 2006.

<sup>142</sup> CARAM Asia, *State of Health of Migrants 2005* (Kuala Lumpur: CARAM Asia, 2006), [http://www.caramasia.org/reports/SoH2005/SoH\\_2005\\_Chapter3.pdf](http://www.caramasia.org/reports/SoH2005/SoH_2005_Chapter3.pdf) (accessed June 7, 2007), p. 106; CARAM Asia, *State of Health of Migrants 2007* (Kuala Lumpur: 2007), [http://www.caramasia.org/reports/SoH2007/SoH\\_Report\\_2007-online\\_version.pdf](http://www.caramasia.org/reports/SoH2007/SoH_Report_2007-online_version.pdf) (accessed September 6, 2007), pp. 90-91. Injectable medroxyprogesterone, commonly distributed under the brand name Depo-Provera, is used as a contraceptive to prevent pregnancy.

<sup>143</sup> Human Rights Watch interview with Paramitha E., Rambe, Sri Lanka, November 5, 2006.

so if you get this particular shot you won't get pregnant. By problem he meant sexual harassment by the males.<sup>144</sup>

An SLBFE official confirmed that the SLBFE is aware “there is a tendency” for contraceptive injections to be administered to prospective domestic workers during the compulsory medical exam,<sup>145</sup> although it is not a government policy.<sup>146</sup> The SLBFE reports it has received no complaints from migrant workers about the administration of contraceptives.<sup>147</sup> Some domestic workers reported that they did not complain about the administration of contraceptives because they were not aware of their right to refuse the injectable contraceptive and in some cases did not know what medication had been administered.

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<sup>144</sup> Human Rights Watch interview with Erandathi P., Rambe, Sri Lanka, November 5, 2006.

<sup>145</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, November 16, 2007.

<sup>146</sup> Human Rights Watch interview with Sumedha Ekanayake, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

<sup>147</sup> Ibid.

## IV. Abuses in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates

*We all want to go back to Sri Lanka, we came here with so many expectations, we never thought that all these things would happen.*<sup>148</sup>

—Indrani P., age 32, at the Sri Lankan embassy shelter in Riyadh, Saudi Arabia

In Saudi Arabia, Kuwait, Lebanon, and the UAE, Sri Lankan women domestic workers face a range of abuses and forms of exploitation. They face pervasive workplace abuses: nonpayment or underpayment of wages; wage exploitation; forced confinement in the workplace; excessively long working hours; and no rest days. Sri Lankan women domestic workers may also suffer physical, psychological, and sexual abuse; food deprivation and inadequate living conditions; confiscation of their identity documents; restricted communication; limitations on their ability to return to their home countries when they wish to do so; and exploitation by labor agents in their countries of employment. In many instances, these abuses amount to forced labor in violation of international law.

Sri Lankan migrant domestic workers also face abuses that affect broader populations in their countries of employment, including racial discrimination against foreign nationals, particularly those from Asia and Africa; gender segregation and gender inequality in the justice system; and restrictions on religious minorities' freedom of religion. For example, Buddhist, Hindu, and Christian domestic workers from Sri Lanka reported they experienced restrictions on their ability to practice their religion. Krishnan S., a Hindu domestic worker, told Human Rights Watch, “[My employers] would not allow me to practice my religion...I did not have freedom to practice my religion in any of the places [I worked], Saudi Arabia, Kuwait, or Lebanon. My name is Krishnan, so when [my employers in Lebanon] came to know my name

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<sup>148</sup> Human Rights Watch interview with Indrani P., Riyadh, Saudi Arabia, December 15, 2006.

they said I cannot practice my religion in the house. They said when I get back home I can practice my religion.”<sup>149</sup>

It should be noted that some of the women Human Rights Watch interviewed had positive experiences working abroad. Some employers provided bonuses or gifts of gold jewelry or household appliances to workers at the end of their contracts. Some Muslim domestic workers had the opportunity to make a pilgrimage to Mecca with their employers. One woman told Human Rights Watch of her experience in Kuwait, “The gods should bless the Arabic employers who I worked with. They did not treat me as a maid; instead, they treated me as a friend... I liked the place very much, and they liked me and my work.”<sup>150</sup> However, this was not the norm, and the great majority of domestic workers interviewed for this report experienced a range of workplace abuses in Saudi Arabia, Kuwait, Lebanon, and the UAE.

## Unpaid and Underpaid Wages

*Whenever I asked for my salary, they beat me up. I got the first three months salary somehow. I got a call that my father was really sick, then I asked for my salary and they beat me up.... They told me, “We bought you using our money, you have to work for that.”*<sup>151</sup>

—Latha P., 32-year-old mother of four whose employer did not pay her for five months of work, and who, when interviewed, was unable to return to Sri Lanka from Saudi Arabia because she had no money for a return ticket

About 20 percent of the women domestic workers interviewed for this report did not receive their full salaries. These women were not paid for periods of work ranging from a few months to four years. Many others were paid wages that were lower than the wages stipulated in their work contracts or orally promised by their labor agents. Non-payment of wages is one of the most frequent complaints reported by Sri Lankan domestic workers. About 20 percent of complaints the SLBFE recorded from

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<sup>149</sup> Human Rights Watch interview with Krishnan S., Maskeliya, Sri Lanka, November 13, 2006.

<sup>150</sup> Human Rights Watch interview with Kadhiroli S., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>151</sup> Human Rights Watch interview with Latha P., Riyadh, Saudi Arabia, December 15, 2006.

women migrant workers concerned nonpayment of agreed wages.<sup>152</sup> The Legal Aid Commission, a government-funded statutory body that provides legal aid to about 100 domestic workers each year, says that the most common complaint they receive is nonpayment of salaries.<sup>153</sup>

Most of the domestic workers with whom Human Rights Watch spoke were paid monthly salaries that were between US\$17 and \$107 lower than the agreed-upon wages, receiving wages that were as much as 50 percent lower than the contracted wage. Domestic workers reported that their employers in Lebanon paid US\$100 per month instead of their stipulated salary of US\$125-150; in Saudi Arabia, workers promised 450-800 riyals [US\$120-213] per month were paid only 300-400 riyals [US\$80-107]; in Kuwait workers promised 40-45 dinars [US\$142-160] per month were paid 35 dinars [US\$124]; and in the UAE, workers promised 500-750 dirhams [US\$136-204] received monthly wages of 400-450 dirhams [US\$109-123].

Sepalika S., a 25-year-old mother of one, described her experience in Saudi Arabia:

It was a lot of work, and I asked for my salary and they said they can send money later.... When I asked for my salary, Baba<sup>154</sup> would say, “I will pay you tomorrow,” or “I will pay you soon”.... When I told Baba that “I need my salary, you’re not paying my salary, and workload is very high,” Baba assaulted me. He used his hands to hit me on my cheeks... I did not eat the whole day, and the next day they started shouting again. I went on not eating for two days to protest [as a hunger strike], asking them to pay the salary.... They did not pay me. They did not pay me a single cent; for 10 months they did not pay me.<sup>155</sup>

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<sup>152</sup> Sri Lanka Bureau of Foreign Employment, *Annual Statistical Report of Foreign Employment 2005*, p. 61.

<sup>153</sup> Human Rights Watch interview with Lelanthi Kumari, Legal Aid Commission, Colombo, Sri Lanka, November 17, 2006.

<sup>154</sup> Sri Lankan domestic workers often refer to their male employers as “Baba,” and their female employers as “Mama” or “Madam.”

<sup>155</sup> Human Rights Watch interview with Sepalika S., Katunayake, Sri Lanka, November 9, 2006.

After working for 10 months without any salary, Sepalika S. ran away from her employers. At the time Human Rights Watch interviewed her, she had not recovered any of the wages owed to her, which amounted to US\$1,600. Another domestic worker explained that in Lebanon, “I spoke to the lady of the house and told her I have signed an agreement that says I will be paid US\$150, but you are paying me only US\$100. She told me, ‘Although you have signed a contract for US\$150 for your salary, you don’t have any experience and the current rate for inexperienced maids is US\$100, and the rate for experienced maids is US\$125.’”<sup>156</sup>

**Table 2 – Official monthly salaries, and monthly and hourly salaries paid as reported to Human Rights Watch:**

Country of employment	Official monthly salary for domestic workers	Actual monthly salaries paid to domestic workers	Actual hourly salaries paid to domestic workers, at 16-18 hours per day <sup>157</sup>
Lebanon	US\$130 <sup>158</sup>	US\$100	US\$0.19-0.21
UAE	550 dirhams <sup>159</sup> (US\$150)	400-450 dirhams (US\$109-123)	US\$0.20-0.26
Saudi Arabia	500 riyals <sup>160</sup> (US\$133)	300-400 riyals (US\$80-107)	US\$0.15-0.22
Kuwait	40 dinars <sup>161</sup> (US\$142)	35-40 dinars (US\$124-142)	US\$0.23-0.30

<sup>156</sup> Human Rights Watch interview with Sathi R., Panadura, Sri Lanka, November 15, 2006.

<sup>157</sup> Domestic workers reported to Human Rights Watch that they typically worked 16-18 hours per day, some as many as 21 hours each day, seven days a week. See Section IV of this report, “Heavy Workload and Excessively Long Work Hours without Rest.”

<sup>158</sup> Human Rights Watch interview with Al-Haj U.T.M. Anver, ALFEA, Colombo, Sri Lanka, October 31, 2006.

<sup>159</sup> The minimum wage for Sri Lankan domestic workers was 550 dirhams [US\$150] at the time Human Rights Watch conducted this research; it was raised to 600 dirhams [US\$163] on September 1, 2007. Meeraj Rizvi, “Minimum Wage for Sri Lankan Domestic Help is Now in Force,” *Khaleej Times* (Dubai, UAE), July 11, 2005, [http://www.khaleejtimes.com/DisplayArticleNew.asp?section=theuae&xfile=data/theuae/2005/july/theuae\\_july266.xml](http://www.khaleejtimes.com/DisplayArticleNew.asp?section=theuae&xfile=data/theuae/2005/july/theuae_july266.xml) (accessed September 6, 2007); Binsal Abdul Kader, “Sri Lanka Hikes Wages of Maids,” *Gulf News* (Dubai, UAE), August 30, 2007, <http://archive.gulfnews.com/articles/07/08/31/10150408.html> (accessed September 6, 2007); “Higher Wages for UAE’s Lankan Maids,” *Daily News* (Colombo), September 1, 2007, <http://www.dailynews.lk/2007/09/01/news22.asp> (accessed September 6, 2007)..

<sup>160</sup> Human Rights Watch interview with Al-Haj U.T.M. Anver, ALFEA, Colombo, Sri Lanka, October 31, 2006.

<sup>161</sup> Contract for Recruiting Private Servants (Kuwait), put into effect October 1, 2006, para. 3.



Employers commonly refuse to pay domestic workers on a monthly basis and instead withhold wages for months at a time or until the domestic worker has completed her contract. Employers sometimes withhold domestic workers' wages as a tactic to prevent workers from running away. One domestic worker said,

I did not have any Saudi Arabian currency in my hand until I came back [to Sri Lanka]... They gave me a check [just] before leaving Saudi Arabia. I think they did not want to give me money because the earlier maids ran away from that house. I think they wouldn't give me money so that I couldn't run away... I asked for my money earlier.<sup>162</sup>

When domestic workers whose employers withheld their salaries finally fled abusive conditions, these workers were cheated out of the withheld wages. As detailed later in this report, biases and gaps in the settlement of labor cases make it difficult for domestic workers to claim unpaid wages, and most report that they never receive the full payments due or any payment at all. This problem also occurs in emergency situations; for example, many domestic workers fleeing the July 2006 war in Lebanon never received their withheld wages. ILO Convention No. 95 on the Protection of Wages, which Lebanon and Sri Lanka have ratified, specifies that wages should be paid directly and regularly to workers, and that workers should be informed of the conditions of payments before beginning employment.<sup>163</sup> The ILO Protection of Wages Recommendation, which provides supplemental guidance on the provisions of the Protection of Wages Convention, stipulates that for workers whose remuneration is fixed on a monthly or annual basis, wages should be paid at least once a month.<sup>164</sup>

The widespread practice of withholding wages makes it possible for employers to make arbitrary and improper deductions from domestic workers' salaries. Many domestic workers interviewed for this report complained that their employers deducted one to six months' salary—typically three months' salary—to pay for their return air ticket. An experienced labor agent told Human Rights Watch that work

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<sup>162</sup> Human Rights Watch interview with Amirthini L., Maskeliya, Sri Lanka, November 13, 2006.

<sup>163</sup> ILO Convention No. 95 concerning the Protection of Wages, art. 2(2)-(3).

<sup>164</sup> ILO Recommendation No. 85 concerning the Protection of Wages, adopted July 1, 1949, art. 4(b).

contracts usually require the employer to pay the return ticket if the worker completes the contract period: “According to the rules there the employer can’t touch the woman’s salary... The employer has to pay for the return ticket if she completes the contract period. This is in the contract.”<sup>165</sup> Contracts also generally stipulate that workers do not have to pay for their return ticket if they return during their first three months of employment.<sup>166</sup>

The Kuwait Ministry of Interior’s standardized domestic labor contract, put into effect on October 1, 2006, requires employers to pay for the repatriation of domestic workers who leave their jobs regardless of how long they have been employed.<sup>167</sup> The UAE’s unified contract for domestic workers requires employers to purchase an air ticket upon completion of the contract and when employers terminate the contract early.<sup>168</sup> In its model employment contract for domestic workers in the Middle East, the SLBFE advocates that the employer pay the return airfare in most situations, including completion of the contract, illness of the worker, or the employer’s violation of contract terms.<sup>169</sup> The ILO Migration for Employment Recommendation (No. 86) states that when a migrant worker is obliged to leave her employment for reasons for which she is not responsible, the cost of the return journey “shall in no case fall on the migrant [her]self.”<sup>170</sup>

Employers also arbitrarily deducted domestic workers’ salaries to cover the costs of compulsory medical testing upon arrival, medication, medical care, a national identity card, visa renewal, uniforms and other clothes, food, soap, toothbrushes, toothpaste, other necessities, and for perceived mistakes in domestic workers’ work.

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<sup>165</sup> Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006.

<sup>166</sup> Human Rights Watch interview with Sasindi O., Rambukkana, Sri Lanka, November 6, 2006.

<sup>167</sup> Ahmad Zakaria, “Domestics Transfer Ban Effective October 1,” *Daily Star Kuwait Edition*, August 26-27, 2006. The standardized contract’s provisions regarding repatriation costs replaces a November 2006 policy approved by Kuwait’s National Assembly’s Interior and Defence Committee that exempted employers of runaway domestic workers from paying the airfare for their repatriation back home. B. Izzak, “Employers of Runaways May be Let Off the Hook,” *Kuwait Times*, November 20, 2006.

<sup>168</sup> Employment Agreement for Domestic Workers and Sponsors (UAE), put into effect April 1, 2007, arts. 3, 9.

<sup>169</sup> Sri Lanka Bureau of Foreign Employment, Model Contract of Employment for Domestic Helpers from Sri Lanka in the Middle East Countries (1990), paras. 5, 10(a)-(c).

<sup>170</sup> ILO Recommendation No. 86 concerning Migration for Employment (Revised 1949), adopted July 1, 1949, art. 26(1)(a). See also ILO Recommendation No. 100 concerning the Protection of Migrant Workers in Underdeveloped Countries and Territories, adopted June 22, 1955., art. 10(b). Although ILO recommendations are not subject to national ratification and therefore do not have the binding force of Conventions, they provide guidelines for ILO member states.

Most employers provided no notice that salary deductions would be made, and in some cases workers learned of deductions only when employers paid their withheld salary, minus the deducted amounts, at the end of their contract period. Work contracts generally require employers to cover cost of food and lodging, visa renewal, and other administrative costs. Trainers leading the compulsory SLBFE training and recruitment agents also generally inform domestic workers that employers will cover the cost of other necessities. One domestic worker's employer in Saudi Arabia deducted four months' salary to pay for her *abaya* [a black full-length garment worn by women in Saudi Arabia] and toiletries.<sup>171</sup> Another domestic worker's employer in Kuwait deducted 40,000 rupees [US\$355], or three months' salary, for medical care she received.<sup>172</sup> ILO Convention No. 95 on the Protection of Wages prohibits salary deductions by the employer except when in accordance with national law or pursuant to written agreement between the worker and the employer.<sup>173</sup>

None of the women we interviewed for this report received compensation for unpaid wages, and nearly all were unaware of redress mechanisms available to them. A domestic worker who worked in Kuwait said, "I had completed one year and four months of work that I wasn't paid for, and since then I have not got a single cent. The embassy official promised me he would get the money and would send it to me, but he has not sent me anything.... Although I have worked this long I have only four months salary."<sup>174</sup> Workers typically believed that once they returned to Sri Lanka, it would be impossible to recover unpaid wages. A woman whose employer in Lebanon paid her only US\$10 for four months' salary realized that her employer had cheated her when she checked the exchange rates posted at the airport in Sri Lanka. She said, "I thought of calling [my employer] but the problem started in Lebanon. I just gave up."<sup>175</sup>

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<sup>171</sup> Human Rights Watch interview with Chitra G., Riyadh, Saudi Arabia, December 6, 2006.

<sup>172</sup> Human Rights Watch interview with Hinni M., Tihari, Sri Lanka, November 8, 2006.

<sup>173</sup> ILO Convention No. 95 concerning the Protection of Wages, art. 8(1).

<sup>174</sup> Human Rights Watch interview with Kumari Indunil (real name used upon request), Rambukkana, Sri Lanka, November 6, 2006.

<sup>175</sup> Human Rights Watch interview with Krishnan S., Maskeliya, Sri Lanka, November 13, 2006.

## Wage Exploitation

Domestic workers are excluded from the labor laws of Saudi Arabia, Kuwait, Lebanon, and the UAE. This denies domestic workers the right to overtime pay in these countries and from benefiting from the minimum wage laws in Kuwait and Lebanon (see Section V, “Exclusion from Labor Laws”). The UAE and Kuwait have set informal minimum wages for domestic workers that are significantly below the prevailing wages earned by other workers in these countries.<sup>176</sup>

Sri Lankan domestic workers receive substantially lower wages than citizen workers and other non-citizen workers performing work of equal value. In Saudi Arabia, Kuwait, Lebanon, and the UAE, in-house domestic workers who live with their employers almost always are paid fixed monthly salaries without payment for overtime. Because of the long hours they work—often 16 hours and as much as 21 hours per day, with some workers required to be on call around the clock—domestic workers’ hourly wages are extremely low, working out to about 15 to 30 cents per hour.<sup>177</sup>

An increasing number of countries, lured by the economic benefits of workers’ remittances, are encouraging low-income women to migrate for domestic work. The resulting international competition has led Sri Lankan labor agents to bargain down Sri Lankan workers’ salaries, which have actually dropped in value over time. Adjusted for inflation, Sri Lankan domestic workers’ salaries brought them five times as much in 1980 as they did in 1994.<sup>178</sup> Evidence suggests that salaries have again dropped precipitously since that time. Fifteen years ago, Sri Lankan domestic workers earned 400 riyals per month in Saudi Arabia, and workers interviewed by Human Rights Watch reported that they now earn only 300-400 riyals [US\$80-107] per month.<sup>179</sup> The inflation-adjusted value of this salary of 400 riyals is now about

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<sup>176</sup> Contract for Recruiting Private Servants (Kuwait), put into effect October 1, 2006, para. 3; Kader, “Sri Lanka Hikes Wages of Maids,” *Gulf News*; “Higher Wages for UAE’s Lankan Maids,” *Daily News*.

<sup>177</sup> This calculation is based on monthly salaries domestic workers reported to Human Rights Watch (US\$80-142), at 30 days per month, for 16-18 hours per day.

<sup>178</sup> Gamburd, *The Kitchen Spoon’s Handle*, p.64.

<sup>179</sup> Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006. Saudi Arabia has a fixed exchange rate regime, and the Saudi Arabia riyal has been pegged at 3.75 riyals to the US dollar since 1986.

half of what it was worth in 1992.<sup>180</sup> As the cost of living in Sri Lanka has risen due to rampant inflation, the prices of consumer items have increased. As a result, the real value of stagnant salaries (i.e. the purchasing power of domestic workers' wages) has decreased over time, notwithstanding currency fluctuations.<sup>181</sup>

In Saudi Arabia, Sri Lankan migrant domestic workers typically earn only one fifth of the prevailing private sector minimum wage. Although there is no official minimum wage in Saudi Arabia, the de facto private sector minimum wage is 1,500 riyals [US\$400] per month, based on the mandated minimum monthly contribution to the pension system.<sup>182</sup> In the UAE, which does not provide minimum wage protections to any workers, the minimum wage stipulated for Sri Lankan domestic workers is only 600 dirhams [US\$163],<sup>183</sup> less than the prevailing wage for other service sector jobs typically performed by men, such as drivers and gardeners. Lebanon excludes domestic workers from its minimum wage protections, and Sri Lankan domestic workers typically receive wages that are half the minimum wage guaranteed by law.<sup>184</sup> Although Kuwait's labor law does not establish a minimum wage for private sector employees, it does provide minimum wage protections for public sector employees, stipulating a minimum wage of 200 dinars [US\$710] for Kuwaiti citizens, and 90 dinars [US\$320] for non-citizens.<sup>185</sup> The minimum wage for domestic workers in Kuwait specified in the Ministry of Interior's standardized domestic labor contract is only 40 dinars [US\$142], less than half the minimum wage guaranteed to other

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<sup>180</sup> Using the Colombo Consumer Price Index to adjust for inflation, domestic workers' 1992 salary of 400 riyals, which equaled 4,660 rupees in 1992, now would be worth 20,162 rupees in 2007. Domestic workers' current 2007 salary of 400 riyals equals only 12,053 rupees.

<sup>181</sup> Gamburd, *The Kitchen Spoon's Handle*, p.248.

<sup>182</sup> US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2006: Saudi Arabia," March 6, 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78862.htm> (accessed June 1, 2007).

<sup>183</sup> The UAE has not put in place a minimum wage, although its Labor Law No. 8 of 1980 requires the government to set a minimum wage. Federal Law No. 8 for 1980, On Regulation of Labor Relations, art. 63. The minimum wage for Sri Lankan domestic workers was 550 dirhams [US\$150] until September 1, 2007, when it was raised to 600 dirhams. Rizvi, "Minimum Wage for Sri Lankan Domestic Help is Now in Force," *Khaleej Times*; Kader, "Sri Lanka Hikes Wages of Maids," *Gulf News*; "Higher Wages for UAE's Lankan Maids," *Daily News*.

<sup>184</sup> The minimum wage in Lebanon is 300,000 pounds monthly, about US\$200, while Human Rights Watch research indicates that Sri Lankan domestic workers typically earn about US\$100 per month. Décret no 8733 du 8 juillet 1996 fixant le salaire minimal officiel des employés et des ouvriers ainsi que le taux de cherté de vie, *Argus de la Législation libanaise*, 1996, Vol. 42, no 4 (July 8, 2006), pp. 5-6.

<sup>185</sup> US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2006: Kuwait," March 6, 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78856.htm> (accessed June 1, 2007).

non-citizen workers.<sup>186</sup> The UN Committee on Economic, Social and Cultural Rights has urged Kuwait to extend minimum wage provisions to non-citizens working in the private sector, such as domestic workers, to make it possible for these workers to enjoy a decent standard of living.<sup>187</sup>

Migrant domestic workers' wages typically differ based on the woman worker's national origin and religion, with Sri Lankan workers earning less than Indonesian and Filipina domestic workers, and Muslim workers earning higher salaries than workers of other faiths. Nayanadini B. told Human Rights Watch, "In Saudi Arabia we get only 400 riyals [US\$107], not enough... The Filipinos get 800 riyals [US\$213], the Indonesians get 600 [US\$160]. We do the same work as them."<sup>188</sup> Another domestic worker said, "The salary in Lebanon is not enough. I got US\$100 per month... Women from the Philippines get 200, women from Sri Lanka 100. It's discrimination. The Philippines is a poor country, Sri Lanka also is poor country, why is there a difference?"<sup>189</sup>

The Sri Lankan government has attempted to negotiate a higher salary for Sri Lankan migrant domestic workers, but has encountered opposition from Sri Lankan labor agents who fear that countries of employment will look to other sending countries for cheaper labor, cutting recruitment agents' profits. In his 2007 Budget Speech, Sri Lankan President Mahinda Rajapaksa said that the government would stipulate a minimum salary for domestic workers at 25,000 rupees [US\$222] a month for 2007, with an increase to 50,000 rupees [US\$444] within the next three years.<sup>190</sup> Labor agents, through their professional association, the Association of Licensed Foreign Employment Agencies (ALFEA), protested the proposal and it was abandoned.<sup>191</sup> The

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<sup>186</sup> Contract for Recruiting Private Servants (Kuwait), put into effect October 1, 2006, para. 3.

<sup>187</sup> UN Committee on Economic, Social and Cultural Rights, "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Kuwait," E/C.12/1/Add.98, June 7, 2004, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.98.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.98.En?Opendocument) (accessed May 30, 2007), para. 34.

<sup>188</sup> Human Rights Watch interview with Nayanadini B., Rambe, Sri Lanka, November 5, 2006.

<sup>189</sup> Human Rights Watch interview with Upeksha R., Vallalgude, Sri Lanka, November 6, 2006.

<sup>190</sup> Budget Speech 2007, "Stipulated Minimum Salaries for Overseas Employment," para. 30, reproduced in *Daily Mirror* (Colombo), November 17, 2006, p. A17.

<sup>191</sup> Human Rights Watch Interview with Jagath Wellawatta, SLBFE, Colombo, Sri Lanka, November 16, 2006; "Hasty Decision on Migrant Workers," *Sunday Times* (Colombo), March 11, 2007, <http://sundaytimes.lk/070311/FinancialTimes/ft308.html> (accessed September 6, 2007).

Minister of Foreign Employment Promotion and Welfare, Keheliya Rambukwelle, announced in May 2007 that the government plans to negotiate with countries of employment to raise Sri Lankan domestic workers' minimum salaries to US\$400.<sup>192</sup> A SLBFE official told Human Rights Watch, "Now we are trying to develop salary standards. We are giving notice to the Middle East countries that beyond a salary range, nothing below US\$125, in some countries US\$150, that Sri Lankan women won't work. We are going to be a bit tough, because we had some bad experiences with ladies in Lebanon who were paid only US\$100. In some countries the salaries are very poor, and we have given a serious policy to Lebanese recruiting agents that you shouldn't expect Sri Lankan women to work for less than US\$130."<sup>193</sup>

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which Saudi Arabia, Kuwait, Lebanon, and Sri Lanka are party, provides for the "right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value."<sup>194</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Kuwait, Lebanon, and Sri Lanka are party, provides that the right to just conditions at work includes remuneration which provides all workers with, at a minimum, "[f]air wages and equal remuneration for work of equal value without distinction of any kind in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work," and a decent living for themselves and their families.<sup>195</sup> These rights must be extended to women without discrimination.<sup>196</sup> The Universal Declaration of Human Rights (UDHR) provides that everyone, without any discrimination, has a right

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<sup>192</sup> Sandun A. Jayasekera, "Govt. Negotiates Higher Wage for Housemaids," *Daily Mirror* (Colombo), May 3, 2007, <http://www.dailymirror.lk/2007/05/03/news/3.asp> (accessed September 6, 2007).

<sup>193</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, October 30, 2006.

<sup>194</sup> 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, art. 11(1)(d).

<sup>195</sup> 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, art. 7(a).

<sup>196</sup> Article 2 of the ICESCR calls on states to ensure that the rights included in the Covenant are exercised without discrimination as to sex, and article 3 of the ICESCR requires states to ensure the equal right of women and men to the enjoyment of the rights in the Covenant.

to equal pay for equal work, and to just and favorable remuneration, to ensure “an existence worthy of human dignity.”<sup>197</sup>

The ILO Declaration on Fundamental Principles and Rights at Work includes “the elimination of discrimination in respect of employment and occupation” among the fundamental workers’ rights that all ILO members have a duty to uphold.<sup>198</sup> As ILO member states, the governments of Saudi Arabia, Kuwait, Lebanon, and the UAE have an obligation to uphold women’s right to non-discrimination in employment regardless of the status of ratification of the relevant ILO conventions.<sup>199</sup> The ILO Equal Remuneration Convention, No. 100, which Saudi Arabia, UAE, Lebanon, and Sri Lanka ratified, requires states to ensure women and men receive equal remuneration for work of equal value.<sup>200</sup> ILO Convention No. 111 concerning Discrimination in Employment and Occupation, which Saudi Arabia, Kuwait, UAE, Lebanon, and Sri Lanka ratified, requires governments to promote equal employment opportunities and equal treatment in employment for women and men.<sup>201</sup>

## Physical and Psychological Abuse

*[The lady] got angry because I switched on the cooker before getting the flour, so she kicked me in the back. Then she assaulted me for getting up late, and she assaulted me for not finishing a job. The lady assaulted me with whatever she had in her hands, sometimes a broomstick, sometimes knives... Baba’s son said, “Don’t think about going back to Sri Lanka, there is a place for people who don’t listen. One day I will take you there and leave you, and there are people there*

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<sup>197</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 23(2)-(3).

<sup>198</sup> International Labour Conference, ILO Declaration on Fundamental Principles and Rights at Work (ILO Declaration), 86<sup>th</sup> Session, June 18, 1998, 37 I.L.M. 1233 (1998), para 2(d).

<sup>199</sup> The ILO Declaration states that “all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions.” Non-discrimination is among the fundamental rights set out by the ILO. International Labour Conference, ILO Declaration, para. 2.

<sup>200</sup> ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, adopted June 29, 1951, 165 U.N.T.S. 303, entered into force May 23, 1953, art. 2.

<sup>201</sup> 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, art. 2.



*who will beat and punish you.” He scolded me and told me, “Shut up and do whatever my mother says, like a dog. If you don’t, there won’t be any bones left in your body.”<sup>202</sup>*

—Noor F., age 36, a former domestic worker in Kuwait

Domestic workers also face criminal abuses such as physical assault. Of the 100 female domestic workers Human Rights Watch interviewed, 20 said they had experienced physical abuse by their employers or their employers’ children. Many experienced psychological abuse, including verbal abuse. An official overseeing the SLBFE’s Sahana Piyasa shelter, which provides assistance to domestic workers arriving at the international airport nearby, estimated that the shelter receives three to ten cases of severe physical abuse each month.<sup>203</sup>

The physical abuse women reported included beatings, deliberate burning with hot irons, kicking, slapping, and hair-pulling. Domestic workers told Human Rights Watch that their employers had beat them with their hands, slippers, rubber hoses, a vacuum cleaner, basins, wires, chairs, wooden planks, broomsticks, knives, an iron bar, and in one case, a cane. At the time Human Rights Watch interviewed them, several women bore the scars of this abuse: burns, scars, a cast, shorn hair. Some women told us they experienced enduring health consequences of injuries they had sustained, such as headaches, back pain, or loss of range of movement in their arms.

Some women told us their employers abused them for “errors” in their work. Of her experience in Saudi Arabia, one woman said, “Even for a little mistake, they hit me. If there was any little garbage on the floor, the lady took my hand and rubbed [the trash] on it.”<sup>204</sup> Another woman told us that in Kuwait, “The eldest daughter hit the younger one and the younger one started to cry and scream. Without asking me, Baba suspected me of hitting her. Immediately he pushed me towards a wall and he hit me. He hit me with his hands, he kicked me with his boots. He kicked me on my hip and I fell down. I felt pain in my hip; I had pain for one week.”<sup>205</sup>

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<sup>202</sup> Human Rights Watch interview with Noor F., Attanagalla, Sri Lanka, November 8, 2006.

<sup>203</sup> Human Rights Watch interview with SLBFE official, Katunayake, Sri Lanka, November 17, 2006.

<sup>204</sup> Human Rights Watch interview with Selvakumari W., Katunayake, Sri Lanka, November 9, 2006.

<sup>205</sup> Human Rights Watch interview with Vadivukarasi H., Talawakelle, Sri Lanka, November 12, 2006.



A domestic worker who says her employers in Kuwait severely abused her. She reports she underwent multiple operations to treat injuries resulting from the abuse.

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Women domestic workers reported that physical and psychological abuse increased when they tried to assert their rights. An 18-year-old woman reported that her employer abused her as punishment for requesting her wages, medical care, and the ability to contact her family. She said,

When I asked to call Sri Lanka, they started beating me up. The lady employer used the iron [to burn me]... Initially she paid me. She has not paid five months' salary to me. When I started to ask for my salary, she started to beat me.... One day I felt really ill because she was beating me and I had a headache...I requested to go to the hospital. She put me in my room and locked me in my room for four days and

left... I was in the room for four days without food and water. I fainted.<sup>206</sup>

Ponnamma S. similarly told Human Rights Watch, “For one year five months, [I received] no salary at all. I asked for money and they would beat me, or cut with me a knife, or burn me. They burned one arm and cut it with a knife. There are markings on my back. My body ached all over. I was beaten all over. They would take my head and bang it against the wall. Whenever I requested my salary, there would be a fight.”<sup>207</sup>

Human Rights Watch documented cases of especially severe abuse by employers. For example, on the day she returned to Sri Lanka from Kuwait, Lakmini J., a thin and frail 47-year-old who looked far older than her age, showed us her deformed hands and large scars on her arm and shoulder. She told us she had undergone seven operations to repair injuries from abuse by her employers. She elaborated:

[My employers] badly hit me. My hair was down to my knees. [The lady employer] cut off my hair, like a man.... Everyday they wanted to see my blood. There is a black type of band, black wire, they hit me with that. They also cut me with a knife to see my blood. They dug [cut] in my thigh, on [my] arm... They burned my body and destroyed it. They put a knife to the fire [gas stove] and burned me... Every day for nine months continuous they beat me.... I can say it: for nine months I went to hell.<sup>208</sup>

Over the course of nine months, until she escaped, Lakmini J.’s employers subjected her to almost unrelenting violence, including threatening to kill her; knocking her off a ladder; burning her with chlorine powder; beating her with cables; and cutting her with hot knives—resulting in fractures of her leg and hand, and loss of use of her hands.<sup>209</sup>

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<sup>206</sup> Human Rights Watch interview with Sevandhi R., Katunayake, Sri Lanka, November 1, 2006.

<sup>207</sup> Human Rights Watch interview with Ponnamma S., Riyadh, Saudi Arabia, December 14, 2006.

<sup>208</sup> Human Rights Watch interview with Lakmini J., Katunayake, Sri Lanka, November 9, 2006.

<sup>209</sup> Ibid.

Psychological abuse reported by domestic workers included insults, threats of physical harm or death, being locked up in small spaces, denial of food, and punitive cutting of hair. One woman told us that her Kuwaiti employer, “went to the kitchen and took a knife and told me he would kill me, cut me up into little pieces, and put the little pieces of me in the cupboard.”<sup>210</sup> Yuvani J. told us that in Saudi Arabia, her employer and his son repeatedly threatened her: “The son and father...said, ‘We will kill you and put you in the dustbin.’ They used a wire to beat me and they slapped me.... They were always saying they are going to kill me. One day, the father and son said they were going to kill me. They had a knife. I ran, but the father pushed me against the wall.”<sup>211</sup> Yuvani J. sustained a broken leg as a result.

## Sexual Abuse

*I was sleeping and the [lady] employer’s younger brother came into my room naked... When he came into the room naked I started screaming and took a stick and hit him on the head.*<sup>212</sup>

—Padma S., 39 years old, describing her experience as a domestic worker in Saudi Arabia

Of the 100 women Human Rights Watch interviewed, 13 reported sexual harassment or assault by their employer or employer’s sons. Of these, five had been raped, and three became pregnant as a consequence. Others may have experienced such abuse but been unwilling to talk about it. The number of Sri Lankan migrant domestic workers who are sexually harassed or assaulted is not known, but it is clear that sexual abuse is underreported—and likely vastly underreported—due not only to the stigma and shame attached to such abuse, common in other contexts, but also to the fear of countercharges by employers, the isolation and relative powerlessness of domestic workers, and the lack of accessible complaint mechanisms. Several domestic workers complained of repeated sexual harassment and abuse by male employers or their sons, including offers to pay money in exchange for sex,

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<sup>210</sup> Human Rights Watch interview with Kumari Indunil (real name used upon request), Rambukkana, Sri Lanka, November 6, 2006.

<sup>211</sup> Human Rights Watch interview with Yuvani J., Katunayake, Sri Lanka, November 1, 2006.

<sup>212</sup> Human Rights Watch interview with Padma S., Katunayake, Sri Lanka, November 1, 2006.

unwanted fondling, and attempted rape. Many of the domestic workers and NGO activists Human Rights Watch interviewed identified sexual harassment and assault of Sri Lankan domestic workers as a primary concern.

Domestic workers experienced a range of sexual abuse. Sexual harassment often took the form of demands for sex and other unwanted sexual propositions. “Baba wanted to sleep with me,” a domestic worker told us of her employer in Saudi Arabia. “For three days, my employer came to me, trying to seduce me. I said, ‘I’ll tell your wife!’ He said, ‘If you tell her, I will kill you.’ He asked me to come to his room but I refused.”<sup>213</sup>

Some domestic workers described how sexual harassment created a hostile working environment and affected their ability to do their jobs. Chamali W., a 27-year-old domestic worker, said, “Both the sons...used to remove their clothes and expose themselves to me.... They removed their trousers. They have pictures of naked girls on their mobile phone and they showed them to me.... They would come and touch me. I can’t work like that.”<sup>214</sup>

Several women reported that the sexual harassment and assault was repeated, and they described their feelings of distress, anxiety, and fear. One woman who had worked in Saudi Arabia told us, “Many times Baba’s two sons...removed my clothes and assaulted me with their friends... They did not allow me to be alone. They did this a lot of times... While I slept in the night the boy would leave and come into my room while the others were sleeping.”<sup>215</sup> Selvakumari W., a 26-year-old domestic worker, told us that she endured nine months of ongoing sexual harassment in Saudi Arabia:

I had no room to lock from the inside. [My employer]’s a big man, he tried to touch me. His son also tried to do that. I told him, “I will go to the police”.... I did not have my own room, there was a little place for me and an extra mattress and I slept in that place. I was not able to

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<sup>213</sup> Human Rights Watch interview with Kumari G., Riyadh, Saudi Arabia, December 6, 2006.

<sup>214</sup> Human Rights Watch interview with Chamali W., Riyadh, Saudi Arabia, December 14, 2006.

<sup>215</sup> Human Rights Watch interview with Meena P., Talawakelle, Sri Lanka, November 12, 2006.

lock the door.... He put his hand [on me] and tried to touch my chest... Several times he tried to touch me... [W]hen I was sleeping, he came home and removed his trousers. He always...tried to do this. I was scared and I sat in the corner of the bed. He said, “You don’t have to be afraid of me.” He tried to do this again and again over nine months.<sup>216</sup>

A domestic worker told Human Rights Watch that her employer groped her in the household where she was working in Lebanon: “Baba came to my room. There was nobody in the house except his son... He tried to hold me and tried to touch my breast. I told him I have come here not to be friendly with you but to work and build a house.”<sup>217</sup> Other domestic workers reported that the sexual harassment they experienced included offers of money in exchange for sex.<sup>218</sup>

Five women told us they were raped by their employers or others in the households where they worked. Amanthi K., a 32-year-old domestic worker, agreed to allow us to relate her experience: “The boss approached me several times but I refused. The boss’ wife went out frequently and one night he came to the kitchen and he wanted to have sex and I refused and he took me by force. When I was eight-and-a-half months pregnant only then did people realize.”<sup>219</sup> Chamali W. told us her employer’s son raped her in Saudi Arabia:

[A]ll of a sudden he hugged me. I beat him with the iron, he threw the iron and grabbed my arm and dragged me to a separate room... He

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<sup>216</sup> Human Rights Watch interview with Selvakumari W., Katunayake, Sri Lanka, November 9, 2006.

<sup>217</sup> Human Rights Watch interview with Sathi R., Panadura, Sri Lanka, November 15, 2006.

<sup>218</sup> According to the UN Committee on the Elimination of Discrimination against Women, sexual harassment includes, “such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment and promotion, or when it creates a hostile working environment.” UN Committee on the Elimination of Discrimination against Women (CEDAW Committee), General Recommendation 19, Violence against Women (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI\GEN\1\Rev.1 (1994), p. 84, paras. 17-18.

<sup>219</sup> Human Rights Watch interview with Amanthi K., Katunayake, Sri Lanka, November 1, 2006.

pushed me to the floor and removed all of my clothes. He raped me. I felt lifeless, I couldn't get up, I felt so weak.<sup>220</sup>

Since adultery or fornication is criminalized in Saudi Arabia, Kuwait, Lebanon, and the UAE, rape victims may face the prospect of detention, prosecution, and punishment if they cannot provide evidence of the rape. Amanthi K. told us Saudi authorities arrested her at the hospital after she gave birth to a child resulting from rape by her employer. She said, "The case was given to the courts and they said..., 'You have come here to work and you have committed a crime.' I said that the boss has committed a crime and not me."<sup>221</sup> Unable to meet the standard of evidence required, she was imprisoned for nine months. Because crimes of sexual violence often take place in private settings, the only evidence before courts often consists of the differing accounts given by a male national employer and a foreign woman employee, with the former generally given the benefit of the doubt.

### **Heavy Workload and Excessively Long Work Hours without Rest**

*Even if I went to bed at 3:30 a.m., I had to get up by 5:30 a.m.... I had continuous work until 1 a.m., sometimes 3 a.m.... Once I told the employer, "I am a human like you and I need an hour to rest." She told me, "You have come to work; you are like my shoes, and you have to work tirelessly."<sup>222</sup>*

—Kumari Indunil, age 23, a former domestic worker in Kuwait

A domestic worker's daily workload often involves work without break or limit, including cleaning her employer's house or houses inside and out, including sweeping, vacuuming, mopping, dusting, cleaning multiple bathrooms, washing the exterior of the house, cleaning the yard, and washing windows; cooking three meals a day; preparing snacks for family members on demand; washing and ironing the entire household's laundry; caring for multiple children, including providing care for

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<sup>220</sup> Human Rights Watch interview with Chamali W., Riyadh, Saudi Arabia, December 14, 2006.

<sup>221</sup> Human Rights Watch interview with Amanthi K., Katunayake, Sri Lanka, November 1, 2006.

<sup>222</sup> Human Rights Watch interview with Kumari Indunil (real name used upon request), Rambukkana, Sri Lanka, November 6, 2006.

infants, escorting children to and from school, feeding them, bathing them, and putting them to sleep; caring for elderly, sick, or disabled family members; and washing family cars. The majority of domestic workers interviewed for this report complained of heavy workload, and in some cases working for large extended families living together in multi-floored compounds as the sole domestic worker for the household. Fathima S. described her workload in Saudi Arabia:

I had to cook, clean the house up and down, wash and iron clothes, clean the tiles on the floor, and I was the only maid in that house and I had to cook for parties in the house where there were a lot of visitors... There were eight people in that last house, including some young girls and an old lady who couldn't move, and I had to take her to the bath, give her a shower, feed her food. The workload...was very heavy. I had to cook, clean eight bathrooms, and she kept saying that I haven't done this and that. I had to clean the three-story house daily, clean the walls daily, and she asked me to clean the backyard of the house daily. I used to get up at 5 a.m. and finish work at 11 p.m. If they had parties in the house, by the time I went to sleep it was 12 a.m. or later. She never gave me time to rest, always I had to work.<sup>223</sup>

Women told Human Rights Watch that they typically worked 16-18 hours per day, some as many as 21 hours each day, seven days a week without a day of rest or holidays. Because of their long work hours, many domestic workers regularly suffered sleep deprivation. With only a few exceptions, domestic workers worked without a single day of rest, sometimes for years at a time. Several workers reported that a day of rest was not included in their contract, and some did not know whether their contracts contained a provision concerning days off. One woman who worked as a domestic worker in Lebanon for one-and-a-half years without a single day off told Human Rights Watch, "I had no day off the whole time."<sup>224</sup>

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<sup>223</sup> Human Rights Watch interview with Fathima S., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>224</sup> Human Rights Watch interview with Nimalka V., Kurunegala, Sri Lanka, November 4, 2006.



The majority of domestic workers we interviewed worked without any significant time to rest during the workday. For instance, Manaranjani S. worked for a 24-person household in Abu Dhabi, UAE, as the sole domestic worker. She cared for 13 children, including one infant, and worked every day from 5 a.m. to 11 p.m. without a single day of rest and was not permitted to rest at all during the day. She said, “My body needed a rest, but I was not allowed to.”<sup>225</sup> One domestic worker said that in Saudi Arabia, “I couldn’t sit down and take a break, I had no time to sleep, no time to go to the toilet even.”<sup>226</sup> Another woman worker told us that in Lebanon, “[My employers] didn’t even allow me to sit, I had to stand always.”<sup>227</sup> Thirty-six-year-old Noor F. explained that in Kuwait, her employers did not permit her to rest, even when she struggled with a workload that involved cooking and cleaning for 20 people. Her only respite from 21-hour work days was furtive short naps in the bathroom.<sup>228</sup>

Some women reported that their work hours increased during Ramadan. Domestic workers typically had to work later and wake earlier to prepare food so that their employers could eat their meals while the sun was down. Although they worked much of the night, workers received no compensatory time of rest during the day. Women workers reported experiencing sleep deprivation during the month of Ramadan as a result of the extended working hours. One woman said, “During the *Nombi* period (Ramadan), I had to work a lot, sometimes I had to stay awake all day and night.”<sup>229</sup> Another woman said, “During the Ramadan, or the festival, which is a month long, I used to go to sleep at 2:30 a.m. and get up at 3:30 a.m.; I only had one hour’s sleep... I had to get up at 3:30 a.m. because during Ramadan they eat at 5:15 in the morning.”<sup>230</sup> Ummu N. told us that work in Dubai increased during Ramadan. She said, “The Dubai work was harder, because I had to get up at 4 a.m. and until I finished work at 10 p.m. I did not have time to rest or sleep, and during the Festival [Ramadan] I could not sleep until 12 a.m.... During the fasting time, which is Ramadan, it is very difficult to work in Dubai. I had to prepare and get the food for

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<sup>225</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>226</sup> Human Rights Watch interview with Hemanthi J., Riyadh, Saudi Arabia, December 14, 2006.

<sup>227</sup> Human Rights Watch interview with Meniki N., Rambukkana, Sri Lanka, November 6, 2006.

<sup>228</sup> Human Rights Watch interview with Noor F., Attanagalla, Sri Lanka, November 8, 2006.

<sup>229</sup> Human Rights Watch interview with Chandra Malkanthi, Kurunegala, Sri Lanka, November 4, 2006.

<sup>230</sup> Human Rights Watch interview with Sepalika S., Katunayake, Sri Lanka, November 9, 2006.

males and females separately for them to break fast daily, so it was a lot of work for me.”<sup>231</sup>

Some domestic workers, particularly those whose responsibilities included childcare, were constantly on call, and their employers expected them to be available even in the middle of the night. One woman who worked in Kuwait told us, “I used to sleep with the baby. I had to take care of the baby always and do everything for the baby, including waking up in the middle of the night...I never had a day of rest in nine years.”<sup>232</sup> Another domestic worker added, “[I was] up at 5:45 a.m., I went to sleep at 3:30 a.m. Even when I went to sleep at 3:30 a.m., if they wanted anything, they would knock on my door.”<sup>233</sup> Another domestic worker who worked until 1 a.m. with no day off and no rest time told us, “[E]ven after I went to sleep the lady knocked on my door in the middle of the night and asked me to prepare a meal for Baba. Baba...didn’t sleep and stayed up at night studying. I couldn’t ever sleep a little more in the mornings because there was a three-month-old baby and she would put the baby in my room at 6 a.m. sharp.”<sup>234</sup>

In some cases, employers did not permit domestic workers to rest even when they became ill or were injured on the job. One woman who worked in Abu Dhabi, UAE, said, “Whenever I fell ill the employer started scolding me that ‘You have come here to work, not rest, so work.’ And whenever I requested to see a doctor [the employers] refused.”<sup>235</sup> In another case, Dammayanthi K. told us her employer denied her leave to see a doctor when she was injured on the job: “While I was cooking I also had to look after the baby. I was frying something and looking after the child at the same time, and the boiling hot oil went into my eyes... [F]or six days my eyes were red... I asked her to take me to the doctor, but she said I have to finish work—I had to finish ironing 21 family members’ clothes—and she said I don’t have time to go to the doctor. I was never allowed to see a doctor.”<sup>236</sup>

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<sup>231</sup> Human Rights Watch interview with Ummu N., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>232</sup> Human Rights Watch interview with Sanuthi P., Rambukkana, Sri Lanka, November 6, 2006.

<sup>233</sup> Human Rights Watch interview with Sobani D., Kandy, Sri Lanka, November 10, 2006.

<sup>234</sup> Human Rights Watch interview with Ummu A., Attanagalla, Sri Lanka, November 8, 2006.

<sup>235</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>236</sup> Human Rights Watch interview with Dammayanthi K., Kandy, Sri Lanka, November 10, 2006.

Human Rights watch documented cases in which domestic workers had to work in multiple houses, performing the same duties for two to eight households for no additional pay. One woman's employer in Lebanon sent her to work in each of her seven grown children's homes in addition to her own.<sup>237</sup> Another woman said that at the beginning of her contract period in Lebanon, "The lady would tell me to finish my work as soon as possible, and she brought me to her sister's house and made me work there.... I worked in four different houses without any extra pay. I had to be very quick."<sup>238</sup>

### **Food Deprivation and Inadequate Living Conditions**

*I was not fed well. They locked everything in the cupboards.... She only gave me rice once daily. She didn't provide breakfast or dinner. She locked all the cupboards and locked the food in her bedroom.*<sup>239</sup>

—Manaranjani S., age 35, a former domestic worker in Abu Dhabi, UAE

*My second employer only gave me a place to sleep under the staircase like a dog. I am not a dog, I am a human being.*<sup>240</sup>

—Asanthika W., age 42, a former domestic worker in Saudi Arabia

Many domestic workers reported that their employers denied them adequate food or provided substandard living accommodations. Domestic workers' contracts generally stipulate that employers must provide food and adequate accommodations without charge.

Domestic workers Human Rights Watch interviewed reported that their employers deprived them of food, in some cases providing spoiled food, inedible leftover food, tiny portions of rice or bread, or only one meal per day. Some employers denied hungry domestic workers' requests for additional food, and several women said that their employers locked the refrigerator and kitchen cabinets. Several women

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<sup>237</sup> Human Rights Watch interview with Meniki N., Rambukkana, Sri Lanka, November 6, 2006.

<sup>238</sup> Human Rights Watch interview with Sathi R., Panadura, Sri Lanka, November 15, 2006.

<sup>239</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>240</sup> Human Rights Watch interview with Asanthika W., Kurunegala, Sri Lanka, November 4, 2006.

reported that their employers punished them for complaining of their working conditions by denying food, sometimes for days at a time. In some cases, women workers lost weight as a result of food deprivation. In one case, a domestic worker said she lost eight kilos [17.6 pounds] in three months because of food deprivation.<sup>241</sup>

Workers said that food deprivation was especially difficult to endure because of the heavy workload and long work hours. One domestic worker told Human Rights Watch that her employer in Saudi Arabia provided only one meal a day. She said, “She wasn’t feeding me, I was starving.... They didn’t give me enough food. They just locked everything up.... I was working very hard and just eating one meal at evening. I was...working very hard for them. But why didn’t she think to give me the rice that was going in the garbage? I was as hungry as she was. I washed her underwear [soiled] from periods with my two hands. She didn’t even think of feeding me.”<sup>242</sup>

Another woman complained that her employers in Saudi Arabia provided insufficient food, telling us, “There was no breakfast, just one plain tea. I’d be given the leftover rice, the burnt part left on the cooker. Only at night, I would get some *roti* [a pita-like bread].”<sup>243</sup> One domestic worker said of her employers in Kuwait, “They didn’t give me food. I was given breakfast in the afternoon—*roti*. Just one *roti*. The lunch: after they finished eating, if there was anything left over they would give it to me, otherwise I had to starve.... Everything was there, but it was locked up and I wasn’t allowed to have anything. Dinner was the same—if there were leftovers then I could eat.”<sup>244</sup> Sithiraliya M., who had to purify salt water to drink because her employers denied her water, told us that because her employers provided her and the Sri Lankan driver with spoiled food and only quarter-portions of *roti* for lunch, she resorted to eating food out of the garbage.<sup>245</sup>

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<sup>241</sup> Human Rights Watch interview with Thushari M., Panadura, Sri Lanka, November 15, 2006.

<sup>242</sup> Human Rights Watch interview with Padma S., Katunayake, Sri Lanka, November 1, 2006.

<sup>243</sup> Human Rights Watch interview with Ponnamma S., Riyadh, Saudi Arabia, December 14, 2006.

<sup>244</sup> Human Rights Watch interview with Sobani D., Kandy, Sri Lanka, November 10, 2006.

<sup>245</sup> Human Rights Watch interview with Sithiraliya M., Katunayake, Sri Lanka, November 17, 2006.

Several women workers told Human Rights Watch they had to steal food, or eat food surreptitiously provided by sympathetic neighbors or relatives of their employers, and secretly ate in the bathroom to sustain themselves. One worker told us of her experience in Kuwait, “[My employer] did not check me whether I ate... I used to steal food to eat. I cannot work without eating. She did not give me any food, so whatever food was left over I had to find my way to eat it.”<sup>246</sup> In another case, Sepalika S. told us, “In Lebanon [my employer] did not give me anything to eat or drink, so I stole food and ate. They have a lot...of food items, but they did not give me any of it. I complained once to a maid who worked downstairs in Baba’s mother’s house...that I was not getting any food, then Baba’s mother came to know I was not getting any food so she gave me food in secret. So I had to stay in the toilet and have my meal, for four months.”<sup>247</sup>

More than 25 percent of the domestic workers that Human Rights Watch interviewed were not provided adequate living quarters and had to sleep under stairs, in hallways, on living room floors, or in common living quarters. Three domestic workers reported that they had to store their belongings outdoors. In some cases, workers were not provided with a mattress, and had to sleep on the bare floor or on a thin mat they considered inadequate.

Many domestic workers did not have accommodations of their own, and shared their living quarters with an employer or the employer’s children. One woman said that in Dubai, UAE, “I used to sleep in a big living room with the family, men separate and women separate. I shared space with four daughters. They did not have a separate space for me and I kept my clothes outdoors.”<sup>248</sup> Another domestic worker similarly told us, “In Saudi Arabia I did not have a separate room, I slept with the children. In Saudi Arabia I did not have even a cupboard to keep my clothes so I kept my clothes in a bag and took it when I needed it. The children used to sleep on the bed and in the same room I put a mattress on the floor and slept.”<sup>249</sup>

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<sup>246</sup> Human Rights Watch interview with Nirmali C., Giribawa, Sri Lanka, November 7, 2006.

<sup>247</sup> Human Rights Watch interview with Sepalika S., Katunayake, Sri Lanka, November 9, 2006.

<sup>248</sup> Human Rights Watch interview with Chandrika H., Kurunegala, Sri Lanka, November 4, 2006.

<sup>249</sup> Human Rights Watch interview with Amirthini L., Maskeliya, Sri Lanka, November 13, 2006.

Several women slept in windowless spaces under stairwells or in storage rooms. Malini S. said, “I had a separate room but it was like a storeroom. I slept on the floor with a bed sheet. The room was not so great, it was like a dungeon. During the summer, I couldn’t stay inside.”<sup>250</sup> Sasindi O. slept in corridors at two different places of employment in Saudi Arabia. She told Human Rights Watch, “I slept in a little space with a little pillow and a blanket on the floor. It was not actually a room, there were two doors. I locked them and slept inside. It was not comfortable. The children would walk through. It was...[between] two flats.”<sup>251</sup> Working for another employer in Saudi Arabia, Sasindi O.’s living accommodations did not improve: “I slept in the corridor there. They gave me a small mattress to sleep, but it wasn’t big enough. I saw an old mattress that was big enough for me, but they threw it away and didn’t give it to me. There was no room for me; I put my bag outside of the house. If I had any rest time, I had to rest in the latrine. They didn’t allow me to come to the corridor to sit.”<sup>252</sup>

## Confiscation of Passports, Forced Confinement, and Restricted Communication

*I was not allowed to go out for anything...I was not allowed to read newspapers, talk to my friends and family...and whenever I listened to the radio she shouted at me and told me to turn it off. I was never allowed out, not a single day. I was allowed to take out the garbage only. I saw sun only when I went out to put the clothes out to dry. I had a prison life. The walls were very high.*<sup>253</sup>

—Nirmali C., age 28, a domestic worker who worked in Kuwait for over two years

The majority of domestic workers Human Rights Watch interviewed confronted restrictions on their freedom of movement and their communication with others, including their families. Employers forbade them from leaving their places of

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<sup>250</sup> Human Rights Watch interview with Malini S., Riyadh, Saudi Arabia, December 15, 2006.

<sup>251</sup> Human Rights Watch interview with Sasindi O., Rambukkana, Sri Lanka, November 6, 2006.

<sup>252</sup> Ibid.

<sup>253</sup> Human Rights Watch interview with Nirmali C., Giribawa, Sri Lanka, November 7, 2006.

employment unaccompanied and limited their ability to communicate with their family members, neighbors, and, in some cases, labor agents and embassies.

All domestic workers Human Rights Watch interviewed reported that employers confiscated their passports upon arrival in their countries of employment and withheld the passports until they departed the country. One domestic worker who had worked for three different employers in Lebanon said, “All three of my employers withheld my passport. It’s a system, not only for me. As soon as we arrive at the airport, the passport is taken by the employer and we don’t see the passport again until the day we leave.”<sup>254</sup> Another domestic worker said of her experience in Kuwait, “As soon as I arrived they took my passport away from me, and the next time I saw the passport was when I departed for the airport. Madam kept my passport.”<sup>255</sup> The president of Sri Lanka’s Association of Licensed Foreign Employment Agencies (ALFEA) acknowledged that employers’ confiscation and withholding of passports is a widespread practice. He verified that “the sponsor—the employer—keeps the passport after they go [abroad].”<sup>256</sup>

Two recent surveys by the Caritas Lebanon Migrants Center and the American University in Cairo show that Lebanese employers believe it is their right to confiscate domestic workers’ passports and that the overwhelming majority do so. According to a 2005 telephone survey of 601 Lebanese employers by the Caritas Lebanon Migrants Center, 91 percent of those interviewed claimed that it is their right to retain the domestic worker’s passport.<sup>257</sup> A separate 2005 survey in Lebanon of 458 domestic workers by the American University in Cairo found that only 1 percent of those living with their employers held their own passports.<sup>258</sup>

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<sup>254</sup> Human Rights Watch interview with Sujeejwewani Matharachchi (real name used upon request), Colombo, Sri Lanka, November 3, 2006.

<sup>255</sup> Human Rights Watch interview with Sanuthi P., Rambukkana, Sri Lanka, November 6, 2006.

<sup>256</sup> Human Rights Watch interview with Al-Haj U.T.M. Anver, ALFEA, Colombo, Sri Lanka, October 31, 2006.

<sup>257</sup> Eighty-seven percent reported their employers held their passports; the balance reported the employment agency held their passports, or they did not specify who held their passport. Caritas Lebanon Migrants Center, “Female Migrant Domestic Workers in Lebanon: A Summary of the Caritas Survey,” in International Labour Organization, *Workshop Report: Awareness-Raising Workshop on the Situation of Women Migrant Domestic Workers in Lebanon* (Beirut: ILO, 2005), <http://www.ilo.org/dyn/gender/docs/RES/451/F799002463/Workshop%20Report%20on%20Women%20Domestic%20Migrant%20Workers.pdf> (accessed May 14, 2007), annex 4, pp. 32-35.

<sup>258</sup> Dr. Ray Jureidini, American University in Cairo, “Profile of Female Migrant Domestic Workers in Lebanon,” in International Labour Organization, *Workshop Report*, annex 4, pp. 30-31.

The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention) states, “It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate...identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits.”<sup>259</sup> Although Saudi Arabia, Kuwait, Lebanon, and the UAE are not a party to the Migrant Workers Convention, it is illegal for employers to confiscate workers’ identity documents in the UAE and Lebanon.<sup>260</sup> In practice, these legal protections do not stop employers and labor agents from routinely confiscating and withholding domestic workers’ passports and work permits.

Employers attempted to restrict women workers’ freedom of movement in other ways. Many domestic workers reported that they were unable to leave the household where they worked for any reason other than to take out the trash. Some were only permitted to leave if they were accompanied by their employer or a driver, and in some cases, employers locked domestic workers inside when they went out. Some employers placed extreme limitations on domestic workers’ freedom of movement, such that they were not permitted to open a window or door. A 54-year-old woman who had 10 years of experience working abroad in the Middle East told Human Rights Watch, “Throughout my journey five times, I did not have any freedom to move out of the house where I was. I should have been given the opportunity to go out.”<sup>261</sup> Another repeat migrant domestic worker who had worked in Lebanon, Saudi Arabia, and Kuwait said, “[In Lebanon] I had no freedom to leave; day or night, when they went out, they locked the house and took the key with them, and I had to stay inside. Saudi Arabia was also similar. Kuwait, they didn’t lock [the doors] because someone was always in the house if someone went out.”<sup>262</sup>

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<sup>259</sup> Migrant Workers Convention, art. 21.

<sup>260</sup> The Dubai Court of Cassation ruled in 2001 that employers are prohibited from confiscating the passport of employees because it violates the worker’s right to travel, and Lebanese civil regulations prohibit employers and employment agencies from withholding migrant workers’ passports. According to Me Joseph Aoun, a lawyer with Caritas Lebanon Migrants Center, “When sponsors pick up their employees at the Lebanese airport, General Security hands the sponsor his or her employee’s passport. Though there is no law against such practice in Lebanon, it is illegal, because generally a passport is the property of the issuing government (Sri Lanka, the Philippines, for example) and so it is not up to a Lebanese to confiscate it.” Ruling by Dubai Court of Cassation, Case # 268 (2001), October 27, 2001; Human Rights Watch interview with Me Joseph Aoun, Caritas Lebanon Migrants Center, Beirut, Lebanon, August 22, 2007.

<sup>261</sup> Human Rights Watch interview with Chaturi M., Rambukkana, Sri Lanka, November 6, 2006.

<sup>262</sup> Human Rights Watch interview with Krishnan S., Maskeliya, Sri Lanka, November 13, 2006.



Several women workers likened their confinement in their workplace to imprisonment. One woman said of her experience in Saudi Arabia, “I had no freedom to leave. They locked the doors when they left and I was inside until they came back. It was a prison life for me.”<sup>263</sup> Another domestic worker said, “[T]hey didn’t let us go out to go shopping or take a walk.... We were servants, so they treated us like that.... In Saudi, I was always in the house. It was like a prison, I want [to] get rid of that.”<sup>264</sup> Some domestic workers had to jump from an upper-story window in order to escape employers who locked them inside. Ponnama S. had to jump from the roof to escape her physically abusive employers: “They always locked me inside with the key. I went up and jumped. I couldn’t bear the pain. It was a two-story house. On the roof, there was a small gap, I was able to come out.”<sup>265</sup>

Only a few of the domestic workers Human Rights Watch interviewed were permitted to leave the workplace unaccompanied. Those who were permitted to leave the workplace only in the company of an employer or the driver reported that this limitation on their freedom caused them hardship. One woman poignantly explained of her experience in Kuwait:

I was even accompanied to the shopping market. I would go with the driver and I had to sit in the car and tell him what to buy. Sometimes when I needed underwear because I ran out of underwear, I couldn’t ask the driver because he’s a male. I really felt ashamed to ask him. One day the employer gave me some cloths to throw in the garbage. I kept these cloth rags and cut them to wear as panties. One day she saw me wearing this and asked why. I told her I had no panties. Even then she didn’t give me any. Sometimes she would check my room to make sure I hadn’t stolen her daughter’s underwear.<sup>266</sup>

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<sup>263</sup> Human Rights Watch interview with Padma S., Katunayake, Sri Lanka, November 1, 2006.

<sup>264</sup> Human Rights Watch interview with Nayanadini B., Rambe, Sri Lanka, November 5, 2006.

<sup>265</sup> Human Rights Watch interview with Ponnamma S., Riyadh, Saudi Arabia, December 14, 2006.

<sup>266</sup> Human Rights Watch interview with Kumari Indunil (real name used upon request), Rambukkana, Sri Lanka, November 6, 2006.

Employers also restricted domestic workers' communication with family members, other domestic workers, labor agents, and their embassies. Human Rights Watch interviewed many domestic workers who had limited ability to make or receive telephone calls, or to write or receive letters. Some of these domestic workers reported that they were not permitted any contact at all with family members. They could not send or receive any letters or phone calls to or from family members. Some workers were not even permitted to contact their families after the Indian Ocean tsunami in December 2004 to learn whether they had survived. Some domestic workers also reported that their employers would not allow them to read newspapers, listen to the radio, or watch television. Some employers monitored and censored the mail that domestic workers sent or received.

For example, a mother of two daughters told Human Rights Watch, "I was homesick those two years; [the lady employer] didn't allow me to receive a phone call or listen to my daughters' voice. The first time I wrote letters and gave them to the employer, but she didn't post them."<sup>267</sup> A 26-year-old who returned to Sri Lanka on the day Human Rights Watch interviewed her was crying as she told us, "I received only two letters from my family this whole year, and when I wanted to talk with them [by phone], my employer, she only gave me four riyals [US\$1]; it's not enough to speak.... I was never allowed outside, I was never allowed to speak to other maids... I have three babies. I was not able to speak to them for this whole year.... I wasn't allowed to talk to anyone. They said, 'We never allow you to speak to the other maids because they will make your mind dirty.'"<sup>268</sup> Another domestic worker said, "I wanted to call my family, to write letters... They told me, 'For two years, you will have no contact with your family.' My employer said, 'When you come to work in Saudi Arabia, you have to forget about your family.'"<sup>269</sup>

Employers' stated rationale for restricting women workers' communication was to limit the likelihood of their leaving before they had completed their two- to three-year contract period. One domestic worker said of her employer in Kuwait, "She told me that she has paid money to get me as a maid for two years, so she can't allow me to

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<sup>267</sup> Human Rights Watch interview with Kumari S., Vallalgude, Sri Lanka, November 6, 2006.

<sup>268</sup> Human Rights Watch interview with Selvakumari W., Katunayake, Sri Lanka, November 9, 2006.

<sup>269</sup> Human Rights Watch interview with Chitra G., Riyadh, Saudi Arabia, December 6, 2006.

receive calls or letters.”<sup>270</sup> In practice, these restrictions limited domestic workers’ ability to contact their labor agents or embassies when they experienced abuses.

## Prohibitions on Returning Home

*I asked Baba to either pay my salary or give me my passport to go home. He refused to pay my salary and he refused to give me my passport, and he...kicked me on my stomach and he hit me on my back and I fainted.... When I regained consciousness I started crying and asked him to send me home to my mother. Baba scolded me and said “I will not send you back to Sri Lanka, and I will not hand over your passport to you and you have to stay here.”<sup>271</sup>*

—Ummu A., age 24, about her experience as a domestic worker in Kuwait

Abusing their power over migrant workers, many employers or labor agents prevented domestic workers from leaving their jobs to return to Sri Lanka, in some cases even after their contract period had concluded. In most of these cases, the combination of several abuses—forced confinement, restricted communication, and confiscation of passports—created a situation in which domestic workers were unable to return to Sri Lanka when they wanted to do so. In several instances, Sri Lankan women we spoke with had been unable to return home to check on their families after the December 2004 tsunami or despite armed conflict in Lebanon in 2006.

Because women domestic workers are often confined to their workplaces with limited ability to communicate with others, they are particularly at risk of being prevented from returning to their country, even in normal circumstances, at the end of their contracts. In 2005, the SLBFE recorded 667 complaints from women migrant workers that their employers did not send them back to Sri Lanka after completion of

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<sup>270</sup> Human Rights Watch interview with Sobani D., Kandy, Sri Lanka, November 10, 2006.

<sup>271</sup> Human Rights Watch interview with Ummu A., Attanagalla, Sri Lanka, November 8, 2006.

their contract, while it received 44 such complaints from male migrant workers, who have at least the same access to complaint mechanisms as women.<sup>272</sup>

Human Rights Watch documented cases in which employers and labor agents prohibited domestic workers from returning to Sri Lanka after they learned of the deaths of children, siblings, and parents, and wished to return to Sri Lanka to attend the funerals. In one case, a domestic worker's employer and labor agency did not permit her to return to Sri Lanka when she learned her husband had cancer; he died one month after she was permitted to return home.<sup>273</sup> Several domestic workers reported that their employers forbade them from returning to Sri Lanka after close family members were killed in the December 2004 Indian Ocean tsunami. Koormadhi N., who had worked as a domestic worker for the same family in Abu Dhabi, UAE, for 16 years, told Human Rights Watch that her employers would not let her return to Sri Lanka when her daughter, sisters, and niece were killed in the tsunami. She said,

My daughter died in the tsunami. I have no other children. She was 13 years old. I was in Abu Dhabi when the tsunami hit.... I asked [my employers] to go home to Sri Lanka and the lady refused and said that, "If your child is dead, you have to put it in a *kabar*[grave]," which means put the dead body under ground. She said, "Why do you have to go?" I argued with that lady but...she did not want me to go.... When I said that I want to go home, the lady told me, "Your child is dead, why do you want to go home now, are you a doctor?"<sup>274</sup>

Koormadhi N. eventually collected money from the household's driver and cook to pay for a plane ticket, and returned to Sri Lanka. Her employer never returned her confiscated passport.

Meena P. said that she was unable to return to Sri Lanka in part because her employers in Saudi Arabia limited her ability to contact her family or to leave the house where she worked. Unable to return to Sri Lanka, she endured physical and

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<sup>272</sup> Sri Lanka Bureau of Foreign Employment, *Annual Statistical Report of Foreign Employment 2005*, p. 61.

<sup>273</sup> Human Rights Watch interview with Sita S., Giribawa, Sri Lanka, November 7, 2006.

<sup>274</sup> Human Rights Watch interview with Koormadhi N., Habaraduwa, Sri Lanka, November 14, 2006.

sexual abuse by her employer's son and his friend for one year and three months, and was not paid for one year's work:

I was always asking to go home. I asked [Mama] for about four to five months to go home before I left. When I kept saying that I want to go home Mama and Baba said, 'That can't be done'.... After I told the lady [employer] my problems I stayed there for four or five months.... [I did not try to escape because] I was not allowed to go out, even to take out garbage. I was not allowed to make or receive calls. Whenever there was a Sri Lankan call she used to cut the line. And she wouldn't post my letters.<sup>275</sup>

Denial of women workers' appeals to return home had particularly acute consequences during the July 2006 war in Lebanon. Domestic workers reported that during the July 2006 war, their employers refused to return their passports or allow them to leave their jobs and return to Sri Lanka. Many told us they ran away from their employers and were unable to recover their passports, unpaid wages, or personal belongings. The International Organization for Migration (IOM), which evacuated 5,381 Sri Lankan migrant workers from Lebanon, over 93 percent of whom were women migrant workers,<sup>276</sup> reported that, "At least half of those being helped are escaping without their papers or salaries from employers who don't want to let them go. Many more are still trying to get away."<sup>277</sup>

A Sri Lankan Ministry of Foreign Affairs official said that of about 85,000 Sri Lankan domestic workers in Lebanon at the time of the war, only 6,272 were repatriated to Sri Lanka.<sup>278</sup> Many could not leave simply because wartime conditions and shortages of transport made travel within and out of Lebanon difficult, expensive, and often hazardous. While the number of Sri Lankan migrant domestic workers actively

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<sup>275</sup> Human Rights Watch interview with Meena P., Talawakelle, Sri Lanka, November 12, 2006.

<sup>276</sup> International Organization for Migration, "IOM in Lebanon," 4<sup>th</sup> quarter 2006 newsletter, November 18, 2006, <http://www.reliefweb.int/library/documents/2006/iom-lbn-18nov.pdf> (accessed September 6, 2007).

<sup>277</sup> "Lebanon: More Funds Needed to Evacuate Stranded Migrants," IOM press briefing, August 8, 2006, <http://www.iom.int/jahia/jahia/pbnAF/cache/offonce?entryId=9831> (accessed September 6, 2007).

<sup>278</sup> Human Rights Watch interview with Sumedha Ekanayake, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

prevented by their employers from fleeing Lebanon during the conflict is unknown, the SLBFE reported that five Sri Lankan women workers were known to have died during the fighting.<sup>279</sup> Some women told us they watched the war at close range—one saw the building next door collapse—but were unable to return to Sri Lanka when they feared for their safety.

Upeksha R., age 22, told us, “They didn’t allow me to come home during the war. My husband called me to come home again and again... My employers said, ‘If we are going to die, you are going to be with us, you can’t go to Sri Lanka’... We were in a war area in Beirut. I was afraid and I thought I’d never see Sri Lanka again.”<sup>280</sup>

Upeksha R. eventually ran away to the Sri Lankan embassy without her personal effects. Priyanthika R.’s employers would not allow her to return to Sri Lanka: “I was scared, I wanted to protect my life, I wanted to come back to Sri Lanka, I ran away from that house. My employers said ‘You have to stay here for the contract period. If we are going to die, you must be with us.’ At 5 a.m., I ran away and walked many miles.”<sup>281</sup>

When employers prevent domestic workers from returning home, domestic workers often become trapped in situations of forced labor.

## Forced Labor

Human Rights Watch documented 23 cases in which the range of abuses alleged—forced confinement, restricted communication, confiscation of passports, withholding of salary, abuse, high debts, and work under threat of detention or deportation—amounted to forced labor. Under international law, forced labor is work or service extracted under the menace of penalty and without consent.<sup>282</sup> In the cases of 23 women domestic workers Human Rights Watch interviewed for this report, employers and labor agents engaged in practices that created a menace of penalties,

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<sup>279</sup> Memorandum from Ministry of Foreign Affairs, “Details of Sri Lankan Females Died in the Middle Eastern Countries, 2006,” November 16, 2006.

<sup>280</sup> Human Rights Watch interview with Upeksha R., Vallalgude, Sri Lanka, November 6, 2006.

<sup>281</sup> Human Rights Watch interview with Priyanthika R., Giribawa, Sri Lanka, November 7, 2006.

<sup>282</sup> 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, art. 2(1).

including overt or implied threats to impose fines on a domestic worker that were never stipulated in her contract, to physically harm her if she did not continue working, to fail to pay withheld wages if a domestic worker did not complete her contract, or to denounce her to authorities for immigration or criminal sanction. In all of these 23 cases, the circumstances the women described also meet the ILO definition of involuntary work. These workers' employers confined them in the workplace, confiscated their passports and work permits, or withheld their salary. Some workers' labor agents and subagents deceived them about their working conditions at the time of recruitment, or labor agents threatened to charge inflated fees for early release from a contract or for a transfer of employment.

Migrant domestic workers are particularly at risk of becoming trapped in forced labor because of the prevalence of abusive recruitment and employment practices. In several cases Human Rights Watch documented, employers' practice of withholding domestic workers' wages created a situation of forced labor when the worker wanted to leave her job but her employer threatened not to pay the withheld wages if she left the job. For example, 26-year-old Arivudai H. was working for a family of four in Lebanon when the July 2006 war in Lebanon began. She had been working there for over two years, but her employer had paid only one month's wages. Arivudai H. told Human Rights Watch,

The lady [employer] told me that she would give my salary when I went home. When the war started she did not let me go back home. She paid me only US\$100, that was an initial payment to me. After that she told me she would collect all the money and give it to me when I went home, but she did not give it to me... I went in June 2004, so I got the first payment [of \$100] in June, but no more salary after that.... I was staying in Beirut and I heard the noise of shelling and bombing. I couldn't sleep and I asked the lady [employer] whether I could go home and she refused. She said not to go, if I go she will not pay my salary. She told me that I don't have to worry about anything because

this place is safe, but I could not fall asleep because of the bombing.<sup>283</sup>

Arivudai H. eventually ran away from her employer, who had withheld her passport throughout her period of employment. She never recovered her passport or the two years of wages that were owed to her.

The situation of Rohini T., interviewed by Human Rights Watch at the Sri Lankan embassy in Riyadh, rose to the level of forced labor. Although she wished to leave her job in Saudi Arabia after giving birth there, her employers prohibited her from leaving and she had been threatened that if she fled, she would not be paid the four years' unpaid wages owed to her. The nearly US\$5,120 in back wages her employer owed her, in combination with the over US\$400 debt she incurred to cover recruitment fees, created a menace of penalties. She said,

I came in February 2002. It has been five years. I have only received one year's salary. I was pregnant when I came... I worked for four months, then had the baby. After that, I went right back to work. I was practically begging for them to send me back to Sri Lanka, but they would not release me.... I didn't have a riyal, I was waiting for my salary and ticket.... I was taking care of the child but I had to work. Milk powder, shirt, I bought out of the one year salary they had given me. I woke up at 5 a.m. and sent the kids to school. There were 11 kids at home, it was a three-story building. I had nothing called free time, the small rest time I had I used to feed the baby.

I have to go to Sri Lanka. I have no money, how can I take the child and...go back to Sri Lanka?... All I want is to go to Sri Lanka. I have a debt in Sri Lanka. My children have no money. It's a 45,000 rupee [US\$400] debt."<sup>284</sup>

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<sup>283</sup> Human Rights Watch interview with Arivudai H., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>284</sup> Human Rights Watch interview with Rohini T., Riyadh, Saudi Arabia, December 14, 2006.



After five years working for the same employer, Rohini T. escaped to the Sri Lankan embassy without her personal belongings. At the time Human Rights Watch interviewed her, she had not recovered the four years' wages owed to her.

For some workers, the threat of financial penalty in the form of having to pay for their return air ticket may create a situation of forced labor when the domestic worker's work becomes involuntary. It is common practice, and often stipulated in the contract, that employers must pay domestic workers' return tickets only if workers complete their contract period, or after two years of work. Some workers told Human Rights Watch that they endured abuse and continued working until they completed the contract period because if they discontinued work earlier, they would have to pay their own airfare home, equivalent to two to four months' salary. Soida W.'s employer in Kuwait refused to release her even after completion of her contract, and threatened to withhold payment of her air ticket if she stopped working:

I was admitted to the hospital because I had chest pain, and after that the doctor advised the employer that I had not had enough rest and to try to send me back home as soon as possible.... I told the lady employer...send me back home... She refused to send me back. She said I had to finish the whole three years, and I had just finished eight months of the last year. I signed a contract in Colombo for two years. She told me she would not give me a ticket to come back until [I had worked for] three years.... I was wondering whether she would send me back one day or whether she would continue to keep me in that house forever and not allow me to come back.”<sup>285</sup>

Two months after she demanded to return to Sri Lanka, Soida W. went on hunger strike in protest. On the seventh day of her strike, her employer purchased a return ticket for her. In other cases, labor agents pressure workers to stay at work by threatening to impose financial penalties should they leave their jobs early. For example, Manaranjani S. endured harsh conditions in Abu Dhabi—including food deprivation and an unusually heavy workload—because the agency threatened to

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<sup>285</sup> Human Rights Watch interview with Soida W., Kegalle, Sri Lanka, November 19, 2006.

penalize her if she changed employers or returned to Sri Lanka before she completed three months of work: “My contract was for two-and-a-half years. If I left my job within three months of arriving in Abu Dhabi they said I’d have to pay 80,000 rupees [US\$710]...to the agent in Abu Dhabi... This is one of the reasons why I stayed for more than three months.”<sup>286</sup>

In several cases, domestic workers became trapped in situations of forced labor when their employers would not allow them to leave their jobs until they had reimbursed the employer for the recruitment fee, which ranges from US\$750-1,600 in Saudi Arabia, US\$1,000-1,100 in Kuwait and Lebanon, and US\$450-1,100 in the UAE.<sup>287</sup> Sobani D.’s employer in Kuwait demanded payment of US\$1,020 if she did not complete her contract:

She told me that she has paid money to get me as a maid for two years...she paid 250 Kuwaiti dinars [US\$888] for me. She said she [also] paid 30 dinars [US\$107] for my visa, and she gave me an identity card, and she told me she paid 15 dinars [US\$53] for that. She said if I want to go [home to Sri Lanka] I have to settle all this money [about US\$1,047] with her. I told her that I also paid money to an agent to be her maid.... She said, “Give me that money and you can go home to Sri Lanka and do whatever you want”...she told me if I didn’t give her any money then she wouldn’t let me come home.”<sup>288</sup>

Sobani D.’s employer withheld her passport, denied her use of the telephone to call the labor agent, and did not permit her to leave the house. Noor F. told Human Rights Watch that after her employer beat her and she asked to be returned to the agency, “[Baba] told me, ‘We have paid money to the agency to get you as our maid, and when you pay me that money I will return you.’”<sup>289</sup>

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<sup>286</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>287</sup> Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006; Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006.

<sup>288</sup> Human Rights Watch interview with Sobani D., Kandy, Sri Lanka, November 10, 2006.

<sup>289</sup> Human Rights Watch interview with Noor F., Attanagalla, Sri Lanka, November 8, 2006.

In other cases, employers used physical abuse, threats of physical abuse, or threats of reporting domestic workers to the authorities, to force them to continue to work. One woman worker told us, “I stayed there because they scared me and they beat me; that’s why I stayed. Sometimes they said, ‘We will complain to the agency about you. Kuwait is my country, I can call the police [on you].’”<sup>290</sup> Another domestic worker told us that when she wanted to leave Lebanon because of the verbal and physical abuse and restrictions on her religion she endured at work, her employer leveled several threats at her:

I told [the female employer] that I am going to go home. She told me the earlier maid put her fingers in the door and got hurt, and said the same may happen to me. I got really scared. She also threatened to bring me to the police; I said “fine” because I haven’t done anything wrong. She also told me she would have to take money from me because she gave money to the agent for me but I know I didn’t owe her anything.<sup>291</sup>

Employers’ practice of withholding migrant workers’ passports can contribute to the creation of a situation of forced labor. As quoted in a UAE newspaper, Aref Mirza, director of the legal department of the UAE’s Ministry of Labour, acknowledged that, “Retaining workers’ passports amounts to forcible work in violation of the International Labour Organisation’s (ILO) Convention on the Abolition of Forced Labour, to which the UAE is a signatory.”<sup>292</sup> Some of the domestic workers Human Rights Watch interviewed endured abusive work conditions because they feared the consequences of running away without their passports. Several told Human Rights Watch that they feared they would be arrested or detained if authorities caught them without their passports. A 24-year-old who worked as a domestic worker in Dubai, UAE, said:

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<sup>290</sup> Human Rights Watch interview with Hinni M., Tihari, Sri Lanka, November 8, 2006.

<sup>291</sup> Human Rights Watch interview with Sujeejwewani Matharachchi (real name used upon request), Colombo, Sri Lanka, November 3, 2006.

<sup>292</sup> Samir Salama, “Retaining Passports is ‘Forcible Labour,’” *Gulf News* (Dubai, UAE), June 13, 2006, <http://archive.gulfnews.com/articles/06/06/13/10046487.html> (accessed September 6, 2007).

When [the boss] hit me I asked him to give me my passport so I could go home, but he refused... I had already worked there for about five months. He refused to give me my passport and told me he would not allow me to...leave that place before two years... So I stayed for two years and finished out my contract, then I went home.... I did not have any other options and I did not want to run away and get caught by the police and have more problems. I went for the 12-day training [in Sri Lanka], and during that training [the trainers said] if you try to run away and get caught by police you will have to face more problems.<sup>293</sup>

The ILO Convention on Forced Labor, No. 29, which Sri Lanka, Saudi Arabia, Kuwait, Lebanon, and the UAE have ratified, defines forced labor 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.”<sup>294</sup> The ILO has clarified the meaning of these two key elements of forced labor: (1) the work is exacted under menace of any penalty and (2) is undertaken involuntarily. The ILO has elaborated a list of elements which can qualify as a menace of penalty and thus point to a situation of forced labor. A number of domestic workers interviewed for this report experienced two or more of these elements in combination:

1. **Physical or sexual violence:** According to the ILO, employers or labor agents in some cases exact forced labor from workers “by the threat and application of physical or sexual violence” against a worker or close associates.<sup>295</sup>
2. **Restriction of movement of the worker:** The ILO noted, “A common means by which labour is extracted by duress from workers is through their confinement. The workers are locked into the workplace or their movement is restricted to a

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<sup>293</sup> Human Rights Watch interview with Ummu N., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>294</sup> Forced Labour Convention, art. 2(1).

<sup>295</sup> International Labour Organization, *Human Trafficking and Forced Labour Exploitation*, p. 20; International Labour Organization, *A Global Alliance against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (Geneva: ILO, 2005), [http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD\\_BLOB?Var\\_DocumentID=5059](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5059) (accessed May 2, 2007), pp. 5-6, Box 1.1.

- very limited area, often with the objectives of preventing contact with the host communities.”<sup>296</sup>
3. **Debt bondage/bonded labor:** Occurs when a worker works partly or exclusively to pay off a debt that may be incurred during the process of recruitment, and “the debt is perpetuated because on the one hand, the work or services provided are undervalued and on the other hand, the employer may provide food and accommodation at such inflated prices that it is extremely difficult for the worker to escape from debt.”<sup>297</sup>
  4. **Withholding wages, refusing to pay the worker at all, and other financial penalties:** This includes situations in which workers work in the expectation of payment but the employer withholds sums from the worker’s wages.<sup>298</sup>
  5. **Retention of passports and identity documents:** According to the ILO, because a worker is rendered unable to prove identity or nationality, the employer’s withholding of a worker’s passport and/or identity documents “often creates sufficient fear that the workers feel they are obliged to submit to the employer.”<sup>299</sup>
  6. **Threat of denunciation to the authorities:** Includes the threat of denunciation to authorities such as police or immigration officials, or threat of deportation, and may not require “that the menaces relate to action to be taken by the person making the demand.”<sup>300</sup>
  7. **Dismissal from current employment or exclusion from future employment.**<sup>301</sup>
  8. **Removal of rights or privileges:** The “menace of any penalty” not only includes the threat of penal sanctions, “but might take the form also of a loss of rights or privileges.”<sup>302</sup>

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<sup>296</sup> International Labour Organization, *Human Trafficking and Forced Labour Exploitation*, p. 20.

<sup>297</sup> Ibid.

<sup>298</sup> Ibid.; International Labour Organization, *A Global Alliance against Forced Labour*, pp. 5-6, Box 1.1.

<sup>299</sup> International Labour Organization, *Human Trafficking and Forced Labour Exploitation*, p. 21.

<sup>300</sup> Ibid.

<sup>301</sup> International Labour Organization, *A Global Alliance against Forced Labour*, pp. 5-6, Box 1.1.

<sup>302</sup> Ibid.; International Labour Conference, “General Survey of the Reports Relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Slavery Convention, 1975 (no. 105): Report of the Committee of Experts on the Application of Conventions and Recommendations,” Report III, 65<sup>th</sup> Session (Geneva: ILO, 1979), para. 21.

To determine that work is undertaken involuntarily, the ILO considers not only whether deception or fraud was used to obtain consent, but also external constraints, indirect coercion, and the possibility of revoking freely given consent.<sup>303</sup> According to the ILO supervisory bodies, a worker's initial, seemingly voluntary consent to work is considered involuntary "[w]here migrant workers were induced by deceit, false promises and retention of identity documents or force to remain at the disposal of an employer."<sup>304</sup> The ILO notes that it is possible for workers to revoke freely given consent: "[M]any victims enter forced labour situations initially of their own accord...only to discover later that they are not free to withdraw their labour."<sup>305</sup> Therefore, the ILO concludes, because the workers' right to free choice of employment is inalienable,<sup>306</sup> "a restriction on leaving a job, even when the worker freely agreed to enter it, can be considered forced labour."<sup>307</sup> According to the ILO, examples of lack of consent to, or the involuntary nature of, work include physical confinement in the work location, psychological compulsion (such as an order to work backed up by a credible threat of penalty), induced indebtedness (by falsification of accounts, inflated prices, excessive interest charges, etc.), deception or false promises about types and terms of work, withholding and non-payment of wages, and retention of identity documents or other valuable personal possessions.<sup>308</sup>

Forced labor is illegal under Sri Lankan law<sup>309</sup> and the penal codes of UAE, Kuwait, and Lebanon prohibit behavior that constitutes forced labor.<sup>310</sup> Saudi Arabia punishes forced labor through a provision in its labor code.<sup>311</sup>

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<sup>303</sup> International Labour Organization, *A Global Alliance against Forced Labour*, p. 6.

<sup>304</sup> International Labour Organization, *Human Trafficking and Forced Labour Exploitation*, p. 23.

<sup>305</sup> International Labour Organization, *A Global Alliance against Forced Labour*, p. 6.

<sup>306</sup> International Labour Organization, *Fundamental Rights at Work and International Labour Standards*, (Geneva: 2003), pp. 36-38.

<sup>307</sup> International Labour Organization, *Human Trafficking and Forced Labour Exploitation*, p. 23.

<sup>308</sup> International Labour Organization, *A Global Alliance against Forced Labour*, p. 6, Box 1.1.

<sup>309</sup> Sri Lankan Penal Code, No. 2, 1883, section 358(A), amended by Penal Code (Amendment) Act, No. 16, 2006, section 7 (making it a criminal offense to subject or cause any person to be subjected to forced or compulsory labor, defined as "all work or service which is exacted from a person under the threat of any penalty and for which such person has not offered himself voluntarily").

<sup>310</sup> Lebanese Penal Code, art. 569 (prohibiting deprivation of personal freedom and prohibiting using a person deprived of personal freedom to "perform a task"); Kuwait Penal Code, art. 173 (imposing penalties on anyone who threatens another person physically or with damage to his reputation or property with a view to forcing the victim to do something) and art. 121;

## Exploitative Practices by Labor Agents in the Countries of Employment

*[The lady employer] handed me over to a Muslim agent over there and those guys beat me up with a belt... There was a Muslim lady [at the agency] who...used her hands and hit me on the cheeks. I was very fragile... They told me that I had to stay with the employer for three months, and only after three months I could run away. But I didn't know how to run away... While I was in the agency I asked them to get me a better employer for me to work longer, but they didn't do that.... When I went to the agent for a second time,...the agents beat me up again, with a belt. The agents beat me up and I started passing blood in my urine. They used a belt. The agents locked me up in a room for five days.<sup>312</sup>*

—Chandrika H., age 27, about her experience as a domestic worker in Dubai, UAE

In an alarming number of cases, domestic workers seeking the labor agent's intervention to resolve problems or a transfer to a better employer led to even greater abuse. Generally, when domestic workers experience unacceptable working conditions or other abuse in the workplace, they seek assistance from labor agents based in their countries of employment. Some labor agents provided needed help, while others beat and threatened domestic workers when they fled their employers and sought assistance. Human Rights Watch also documented cases in which labor agents returned women to their abusive employers using force or duress. Labor agents' coercive practices to keep women in their employment placements also included the charging of inflated fees to transfer employers. In many of the cases documented by Human Rights Watch, the labor agents who directly threatened or

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Kuwait Law No. 31 of 1970 on the amendment of the Penal Code, arts. 49 and 57 (prohibiting public officials or employees to force a worker to perform a job for the State or for any public body); UAE Federal Penal Code No. 3, art. 347. See also Constitution of Kuwait, art. 42 (prohibiting forced labor "except in cases specified by law for national emergency and with just remuneration").

<sup>311</sup> Saudi Arabia has no legislation specifically criminalizing forced labor. The labor law calls on employers to "refrain from using the worker without pay," but it imposes only relatively light penalties on employers who violate these provisions. Because the labor law excludes domestic workers, they are not protected by this provision. Saudi Arabia Labor Law, Royal Decree No. M/51, 23 Sha'ban 1426 (September 27, 2005), arts. 61, 239.

<sup>312</sup> Human Rights Watch interview with Chandrika H., Kurunegala, Sri Lanka, November 4, 2006.

physically abused domestic workers were Sri Lankan agents based at the Saudi, Kuwaiti, Lebanese, or UAE labor agencies.

The recruitment fee structure is a contributing factor to this physical abuse, and can lead to situations of forced labor. During the first three months of employment, understood to be a trial period, if the employer or the domestic worker terminates the arrangement, is pregnant, or has a medical problem, the agency must either provide a replacement domestic worker free of charge or refund the recruitment fee to the employer.<sup>313</sup> Agencies frequently advertise this three-month “guarantee” to employers. A labor agent said, “After 91 days the agency has no obligation to the employer; the employer has to pay again to get a new domestic worker.”<sup>314</sup>

According to labor agents, labor agents have no comparable obligation to provide domestic workers with a new employer. One labor agent told Human Rights Watch, “If the woman has a problem...[t]here is no obligation ever to find the housemaid a new employer.”<sup>315</sup> Many domestic workers told Human Rights Watch that labor agents in their countries of employment dismissed their requests to change employers, sometimes even when workers were experiencing severe abuse. Soma W. recalls, “After going [to Kuwait]...I had problems with the first employer.... I called the agency and when I spoke with the agent he told me to shut up and keep quiet. He told me to stay there for three months, and he would take care of my matter afterwards. They said, ‘Stay three months,’ and when I called for the second time and asked they said, ‘Stay for six months,’ then after eight months they said, ‘Try to manage for a year.’ I was at the first house for eight months. When I called the agent and asked for them to release me, the employer opposed and said that I was her maid and belonged to her.”<sup>316</sup> A labor agent implicitly acknowledged such practices, attempting to justify them as driven by market forces: “This is a business. We have to

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<sup>313</sup> Human Rights Watch interview with N.M. Sisira Bandara, labor agent, Samasi Manpower Services, Kurunegala, Sri Lanka, November 3, 2006.

<sup>314</sup> Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006.

<sup>315</sup> Ibid.

<sup>316</sup> Human Rights Watch interview with Soma W., Kurunegala, Sri Lanka, November 4, 2006.



supply according to [the Middle Eastern employers'] expectations.... In their country [employers] can do whatever they want."<sup>317</sup>

Because the fees employers pay labor agents range between US\$450-1,600,<sup>318</sup> labor agents have a strong financial incentive to ensure that domestic workers continue working for even abusive employers during this trial period. In some cases, this financial incentive is the result of economic pressure on economically fragile small labor agencies. According to Michele Gamburd, an anthropologist who has studied the Sri Lankan migrant labor recruitment industry, if several domestic workers were to return to Sri Lanka in a short period, the cost of reimbursing employers could bankrupt a small labor agency.<sup>319</sup> In other cases, agents' motives are profit-driven. A labor agent who has recruited Sri Lankan women to work as domestic workers in the Middle East for over 30 years told Human Rights Watch that labor agents are earning higher profits presently because it is more difficult for domestic workers to run away from employers during the three-month probationary period.<sup>320</sup>

Domestic workers described to Human Rights Watch their labor agents' efforts to coerce them to continue working for their employer until they had completed three months' work, even when domestic workers complained of abuse. A woman who had been drugged and raped by airport personnel in the Sri Lankan airport immediately before departure told Human Rights Watch that she appealed to a labor agent in Kuwait for assistance to return to Sri Lanka immediately: "[Because of the airport attack] I started to bleed and I was vomiting frequently.... In the agency the agent assaulted me..., saying that I was lying. He used his hands and slapped me on the cheeks, twice or thrice.... The agent was not very helpful and told me to stay in Kuwait and he shouted at me."<sup>321</sup> Another domestic worker said that a Sri Lankan agent in Abu Dhabi told her she had to pay a staggering 80,000 rupees penalty

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<sup>317</sup> Human Rights Watch interview with B. Pradeep Niyadandupola, labor agent, Deshakthee Lanka Enterprises, Kurunegala, Sri Lanka, November 3, 2006.

<sup>318</sup> The fees employers pay labor agents range between US\$750-1,600 in Saudi Arabia, US\$1,000-1,100 in Kuwait and Lebanon, and US\$450-1,100 in the UAE. Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006; Human Rights Watch interview with Hazzam A. Lathiff, labor agent, All Akeem Enterprises (Pvt) Ltd., Kurunegala, Sri Lanka, November 3, 2006.

<sup>319</sup> Gamburd, *The Kitchen Spoon's Handle*, p.69.

<sup>320</sup> Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006.

<sup>321</sup> Human Rights Watch interview with Dilinekaa M., Kurunegala district, Sri Lanka, November 5, 2006.

[US\$710] if she changed employers or returned to Sri Lanka before completing three months of work for an abusive employer.<sup>322</sup>

Even after the three-month probationary period, domestic workers reported that labor agents used coercive tactics to compel them to continue working for their employers. For example, labor agents sometimes threaten to denounce domestic workers to the authorities when they want to change employers or return to Sri Lanka. Padma S., an 18-year-old who endured physical and sexual abuse in Saudi Arabia, told us that after she begged her employer to return her to Sri Lanka, her employer took her to a labor agency: “There was a Sri Lankan there who told me I couldn’t leave, I had to stay working there, otherwise I would be in prison for two years.”<sup>323</sup> Hanifa S. said of her experience in Dubai, “I had to stay two years. The agency scared me, they said ‘If you don’t stay two years, we will beat you and scold you’.... I thought, ‘How can I return to Sri Lanka?’.... I tried many times [to convince the agency] but I was too scared and I stayed.”<sup>324</sup> These threats can constitute a “menace of penalty,” contributing to a situation of forced labor.

Labor agents also committed physical abuse to compel domestic workers to continue working for an employer, or as punishment for perceived lapses in their work performance. A domestic worker who was unable to perform her duties in Saudi Arabia because of an operation she underwent before migrating appealed to the labor agent, who returned her to the employer against her wishes. She said, “If the employer is not happy, they send us back to the agent. The agent hit me. Every day he repeatedly hit us. This scar below my eyes is from the agent.... He hit me with his hand and with a stick, on my legs also.”<sup>325</sup> When Ummu A.’s employer in Kuwait beat her with the rubber tube of the vacuum cleaner, she asked the labor agent to find her a new employer: “The agent told me to go back and work there [with the first employer]... I cried and asked the agent to find me another house to work, but he refused and told me to go back with Baba. I did not have any other options because

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<sup>322</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>323</sup> Human Rights Watch interview with Padma S., Katunayake, Sri Lanka, November 1, 2006.

<sup>324</sup> Human Rights Watch interview with Hanifa S., Tihari, Sri Lanka, November 8, 2006.

<sup>325</sup> Human Rights Watch interview with Hasna M., Riyadh, Saudi Arabia, December 6, 2006.

the agent wanted me to go with Baba.”<sup>326</sup> When Ummu A. later returned to the agency, the agents beat her. She recalls, “When I went to the agency this time they took me to a room and beat me up, saying, ‘Why are you not staying anywhere, why are you coming back?’”<sup>327</sup>

In some cases labor agents charged domestic workers inflated fees for transferring employment to a different employer. One domestic worker said that in Abu Dhabi, “The agent charged me 500 dirhams [US\$136] to change the employer’s name on my visa... He never showed it to me, but he said if he didn’t change the name of the employer I couldn’t work for the second employer. He told me they won’t accept you as an employee and you will be arrested by the police.”<sup>328</sup>

In several cases, labor agents required domestic workers to work without a salary for a certain period, usually several months, in return for an air ticket to Sri Lanka. One domestic worker who had a one-year contract to work in Lebanon said, “After one year, I said I want to go to Sri Lanka, [the agents] said okay, but they scolded me a lot. When I planned to come to Sri Lanka, I had to wait for six months without a salary. I was working at the same house during those six months...my agency gave me the chance to return to Sri Lanka, so I had no salary [for those six months].”<sup>329</sup> Another domestic worker who was raped and impregnated by her employer’s son told Human Rights Watch that the labor agent in Saudi Arabia forced her to work for him to cover the cost of her air ticket: “I told the *kafeel* [the agent], who was in charge of me, to come and take me away or else I would commit suicide. If he hadn’t come and taken me away I would have committed suicide.... The *kafeel* told me that, ‘Until I get you the ticket, work in this house.’ I wanted to come [home to Sri Lanka] earlier, but I did not have a chance. I worked for four months there, so he gave me one month’s salary in my hand, and bought me a ticket for three months’ salary [1,200 riyals, US\$320].”<sup>330</sup>

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<sup>326</sup> Human Rights Watch interview with Ummu A., Attanagalla, Sri Lanka, November 8, 2006.

<sup>327</sup> Ibid.

<sup>328</sup> Human Rights Watch interview with Manaranjani S., Katunayake, Sri Lanka, November 1, 2006.

<sup>329</sup> Human Rights Watch interview with Nimalka V., Kurunegala, Sri Lanka, November 4, 2006.

<sup>330</sup> Human Rights Watch interview with Jayanadani A., Kandy, Sri Lanka, November 10, 2006.

## V. Protection Failures and Obstacles to Effective Redress

*We all go abroad because of poverty, to earn money. [I] request that the government make sure that whoever goes abroad should be safeguarded and given food and clothes, and prevented from committing suicide, and protected from sexual abuse and harassment. The government has to locate the people who have gone through problems and provide them with compensation.<sup>331</sup>*

—Paramitha E., age 29, a former domestic worker in Kuwait

### Government Obligations under International Human Rights Law

Governments have an obligation to end abusive practices by employers and recruitment agencies. International human rights law places positive obligations on states to protect the rights of individuals against acts, including ill-treatment and discrimination, committed by private persons or entities. States must take appropriate measures (in some places referred to as “due diligence”) to prevent, punish, investigate, or redress the harm caused to individuals’ rights by private persons or entities. States must also provide effective remedies to those so harmed.<sup>332</sup>

Relevant human rights treaty law ratified by some or all of the states addressed in this report include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention).

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<sup>331</sup> Human Rights Watch interview with Paramitha E., Rambe, Sri Lanka, November 5, 2006.

<sup>332</sup> See, e.g., 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; UN General Assembly, Declaration on the Elimination of Violence against Women, U.N. General Assembly Resolution 48/104 (A/RES/48/104), article 4(c) (“States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: ... (c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”).

International human rights law establishes the security of person and the right to be free from cruel, inhuman, and degrading treatment.<sup>333</sup> In the Declaration on the Elimination of Violence against Women, the United Nations stated that governments have an obligation to “prevent, investigate, and in accordance with national legislation, punish acts of violence against women, whether these acts are perpetrated by states or by private persons.”<sup>334</sup> 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 which Saudi Arabia, Kuwait, Lebanon, the UAE, and Sri Lanka are party, to guarantee women equal protection of the law.<sup>335</sup> The Migrant Workers Convention, to which Sri Lanka is a party, provides that migrant workers have a right to security of person and “shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.”<sup>336</sup>

The International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Kuwait, Lebanon, and Sri Lanka are party, recognizes “the right of everyone to the enjoyment of just and favourable conditions of work.”<sup>337</sup> Such conditions must ensure “(a) Remuneration which provides all workers, as a minimum, with: (i) Fair wages and equal remuneration for work of equal value without distinction of any kind in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant; (b) Safe and healthy working conditions; (c) Equal opportunity for everyone to be promoted...; (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”<sup>338</sup> Regarding non-citizens’ rights at work, the Committee on the Elimination of Racial

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<sup>333</sup> ICCPR, art. 7 (freedom from torture, cruel, inhuman, or degrading treatment).

<sup>334</sup> UN Declaration on the Elimination of Violence against Women, December 20, 1993, G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993), art. 4.

<sup>335</sup> CEDAW, art. 15; ICCPR, art. 26. See also CEDAW Committee, General Recommendation 19, Violence against Women, para 6.

<sup>336</sup> Migrant Workers Convention, art. 16(1)-(2).

<sup>337</sup> ICESCR, art. 7.

<sup>338</sup> ICESCR, art. 7. The Universal Declaration of Human Rights, which is widely recognized as reflective of customary law, provides that everyone has the right to rest and leisure, including reasonable limitation of working and periodic holidays with pay, as well as the right to just and favorable remuneration, and the freedom to form and join trade unions. UDHR, arts. 23 and 24.

Discrimination's General Recommendation No. 30 states that once an employment relationship has been initiated and until it is terminated, all individuals, even those without work permits, are entitled to the enjoyment of labor and employment rights.<sup>339</sup>

The ILO has developed a comprehensive body of conventions that address virtually every aspect of workers' rights. These include ILO Convention No. 95 on the Protection of Wages, which Sri Lanka and Lebanon have ratified, and the ILO Convention on Forced Labor, No. 29 and ILO Convention No. 111 concerning Discrimination in Employment and Occupation, both of which Saudi Arabia, Kuwait, Lebanon, the UAE, and Sri Lanka ratified.<sup>340</sup>

As ILO members, the governments of Saudi Arabia, Kuwait, Lebanon, the UAE, and Sri Lanka have an obligation to realize fundamental rights in the conventions.<sup>341</sup> The ILO Declaration on Fundamental Principles and Rights at Work (ILO Declaration) has recognized the "elimination of discrimination in respect of employment and occupation" as one of the "fundamental rights," which all ILO members have an obligation "to respect, to promote and to realize," even if the member has failed to ratify the core ILO conventions governing those rights.<sup>342</sup>

## Bilateral Labor Agreements

Transnational labor movement requires international cooperation. Cooperation between Sri Lanka and the countries of employment is necessary to craft mutually enforceable and recognized employment contracts that provide substantive protections, create effective complaint mechanisms and investigation procedures, and provide redress for abuses.

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<sup>339</sup> UN Committee on the Elimination of Racial Discrimination, General Recommendation 30, Discrimination against Non-citizens (Sixty-fourth session, 2004), U.N. Doc. CERD/C/64/Misc.11/rev.3 (2004), [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/e3980a673769e229c1256f8d0057cd3d?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/e3980a673769e229c1256f8d0057cd3d?Opendocument) (accessed May 31, 2007), para. 35.

<sup>340</sup> ILO Convention No. 111 concerning Discrimination in Respect to Employment and Occupation.

<sup>341</sup> The ILO Declaration states that "all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions." International Labour Conference, ILO Declaration, para. 2.

<sup>342</sup> International Labour Conference, ILO Declaration, para. 2.

An SLBFE official explained that the SLBFE has pressured the Sri Lankan government to negotiate and sign bilateral Memoranda of Understanding (MOU) with countries of employment. The SLBFE official said, “Service agreements formulated by Sri Lanka are not accepted by receiving countries, so service contracts developed here in Sri Lanka are not accepted by Saudi Arabia, et cetera. We want MOUs to incorporate service contracts.”<sup>343</sup> The director of the migrants’ rights NGO Action Network for Migrant Workers (ACTFORM) told Human Rights Watch, “Bilateral contracts, government-to-government contracts, are needed. We have multilateral contracts between agencies. These current multilateral contracts are between the agencies in the receiving country, the SLBFE, and workers. But they are only in English or Arabic language; the workers don’t understand... Whatever agreements there are here, the question of enforcement in the receiving countries is non-existent. They don’t enforce in the receiving country.... Government-to-government contracts are needed because otherwise the multilateral contracts aren’t recognized.”<sup>344</sup>

In the UAE, service agreements signed in Sri Lanka between workers and recruiting agencies are not binding unless they are created pursuant to a bilateral agreement with the sending country.<sup>345</sup> On May 27, 2007, the UAE’s Ministry of Labour signed an MOU with Sri Lanka, at last creating a bilateral contract for Sri Lankan domestic worker in the UAE. Before the two countries signed the MOU, recruiting agencies provided Sri Lankan workers with seemingly valid contracts that were not legally binding in the UAE. An MOU between Lebanon and Sri Lanka was pending at this writing,<sup>346</sup> but because the content of the new MOU was not publicly available, it remained unclear whether it would provide substantive protections or whether it would legitimize the inadequate systems currently in place.

While such bilateral agreements are helpful in setting standards, they often provide weak protections and have few mechanisms for enforcement and redress. Because of the increasing number of countries now sending people abroad to perform

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<sup>343</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, October 30, 2006.

<sup>344</sup> Human Rights Watch interview with Viola Perera, ACTFORM, Colombo, Sri Lanka, November 2, 2006.

<sup>345</sup> International Labour Organization, *Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers: An Information Guide, Booklet 3: Recruitment and the Journey for Employment Abroad* (Geneva: ILO, 2003), p. 34.

<sup>346</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Brussels, Belgium, July 11, 2007.

domestic labor and the discriminatory belief in receiving countries that domestic workers do not warrant the labor law protections afforded to other categories of workers, Sri Lanka is in a weak position with the countries of employment to obtain agreements that adequately protect the rights of migrant workers. The difficulty of enforcing bilateral agreements, even when they provide adequate protections, points to the importance of such agreements committing states to create domestic legal reforms. To avoid a “race to the bottom,” where labor-sending countries compete with each other by offering fewer labor protections, labor-sending countries should pursue regional agreements with agreed-on minimum standards that conform with international law.

## **Response of the Sri Lankan Government**

As a labor-sending country, Sri Lanka has taken several important steps to comply with its obligations under international law to protect and enforce migrant domestic workers’ rights. However, it continues to fall short of its legal obligations under the Migrant Workers Convention and other international treaties to which it is a party.<sup>347</sup> Strategic reforms in key areas could transform the fate of Sri Lankan domestic workers and provide greater guarantees for their safety and dignity while migrating.

### *Pre-Departure Protection Failures*

#### **Licensing and Regulation of Labor Recruiters and their Subagents**

Sri Lanka’s labor recruitment industry requires more stringent monitoring and regulation. While the Sri Lankan government has taken important steps to create a regulatory system for recruitment agencies, there are still important gaps, and the regulations that do exist are not adequately enforced.

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<sup>347</sup> The Migrant Workers Convention contains prescriptions for sending states in articles 33 and 65. Under these provisions, migrant workers have a right to be informed by sending states of their rights under the Convention and of the migration procedures of receiving states, and states are responsible for the formulation and implementation of policies regarding migration; an exchange of information, consultation and cooperation with competent authorities of other States; and the provision of appropriate information, particularly to employers, workers and their organizations on policies, laws and regulations relating to migration and employment. The Convention also specifies that sending countries can protect the rights of migrant workers by equipping migrants with information about opportunities for and legal methods of migration, providing consular services for migrants abroad, and policing dangerous smuggling and trafficking practices. Migrant Workers Convention, arts. 1(2), 33, 65.



Existing laws require labor recruiters to be licensed by the SLBFE, forbid labor agencies from directly charging prospective migrant workers, and require labor agencies to conduct their business “in a morally irreproachable manner.”<sup>348</sup> Charged with monitoring and controlling the activities of the over 580 licensed recruitment agencies operating in Sri Lanka, the SLBFE has the authority to conduct inquiries into recruitment agencies’ practices, inspect documents related to job placements, and require agencies to compensate workers when an agency has failed to take steps to ensure that an employer complied with a migrant worker’s contract conditions.<sup>349</sup> The SLBFE has the power to cancel the licenses of recruitment agencies, which has the effect of blacklisting them,<sup>350</sup> and it can instruct Sri Lanka’s foreign missions not to approve job requests by certain foreign agencies after the agency has been warned.<sup>351</sup>

These are useful initial measures; however, because the SLBFE does not monitor labor agencies regularly or rigorously, the identification and penalization of labor agencies that violate the Sri Lanka Bureau of Foreign Employment Act regulations is rare. Additional needed measures include unannounced inspections, accessible complaint mechanisms for domestic workers, an accreditation mechanism for labor agencies that meet certain standards and have a record for ethical business, and a monitoring mechanism in which migrant workers are asked before departure the amount they paid in recruitment fees. The SLBFE is the institutional mechanism to regulate private recruitment agencies, but its objectives also include assisting and supporting foreign employment agencies in growth and development.<sup>352</sup> The SLBFE’s mandate to foster the growth of foreign employment agencies appears to conflict with its role as regulator for the industry.

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<sup>348</sup> Sri Lanka Bureau of Foreign Employment Act, No. 21, 1985, sections 28(1), 31, 34.

<sup>349</sup> Ruhunage, “Institutional Monitoring of Migrant Recruitment in Sri Lanka,” in Kuptsch, ed., *Merchants of Labour*, pp. 57-58; Sri Lanka Bureau of Foreign Employment Act, No. 21, 1985, section 44.

<sup>350</sup> Human Rights Watch interview with L.K. Ruhugane, SLBFE, Colombo, Sri Lanka, November 16, 2006.

<sup>351</sup> Human Rights Watch interview with Sumedha Ekanayake, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

<sup>352</sup> Sri Lanka Bureau of Foreign Employment Act, No. 21, 1985, sections 15(a)-15(d); Ruhunage, “Institutional Monitoring of Migrant Recruitment in Sri Lanka,” in Kuptsch, ed., *Merchants of Labour*, pp. 55-56.

Another key area for reform is enhanced regulation and monitoring of subagents. The government should promulgate and implement strong regulations about the conduct of subagents and create significant penalties for violations. Licensed agencies currently hire and delegate duties to subagents, but bear no responsibility for the illegal actions of the subagents they hire. Because licensed agencies frequently work with a consistent roster of subagents and pay them commissions, a licensing and regulation system by which licensed agents register their subagents is possible to implement. Numerous migrants' rights NGOs told Human Rights Watch that they have called on the Sri Lankan government to implement such a registration and monitoring system. A migrants' rights leader said, "We are telling the government to change their laws, so that they have licensed agents take the subagents under their responsibility. We want amendments to the SLBFE Act; we need to extend agents' responsibility over subagents."<sup>353</sup>

The Sri Lankan government continues to fail to regulate, monitor, or punish subagents' illegal recruitment practices, and one official has said the government has no plans to license subagents or to hold licensed agencies accountable for the actions of their subagents. An SLBFE official told Human Rights Watch, "We do not have any plan for registering subagents right now... They are key actors in the industry, we have to accept it. They are acting in an ad hoc way. Their activities are not stuck to one place. If we give them more recognition it will create more problems."<sup>354</sup>

## Training

The Sri Lankan government's introduction of a mandatory pre-departure training program for migrant domestic workers is a step in the right direction. However, there are significant shortcomings in the current program that the government needs to address: existing trainings provide inadequate or incorrect information about domestic workers' rights and insufficient coursework in the Arabic language. Domestic workers reported that during the compulsory SLBFE training for domestic workers bound for the Middle East, the only information about their rights that

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<sup>353</sup> Human Rights Watch interview with migrants' rights leader, Colombo, Sri Lanka, October 30, 2006.

<sup>354</sup> Human Rights Watch Interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, November 16, 2006.

trainers provided was the advice that they should run away to the Sri Lankan embassy. Trainers provided the phone number of the embassy, but little else. Many domestic workers were misinformed about their rights, and some interviewees were unaware they could leave abusive employers before their contract period ended. Domestic workers told Human Rights Watch that additional Arabic language training is necessary, in order to negotiate better working conditions, gain contractually-promised wages, and better protect their rights overall.



The 12-day training course teaches prospective domestic workers basic Arabic, how to use household appliances, and the customs of the Middle Eastern countries where they will be employed. Here the trainer provides the Sri Lankan consulate's phone numbers, and explains the plane ticket.  
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The SLBFE training is compulsory only for women migrant workers. There are 34 training centers, 11 of which are run by private licensed agencies but which use SLBFE instructors and follow the same syllabus. The 12-day training for domestic workers bound for the Middle East is compulsory only for first-time women migrants to the Middle East. Its eight modules include instruction on basic Arabic language skills, use of household equipment, traditions and customs of the countries of employment, and counseling on how to protect themselves from HIV infection, and

“how to mentally adapt to socially sensitive topics.”<sup>355</sup> The final day of the training includes a briefing for domestic workers’ spouses on adjustment and potential problems their spouses may confront abroad.<sup>356</sup> Only three to four hours of the 12-day course are devoted to migrant domestic workers’ rights.<sup>357</sup> According to a SLBFE official, the session on domestic workers’ rights includes a briefing about how domestic workers “should look after themselves if they confront sexual abuse and harassment,” and the telephone number of the embassy.<sup>358</sup>

Lawyers from the Legal Aid Commission, which provides legal assistance to about 100 domestic workers each year, runs an awareness program for migrant workers, and began participating in the SLBFE training in early 2006, criticized the training program. One lawyer said, “Not enough propaganda has been done in Sri Lanka about the rights [domestic workers] have under the ILO conventions and the Migrant Workers Convention.”<sup>359</sup> A labor agent with over 30 years’ experience recruiting Sri Lankan women as domestic workers to the Middle East said, “I think the training programs are useless.... What the government should do is to educate the women how to face the problems.... The housemaid going there should know how to read and write, and how to contact people on phones, so she should have the numbers of her people here and of the employer there.”<sup>360</sup>

One domestic worker who had worked in Kuwait said of the rights component of the training, “In the training they told us that if you face any problems, there is a Sri Lankan embassy and you can get help from the agent. That’s all we were told. They gave us the address and number of the agent. And after going there they gave us the number of the Sri Lankan embassy.”<sup>361</sup> Another domestic worker who had migrated to Dubai and Lebanon said, “I have been through the training here. I was kind of told about rights in training. I was advised to call either the Sri Lankan embassy or [my]

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<sup>355</sup> Human Rights Watch interview with SLBFE official, training division, Colombo, Sri Lanka, November 16, 2006.

<sup>356</sup> Human Rights Watch interview with Shiranthi Ekanayake, SLBFE, Colombo, Sri Lanka, November 16, 2006.

<sup>357</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, November 16, 2006.

<sup>358</sup> Human Rights Watch interview with Shiranthi Ekanayake, SLBFE, Colombo, Sri Lanka, November 16, 2006.

<sup>359</sup> Human Rights Watch interview with S.S. Wijeratne, Legal Aid Commission, Colombo, Sri Lanka, November 17, 2006.

<sup>360</sup> Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006.

<sup>361</sup> Human Rights Watch interview with Soma W., Kurunegala, Sri Lanka, November 4, 2006.

agent, but I did not have the Sri Lankan embassy number, just the number of the agent in Dubai. I called the agent but he did not help me. Basically, I was told about the Sri Lankan embassy and the agent. They told me whatever problems you have, try to contact these two authorities, but when I was working, wherever I have worked, I was not allowed to make calls.”<sup>362</sup> In an October 2002 survey of 400 households, the University of Colombo and Migrant Services Centre found that only 12 percent of the returned migrant domestic workers surveyed were aware of their rights as workers when they first left for employment.<sup>363</sup>

Domestic workers also told Human Rights Watch that the language component of the training should be expanded. A domestic worker who had worked in Dubai and was undergoing the SLBFE training for Cyprus at the time Human Rights Watch interviewed her said, “I think we need to develop the training. The training should develop language, because I think that is where the problems begin.”<sup>364</sup>

Presently the SLBFE training program does not officially hire trainers with experience as domestic workers. Instead, they are from the health, banking, and linguistics sectors. In a probationary pilot program, the SLBFE has recruited some trainers with over five years’ experience working as a domestic worker abroad, and is evaluating their performance.<sup>365</sup>

The Migrant Workers Convention provides that “Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning their rights arising out of the present Convention.”<sup>366</sup> It also provides that “States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or

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<sup>362</sup> Human Rights Watch interview with Chandrika H., Kurunegala, Sri Lanka, November 4, 2006.

<sup>363</sup> Dr. A.J. Weeramunda, University of Colombo Dept. of Sociology; Migrant Services Centre; Migrant Workers Associations of Seeduwa/Gampaha, Kalutara, and Kegalle, *Survey Results, Participatory Action Research in Gampaha, Kalutara, and Kegalle Districts* (Colombo: Migrant Services Centre, 2002), p. 2.

<sup>364</sup> Human Rights Watch interview with Savindi P., Kurunegala, Sri Lanka, November 4, 2006.

<sup>365</sup> Human Rights Watch interview with SLBFE official, training division, Colombo, Sri Lanka, November 16, 2006.

<sup>366</sup> Migrant Workers Convention, art. 33(1)(a).

institutions.”<sup>367</sup> A UN General Assembly resolution similarly “urge[s] concerned Governments, in particular those of the countries of origin and destination, to support and allocate appropriate resources for programmes aimed at strengthening preventative action, in particular information for target groups, education and campaigns to increase public awareness of this issue at the national and grass-roots levels, in cooperation with nongovernmental organizations.”<sup>368</sup> The UN General Assembly also has encouraged member states to adopt “measures to inform women migrant workers of their rights and the benefits to which they are entitled.”<sup>369</sup>

### **Proposed Migration Ban**

In a misguided response to concerns about the welfare of Sri Lankan migrant domestic workers and their families, the government of Sri Lanka has proposed a migration ban on mothers of young children. On March 7, 2007, Sri Lanka’s ministerial cabinet approved a proposal by the Minister for Child Development and Women’s Empowerment that would ban women with children under five years of age from migrating for work. The regulation would also require mothers with children aged five or older to obtain approval from a government committee after submitting proof that they can provide appropriate caretakers for their children.

The Sri Lankan government’s stated rationale for the proposed migration ban is its concern about the social impact of migration on children who are unable to accompany their mothers abroad. In a press release issued on March 8, 2007, the government justified the policy on the grounds that migrant women’s children “have become helpless and vulnerable, and lack nutrition and healthcare.”<sup>370</sup>

Sri Lankan migrants’ rights groups protested the proposed ban, and the Sri Lankan Minister of Foreign Employment Promotion and Welfare announced that the

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<sup>367</sup> Migrant Workers Convention, art. 33(2).

<sup>368</sup> UN General Assembly, “Violence against Women Migrant Workers,” Resolution 60/139, A/RES/60/139 (2006), para. 8.

<sup>369</sup> UN General Assembly, “Violence against Women Migrant Workers,” Resolution 60/139, para. 9.

<sup>370</sup> “Summary of the Cabinet Decisions, 3 March 2007: Restriction on Migration of Mothers,” government of Sri Lanka press release, March 8, 2007, [http://www.news.lk/index.php?option=com\\_content&task=view&id=1916&Itemid=51](http://www.news.lk/index.php?option=com_content&task=view&id=1916&Itemid=51) (accessed September 6, 2007).

government was reconsidering the ban in light of the protests.<sup>371</sup> At this writing, the ban had not yet been ratified by Parliament. Rather than further restricting migrant women workers' rights by implementing the ban, the government should instead enhance economic and educational opportunities for women in Sri Lanka so that domestic workers can migrate based on choice rather than desperation. The proposed ban would prevent many mothers from supporting their children by banning them from the only form of work they can find. Many women with young children told Human Rights Watch that their children's survival depended on income earned abroad, such that migration was in fact their best option. One mother of five said, "I did not find anywhere to work in Sri Lanka, so there was no income and I had to borrow money to eat and to cover other daily expenses. My children were very small and there was nothing in the house when I left [to migrate]."<sup>372</sup>

Sri Lanka has obligations under its constitution and international law to protect women from discrimination, including in employment. The Sri Lankan Constitution provides, in article 12, that no citizen may be discriminated against on the basis of sex.<sup>373</sup> International human rights treaties to which Sri Lanka is a party also ban discrimination against women. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Sri Lanka ratified in October 1981, requires states to eliminate discrimination against women in the field of employment, including by providing the right to free choice of profession and employment.

### *Sri Lankan Consular Services in Countries of Employment*

*If the embassy in every country where the Sri Lankan maids are working get involved personally and wholeheartedly to see if the Sri Lankan maids working in those countries are facing any problems and need any help, then I think Sri Lankan maids will not have to face any unnecessary problems... The embassies ask [the maids] to call if they have any problem, but some of these embassies don't [check on the*

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<sup>371</sup> "Govt. Re-Considers Ban on Young Mothers Working Overseas," *Sunday Times* (Colombo), May 13, 2007, <http://sundaytimes.lk/070513/FinancialTimes/ft344.html> (accessed September 6, 2007).

<sup>372</sup> Human Rights Watch interview with Kadhiroli S., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>373</sup> Constitution of Sri Lanka, art. 12.

*maids], both to follow up on particular cases or to make sure the maid is doing okay.*<sup>374</sup>

—Susanthika W., former domestic worker in Lebanon, Kuwait, and Jordan

Largely excluded from local justice mechanisms, migrant domestic workers sometimes flee to their embassies or consulates in the countries of employment in a desperate bid for assistance. Sri Lankan missions in countries of employment typically receive several complaints each day and may shelter more than one hundred women workers in distress at any given time.

Human Rights Watch’s research documented gaps in the services provided to Sri Lankan domestic workers who seek assistance from the Sri Lankan embassies and consulates in Saudi Arabia, Kuwait, Lebanon, and the UAE. Sri Lankan foreign missions provide shelter to domestic workers who have run away from their employers, assist detained migrant workers, and assist in repatriation of Sri Lankan migrant workers. Gaps include failure to provide rescue assistance to domestic workers who contact the foreign mission for assistance escaping from or obtaining transfer from an abusive employer; lack of follow-up on cases after workers have sought assistance from the foreign mission; failure to provide information about avenues for redress available to domestic workers who have suffered abuse; shortcomings in provision of assistance to domestic workers seeking redress; lack of counseling services to traumatized domestic workers; and poor conditions in embassy and consulate shelters.

In comparison with Sri Lankan embassies, the Philippines has extended stronger protections to Filipina domestic workers through the Philippines Overseas Employment Administration and its diplomatic corps.

Sri Lankan foreign missions in Saudi Arabia, Kuwait, Lebanon, and the UAE do not provide rescue assistance to domestic workers who contact them for assistance escaping abusive work situations. Numerous domestic workers who contacted the

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<sup>374</sup> Human Rights Watch interview with Susanthika W., Panadura, Sri Lanka, November 15, 2006.



Sri Lankan embassy or consulate in search of assistance when they experienced workplace abuses were told simply to run away. For domestic workers forcibly confined in the workplace, this form of assistance is inadequate. In some cases, Sri Lankan domestic workers suffered ongoing abuse because they did not receive assistance from their embassy when they confronted abuse and were confined in their workplace or were afraid of the consequences of fleeing on their own. Jayanadani A. tried to seek assistance from the Sri Lankan embassy in Saudi Arabia and was unable to escape her employer's home where she was later raped and impregnated by her employer's son. She said,

I called the embassy people and spoke to the embassy people in Sinhala and they told me to somehow run away from that house and come to the embassy...they told me they cannot come in search of me... I did not run away because I was scared.... They did not tell me anything except to ask me to come to the embassy. I thought [about it] and I was scared to go to the embassy alone and I feared there would be trouble on the road to the embassy besides the trouble I already faced. So I decided not to run away.<sup>375</sup>

Another domestic worker who has worked in the Middle East five times, for over 10 years, recommended, "There should also be a system where the housemaids can get help from the embassy when they need it... We should be given the telephone number of a particular office or person. If we call, that person should be able to locate us in that house."<sup>376</sup>

Consular officials often do not follow up on cases in instances where domestic workers have contacted the embassy to request assistance. An official who has worked for the SLBFE for over eight years made the following recommendation to Human Rights Watch:

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<sup>375</sup> Human Rights Watch interview with Jayanadani A., Kandy, Sri Lanka, November 10, 2006.

<sup>376</sup> Human Rights Watch interview with Chaturi M., Rambukkana, Sri Lanka, November 6, 2006.

The embassy should know all the details about each [migrant worker airplane] passenger. Every passenger who goes abroad to work as a maid, get their details before they depart. The embassies have to look at what's happening and call them to check on how they are doing. If they discover all these things, the embassy can help. They must have [the] ability to coordinate with that worker. If the domestic worker calls and says, "I have a problem," the embassy must immediately call her back and follow-up.<sup>377</sup>

Sri Lankan consular officers often failed to provide information about options for redress available to domestic workers who suffered abuse. Several domestic workers reported that embassy and consulate officials did not provide them with information about lodging a formal complaint against abusive employers or labor agents. A migrant domestic worker who experienced abuse at the hands of her employer and labor agent in Dubai said,

I have lodged a complaint at the embassy. When I went to the Sri Lankan High Commission I spoke with a Sir and he asked me why I am going and I said, "I have been beaten by my employer and by the agency, and I want to go back." He did not write down anything I said. I am not satisfied with the complaint because I knew that if I was not happy with a particular employer I could go home, but he did not make a note or report.<sup>378</sup>

Welfare officers stationed in the foreign missions are charged with taking legal action against employers to recover domestic workers' unpaid wages or personal belongings in the employer's custody, but none of the domestic workers Human Rights Watch interviewed had successfully recovered unpaid wages with the assistance of consular officials.<sup>379</sup> One domestic worker who sought the assistance of a Sri Lankan consular official in Lebanon to recover 12 months of unpaid wages

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<sup>377</sup> Human Rights Watch Interview with SLBFE staff member, name withheld, Kurunegala district, Sri Lanka, November 5, 2006.

<sup>378</sup> Human Rights Watch interview with Chandrika H., Kurunegala, Sri Lanka, November 4, 2006.

<sup>379</sup> Human Rights Watch interview with SLBFE official, Katunayake, Sri Lanka, November 1, 2006.

said, “I told the officer at the embassy that the employer did not pay my salary. The officer told me that since I have run away from the house they would not pay me anything. He did not write anything down, and he did not tell me anything. He just listened... I still have received nothing.”<sup>380</sup> An SLBFE official told Human Rights Watch, “The Foreign Relations Division, through the consulate, takes legal action against the sponsor—the employer. That is very weak on that side.”<sup>381</sup> Another SLBFE official noted that welfare officers require additional training on pursuing legal actions, “We have appointed officers to embassies to look after women with complaints...but we have to educate them on how to handle complaints.”<sup>382</sup>

If there is to be any hope of redress for affected workers, Sri Lankan consular officers must inform them that they need to pursue cases of unpaid wages and other abuse while still in the country of employment. The director of the migrant workers’ desk of the Legal Aid Commission, which provides legal aid to about 100 domestic workers each year, said, “If a migrant has a problem abroad, after she comes back there is no provision to get the money...we can’t get their salaries back... Unpaid wages and physical abuse are not covered by the welfare fund. We have no authority to recover wages...for nonpayment, so far we couldn’t [recover any unpaid wages].”<sup>383</sup> An SLBFE official stated, “Action should be taken at the foreign embassy. Once the woman arrives here it is late to take action.... It is very difficult to get anything from abroad, to try to get damages for physical abuse, harassment, money for break of contract (non-payment of wages usually).”<sup>384</sup> A Ministry of Foreign Affairs official added, “For long-term unpaid wages, we take [employers] to court if they are still in-country, but it’s impossible to pursue a court case after she’s back in Sri Lanka.”<sup>385</sup>

Human Rights Watch research revealed that there are gaps in provision of trauma counseling services to needy domestic workers in embassy and consular shelters. A

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<sup>380</sup> Human Rights Watch interview with Arivudai H., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>381</sup> Human Rights Watch interview with SLBFE official, Katunayake, Sri Lanka, November 1, 2006.

<sup>382</sup> Human Rights Watch interview with L.K. Ruhunage, SLBFE, Colombo, Sri Lanka, October 30, 2006.

<sup>383</sup> Human Rights Watch interview with Lelanthi Kumari, Legal Aid Commission, Colombo, Sri Lanka, November 17, 2006.

<sup>384</sup> Human Rights Watch interview with SLBFE official, Katunayake, Sri Lanka, November 1, 2006.

<sup>385</sup> Human Rights Watch interview with Sumedha Ekanayake, Ministry of Foreign Affairs, Colombo, Sri Lanka, November 16, 2006.

domestic worker who suffered extreme physical and psychological abuse by her employers in Kuwait said, “I was at the embassy for two months.... There was no counseling... I lost all my hospital records. I don’t know what to tell the doctor here.”<sup>386</sup> Domestic workers also reported that conditions in the Sri Lankan embassy and consular shelters often were poor. A domestic worker said: “There was a lack of food, no cup of tea, no sugar, cockroaches here and there, it was a dirty place... [In the embassy] they gave me an iron bed, it was hard for me to sleep there.... Even the food was not enough. There were 200 ladies there... They promised to provide a dress, but they didn’t give that either.”<sup>387</sup> Another domestic worker told Human Rights Watch, “There is no place in the Kuwaiti embassy for us to sleep... We should be given a better place.”<sup>388</sup>

The case of Rizana Nafeek, a 19-year-old Sri Lankan domestic worker sentenced to death in Saudi Arabia, has drawn international attention to the need for improved consular assistance to detained domestic workers. First arrested in 2005, she did not have access to legal counsel until after a Shari’a court in Saudi Arabia sentenced her to death in June 2007, ruling that she had murdered an infant in her care.<sup>389</sup> At this writing, she had filed an appeal of the judgment with the assistance of legal counsel and was awaiting a decision on her appeal.<sup>390</sup> Many detained migrant domestic workers do not have access to interpreters, legal aid, or basic information about their cases. When receiving governments do not provide migrants with access to interpreters and lawyers, the response of Sri Lankan foreign missions becomes critical. Although Sri Lankan foreign missions sometimes are not informed when

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<sup>386</sup> Human Rights Watch interview with Lakmini J., Katunayake, Sri Lanka, November 9, 2006.

<sup>387</sup> Ibid.

<sup>388</sup> Human Rights Watch interview with Chaturi M., Rambukkana, Sri Lanka, November 6, 2006.

<sup>389</sup> Human Rights Watch telephone interview with Katib al-Shammari, Riyadh, Saudi Arabia, July 15, 2007; Raid Austi, “No Clemency from Family in Rizana Case,” *Arab News* (Jeddah, Saudi Arabia), July 29, 2007, <http://www.arabnews.com/?page=1&section=0&article=99059&d=29&m=7&y=2007> (accessed September 6, 2007); R.G. Dharmadasa, “Family Weeps for Youngster in Saudi,” *BBC Sinhala.com*, July 4, 2007, [http://www.bbc.co.uk/sinhala/news/story/2007/07/070704\\_saudifeature.shtml](http://www.bbc.co.uk/sinhala/news/story/2007/07/070704_saudifeature.shtml) (accessed September 6, 2007); Tim Butcher, “Saudis Prepare to Behead Teenage Maid,” *Telegraph* (London, UK), July 17, 2007, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/07/16/wsaudi116.xml> (accessed September 6, 2007).

<sup>390</sup> Mohammed Rasooldeen, “Rizana’s Lawyers Meet Tribal Leaders in Dawadmi,” *Daily News* (Colombo), September 25, 2007, <http://www.dailynews.lk/2007/09/25/news27.asp> (accessed October 8, 2007); Mohammed Rasooldeen, “Lanka Minister to Broach Rizana Case With Officials,” *Arab News* (Jeddah, Saudi Arabia), October 7, 2007, <http://www.arabnews.com/?page=1&section=0&article=102142&d=7&m=10&y=2007> (accessed October 8, 2007).

nationals are detained, at other times consular officers delay or fail to provide needed assistance, as in Rizana Nafeek's case.

The Migrant Workers Convention provides that, "Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired."<sup>391</sup>

Sri Lanka's ability to comply with the Migrant Workers Convention's provisions concerning consular services depends heavily on the cooperation of the countries of employment. Cooperation between the Sri Lankan foreign missions and the countries of employment is necessary to rescue domestic workers in distress, systematically record complaints of abuse, launch and carry out investigations of abuse of migrant domestic workers, and ensure detained migrant workers' legal rights are protected.

### *Inadequate Complaint Mechanisms and Victim Services upon Return to Sri Lanka*

The Sri Lankan government has instituted complaint mechanisms and victim services to help returning migrant workers obtain redress when their rights have been violated. The government provides assistance to some returning workers through its Workers Welfare Fund insurance scheme, launched in October 1994 to provide insurance for death, disability, repatriation expenses, and health care in specified conditions to migrant workers registered with the SLBFE.<sup>392</sup> However, in practice these measures have been far from adequate.

A primary area for reform is the services and information provided at the SLBFE counter located in the arrivals area of the international airport in Sri Lanka to assist returning migrant workers, and at the SLBFE's Sahana Piyasa ("Place of Relief") shelter located near the international airport to provide services to returning migrant

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<sup>391</sup> Migrant Workers Convention, art. 12(2).

<sup>392</sup> Human Rights Commission of Sri Lanka, *Report of the Committee on the Rights of Women Migrant Workers*, pp. 18, 38, 78-79; International Organization for Migration, *Labour Migration in Asia*, p. 182.

workers. While these programs are an important step in providing assistance to abused domestic workers, they represent lost opportunities to provide domestic workers with information about complaint mechanisms and services available to them, and to initiate efforts to obtain redress for domestic workers. None of the women Human Rights Watch interviewed had received information at the SLBFE airport desk or shelter regarding the existing institutions and programs that provide counseling, medical services, or legal assistance for domestic workers wishing to pursue legal action against labor agents or employers. Most women reported that SLBFE officials provided little, if any, information about complaint mechanisms available to them, and many complained that SLBFE officials did not adequately record their grievances.

For example, a domestic worker who was raped and impregnated by her employer's son in Saudi Arabia told Human Rights Watch she received little assistance at the SLBFE airport counter:

After arriving at the Katunayake [Bandaranaike International] airport in Sri Lanka, I told the Bureau of Foreign Employment ladies at the counter [about what had happened to me, and that I was pregnant]... At the Bureau of Foreign Employment desk at Katunayake airport, they did not write anything about my case. They did not give me any information except that they gave me a telephone number and told me that if you really want to hide and live, then call this number, but you'll have to pay. I called but did not know the place or the charge.... The Bureau of Foreign Employment, they did not tell me where else to go, did not give five cents to me, did not bother to follow my case... I did not contact them again, because it is hopeless.<sup>393</sup>

A domestic worker who suffered physical abuse and was not paid for all 10 months of work in Saudi Arabia similarly reported that SLBFE staff at the airport counter did not provide any information about pursuing a complaint. She said, "I made the complaint at the airport. They [at the SLBFE desk at the airport] got only my address

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<sup>393</sup> Human Rights Watch interview with Jayanadani A., Kandy, Sri Lanka, November 10, 2006.

and my flight number. They did not write any information about the salary matter, or the details of my employer or of the agency. They did not tell me anything or ask me [for] more information, they just said go in the bus to a different place, they will pay your bus fare to your house.”<sup>394</sup>

At the Sahana Piyasa shelter, SLBFE staff people provide tea, a meal, and transportation assistance to most migrant domestic workers who return in distress. They do not provide detailed information about pursuing complaints or services available to victims of abuse. Officials record some information about women’s experiences abroad, but these interviews are very brief. In cases of severe medical need, SLBFE officials arrange for ambulance transfer to a hospital for treatment. An official at the Sahana Piyasa shelter explained the limited services they offer: “We pay for passage to go straightaway home, 200-625 rupees [US\$1.78-5.55]. Other people come here—we give them transport here, give them refreshment, bath, meals, tea. If they need rest, we can accommodate 40 people at once. People who can go home, we give them money to go home. We send them to the central bus stand in Colombo or Negombo. We have a bus and a van to provide transport. We will inform parents to pick them up here.”<sup>395</sup> In a single month, September 2006, the shelter provided welfare services to 454 women (759 migrants total) returning from abroad, and provided bus fare to 323 women (628 total).<sup>396</sup>

Just before leaving the SLBFE shelter for her home, an 18-year-old who was subjected to physical abuse and sexual harassment in Saudi Arabia told Human Rights Watch, “I just arrived [at the shelter] and I haven’t gotten anything other than lunch. They haven’t told me anything yet. No one here made promises about [giving me or getting me] money. I would want to make a complaint.”<sup>397</sup> Another domestic worker who suffered sexual harassment, unpaid wages, and forced labor in her place of employment in Saudi Arabia, and was raped after she escaped from her employers said SLBFE shelter staff did not provide her with information about pursuing a case against her employers. She said,

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<sup>394</sup> Human Rights Watch interview with Sepalika S., Katunayake, Sri Lanka, November 9, 2006.

<sup>395</sup> Human Rights Watch interview with SLBFE official, Katunayake, Sri Lanka, November 1, 2006.

<sup>396</sup> Ibid.

<sup>397</sup> Human Rights Watch interview with Padma S., Katunayake, Sri Lanka, November 1, 2006.

The flight landed... [Officials at the shelter] asked about my problems in Saudi Arabia, and I told them. They wrote down [what I said] but they told me that if I had faced any problems I should have gone to the embassy... I had only 10 minutes to talk to them, because their office closes at 5 p.m. and they have to talk to others as well. I wanted to tell [my whole story], but the time was restricted for me, therefore I did not tell them about that incident [of rape]. They didn't tell me I could spend the night and talk in the morning... They did not tell me how to do a complaint about the other problems... I wanted to make a complaint because I did not feel shy about exposing. I am affected and I don't want other Sri Lankan women to be affected."<sup>398</sup>

In most cases, women workers Human Rights Watch interviewed did not pursue complaints because the SLBFE had provided them with no information about how to do so. In the few cases in which women pursued complaints with the SLBFE conciliation division, they encountered obstacles to obtaining any redress, including unsupportive SLBFE officials and lengthy travel time and high costs to travel to SLBFE offices. In Kumari Indunil's case, the SLBFE did not recover any of the eight months' unpaid wages owed to her. She filed complaints at the Sri Lankan foreign mission in Kuwait and at the SLBFE in Sri Lanka. She said, "Once I got a call from the Bureau of Foreign Employment asking for my insurance number. They called me to come to a meeting to share my experience... They did not ask me to bring any documents and did not promise me any financial support... They did not give me an opportunity to talk at the meeting, because lots of people come to the meeting and the ministers select who can talk... I asked for an opportunity to talk."<sup>399</sup>

In another case, Nalinika M. found that the complaint procedure was extremely burdensome and entailed high travel costs:

I went to Colombo for meetings with the SLBFE six times. They asked me to be there at 12 p.m. Because it is a long journey I had to leave the

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<sup>398</sup> Human Rights Watch interview with Chemmani R., Habaraduwa, Sri Lanka, November 14, 2006.

<sup>399</sup> Human Rights Watch interview with Kumari Indunil (real name used upon request), Rambukkana, Sri Lanka, November 6, 2006.



night before to be there by noon. I had to leave at 6 p.m. for Galgamuwa, I reached there at 7:30 or 8 p.m., and had to spend [part of] the night there. Then I took the train to Colombo at midnight, and arrived 5:30 a.m. to the railway station in Colombo. For one trip I had to pay 1,000 rupees [US\$9] at least, because I can't go [to Colombo] all alone. I told the officer at the SLBFE about my expenses. They did not give me a single cent. Sometimes the agent did not turn up, so I would wait and the SLBFE would tell me to go home. Only three times the agent turned up, the rest I had to come home empty-handed. The times the agent turned up, the agent was late. By the time they came to the office it was 2:30, 3 p.m., and because it was so late I had to stay in Colombo a second night, paying from my own pocket.<sup>400</sup>

Nalinika M. further explained, "I think the officers at the Bureau, they are not helping me wholeheartedly. I travel a long way to Colombo, but they do not push the agent to come to the meetings. Whatever the agent says, the officer at the Bureau just says yes. [The SLBFE] are not putting pressure on the agent or the boss to come to the meetings. They have the authority to put pressure on the boss."<sup>401</sup>

In 2005, the SLBFE Conciliation Division received 6,994 complaints from returning domestic workers. Only 5,027,285 rupees [US\$44,647] was paid in compensation to the 8,823 female and male migrant workers who lodged official complaints, averaging only US\$5 per migrant worker in compensation.<sup>402</sup> The director of the Legal Aid Commission, which provides legal aid to 100 domestic workers each year, said that the SLBFE frequently fails to act on complaints the Legal Aid Commission files. He said, "Whenever the complaints come we write to the Foreign Ministry...but their attitude is based on the numbers and income for the state, not the human rights... We get a reply: 'We have considered the matter, we have written a letter to the foreign office.' It's not much of a help."<sup>403</sup> He continued, "Mostly it is no use; we

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<sup>400</sup> Human Rights Watch interview with Nalinika M., Giribawa, Sri Lanka, November 7, 2006.

<sup>401</sup> Ibid.

<sup>402</sup> Sri Lanka Bureau of Foreign Employment, *Annual Statistical Report of Foreign Employment 2005*, pp. 63-64.

<sup>403</sup> Human Rights Watch interview with S.S. Wijeratne, Legal Aid Commission, Colombo, Sri Lanka, November 17, 2006.

satisfy the migrant worker by counseling...50 percent of cases end with a letter to the Bureau.”<sup>404</sup>

The SLBFE provides no counseling services at its shelter located near the international airport. Services at the SLBFE Sahana Piyasa airport shelter are limited to contacting the migrant worker’s relatives and sending her home. Human Rights Watch observed SLBFE shelter staff shuttling numerous women showing obvious signs of distress away to their families after perfunctory intake interviews without providing trauma counseling services or referrals for these services. An official at the Sahana Piyasa shelter reported the shelter receives “less than 10 serious cases per month, sometimes three to four” women who have suffered extreme abuse, cases that surely warrant counseling or referral services.<sup>405</sup> In another case, SLBFE shelter staff did not provide a sick and abused domestic worker with any information about medical services. She said, “I came to the airport today early in the morning, around 3 a.m. When I arrived at the airport I said I cannot move alone because I have a bag and am not feeling healthy, so some people arranged a van and brought me here [to the SLBFE shelter].... I am scared and want to go see the doctor. And in the morning blood comes out... These people here are not telling me anything about the doctor.”<sup>406</sup>

## **Response of the Countries of Employment: Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates**

### *Exclusion from Labor Laws*

*There is no limit of working hours for domestic workers; there are no such conditions for housemaids and houseboys. For others, eight hour limit, plus overtime, and days off on Fridays.*<sup>407</sup>

—President of Sri Lanka’s Association of Licensed Foreign Employment Agencies (ALFEA)

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<sup>404</sup> Ibid.

<sup>405</sup> Human Rights Watch interview with SLBFE official, Katunayake, Sri Lanka, November 17, 2006.

<sup>406</sup> Human Rights Watch interview with Punya K., Katunayake, Sri Lanka, November 1, 2006.

<sup>407</sup> Human Rights Watch interview with Al-Haj U.T.M. Anver, ALFEA, Colombo, Sri Lanka, October 31, 2006.

The labor laws of Saudi Arabia,<sup>408</sup> Kuwait,<sup>409</sup> Lebanon,<sup>410</sup> and the UAE<sup>411</sup> categorically exclude domestic workers from legal protections, including provisions on payment of wages, hours of work, paid holidays, and workers' compensation. Depriving domestic workers of basic labor protections encourages the mistreatment of workers by giving improper labor practices the imprimatur of the state.

The UAE labor law explicitly excludes domestic workers from protection under the Labor Law No. 8 of 1980.<sup>412</sup> While the UAE is currently considering revisions to the 1980 labor law, the draft law opened for public review and comment in February 2007 explicitly excludes from protection all domestic workers employed in private households. The UAE introduced a standard contract for domestic workers which went into effect on April 1, 2007, and provides for some protections of domestic workers, but it contains no limit on working hours, no provisions for a rest day or overtime pay, no workers' compensation, and only provides for unspecified "adequate breaks" and one month of paid vacation every two years.<sup>413</sup> The standard contract does not serve as an adequate substitute for extending equal protection to domestic workers under the labor law, which contains much stronger protections, including an eight-hour limit on working days, and guarantees a weekly rest day, daily one-hour rest periods, overtime pay, one month of annual paid leave, and workers' compensation for occupational injuries.<sup>414</sup>

After a decade-long process to create a revised labor code, the Kuwaiti government thus far has failed to include domestic workers in its draft labor law, which categorically excludes domestic workers from its protection.<sup>415</sup> On October 1, 2006, Kuwait's Ministry of Interior put into effect a standardized domestic labor contract that specifies a minimum wage and forbids passing fees on to workers, and that

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<sup>408</sup> Labor Law, Royal Decree No. M/51, 23 Sha'ban 1426 (September 27, 2005), art. 7(2).

<sup>409</sup> Act No. 38 of 1964 Concerning Labour in the Private Sector, art. 2(e).

<sup>410</sup> Labour Code, Act of 23 September 1946, as amended up to 24 July 1996, art. 7(1).

<sup>411</sup> Federal Law No. 8 for 1980, On Regulation of Labor Relations, art. 3(c).

<sup>412</sup> Ibid.

<sup>413</sup> Employment Agreement for Domestic Workers and Sponsors (UAE), put into effect April 1, 2007, arts. 2-3.

<sup>414</sup> Federal Law No. 8 for 1980, On Regulation of Labor Relations, arts. 65-67, 70, 74-75, 144-146.

<sup>415</sup> International Confederation of Free Trade Unions, *Annual Survey of Violations of Trade Union Rights 2006* (Brussels: ICFTU, 2006), <http://www.icftu.org/www/pdf/surveyo6/Surveyo6-EN.pdf> (accessed September 6, 2007), pp. 364-365.

must be signed by the worker, the Kuwaiti recruitment agency, and the employer. Although the implementation of the standard contract is an important step, the protections it affords migrant domestic workers fall short of those provided to other workers under the labor law. As in the UAE, the government of Kuwait's standard contract for domestic workers is not an adequate substitute for extending the protection of the country's labor laws to include domestic workers.

The provision of separate and weaker protections for domestic workers has an impermissible discriminatory impact on women workers. The exclusion of domestic workers from standard labor law protections constitutes unjustifiable disparate impact discrimination on the basis of sex, as prohibited under non-discrimination principles enshrined in international law. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR),<sup>416</sup> and the Migrant Workers Convention prohibit discrimination on the basis of such distinctions as sex, language, national or social origin, or other status. Lesser protections for domestic workers that may appear neutral on their face have disparate impact on migrant women, who make up the vast majority of domestic workers.

The exclusion of migrant domestic workers from the labor laws of Saudi Arabia, Kuwait, Lebanon, and the UAE constitutes double discrimination, on the basis of their status as non-citizens as well as their sex. The ILO has noted that “women migrant workers suffer from double discrimination in employment: first because they are foreigners and hence subject to the same discrimination as male migrant workers; and second because they are women and as such often victims of entrenched traditional attitudes in their country of origin or of employment.”<sup>417</sup> In

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<sup>416</sup> The ICCPR establishes that states “shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” The UN Human Rights Committee, charged with interpreting the ICCPR, has interpreted the Covenant's sex discrimination prohibition by referencing CEDAW's language. In its General Comment on Non-discrimination, the UN Human Rights Committee used the definition of discrimination set out in CEDAW to interpret the ICCPR non-discrimination provision, so that the term discrimination is “understood to imply any distinction, exclusion, restriction or preference...based on any ground...and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.” UN Human Rights Committee, General Comment 18, Non-discrimination (Thirty-seventh session, 1989), *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 (2003), p. 146, paras. 6-7.

<sup>417</sup> International Labour Organization, *Migrant Workers*, 87 International Labor Conference 10, (1999), para. 367. See also *Review of Reports, Studies and Other Documentation for the Preparatory Committee and the World Conference: Note by the*

general, non-citizens are entitled to freedom from discrimination on the basis of their status as aliens. With a few exceptions that do not apply to labor protections, the non-discrimination guarantees of the ICCPR prohibit discrimination on the basis of nationality.<sup>418</sup> The UN Human Rights Committee, charged with interpreting the ICCPR, has explained, “The general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens. Aliens receive the benefit of the general requirement of non-discrimination in respect of the rights guaranteed in the Covenant.”<sup>419</sup>

International law also guarantees equality before the law and equal protection under the law.<sup>420</sup> Under the ICCPR, all people subject to a state’s jurisdiction are entitled to equal protection under the law.<sup>421</sup> These protections include non-citizens and women. Therefore, protective legislation on working conditions or wages, such as labor laws, must be applied equally to non-citizens and women.<sup>422</sup>

### *Immigration Regulations*

The *kafala*, or sponsorship, systems in Saudi Arabia, Kuwait, Lebanon, and the UAE limit migrant domestic workers’ ability to transfer from one employer to another, such that their occupational mobility is highly restricted. These “sponsorship laws” tie migrant workers’ visas to a specific employer, or “sponsor,” rendering workers at high risk of ongoing abuse and exploitation. These immigration regulations severely circumscribe migrant domestic workers’ options when they face abuse.

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*Secretary-General*, U.N. GAOR, Preparatory Comm., 2d Sess., Agenda Item 6, ¶ 24, U.N. Doc. A/CONF.189/PC.2/23 (2001), para. 22.

<sup>418</sup> The ICCPR reserves a few specific rights for citizens. Article 25 of the ICCPR expressly reserves for citizens the right to participate in public affairs, to vote and hold office, and to have access on general terms of equality to public services. ICCPR, art. 25. ICCPR, art. 12. In its General Comment 15, the UN Human Rights Committee stated that the ICCPR obligations apply to any foreign national in the territory of a state party, except those rights in article 25 recognized in the ICCPR, which are expressly applicable only to citizens. UN Human Rights Committee, General Comment 15, *The Position of Aliens under the Covenant* (Twenty-seventh session, 1986), *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 (2003), p. 140, para. 2.

<sup>419</sup> UN Human Rights Committee, General Comment 15, *The Position of Aliens under the Covenant*, para. 2.

<sup>420</sup> UDHR, art. 7; ICCPR, art. 26.

<sup>421</sup> “The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground...” ICCPR, art. 26.

<sup>422</sup> “[T]he Committee observes that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant.” UN Human Rights Committee, General Comment 18, *Non-discrimination*, para. 13.

Under the sponsorship laws of Saudi Arabia, Kuwait, Lebanon, and the UAE, migrant workers require a local sponsor in order to obtain a visa to work in these countries, and sponsors have authority over migrant domestic workers' legal identity cards. Because sponsors control the renewal of worker's visas, employers can terminate migrant domestic workers' contracts by allowing the work visas to expire. Employers also have control over whether migrant domestic workers can leave their employment. The initial sponsor must provide a transfer paper releasing the migrant domestic worker in order for her to change employment, leaving domestic workers at risk of arbitrary denial of their request to transfer employment, even in cases of abuse. Because migrant domestic workers' visas are tied to a specific employer, if a domestic worker flees an abusive employer, she loses her legal immigration status and faces the risk of detention or deportation.

In Saudi Arabia, sponsors even have control over whether and when migrant domestic workers can leave the country. The government of Saudi Arabia requires domestic workers to obtain an exit visa, which is controlled by the sponsor. A labor agent with over 30 years of experience recruiting Sri Lankan domestic workers for work in the Middle East explained that after the first three months of employment, domestic workers who wish to leave their contract early require an exit visa and a court order to do so: "In Saudi Arabia, the maid goes to the embassy and the embassy takes her to court and the judge has to decide whether to release her from the contract. The employer signs and then the Ministry of Foreign Affairs stamps the contract, this is called 'legalization.'"<sup>423</sup> The Ministry of Social Affairs also runs special shelters for domestic workers where they process exit visas for domestic workers who are unable to secure their employers' consent. Migrant workers cannot obtain an exit visa to leave the country of employment without the approval of their sponsor. By so empowering sponsors, the Saudi government is violating the domestic workers' right to freedom of movement. Arbitrary denials of exit visas can also place domestic workers in situations that amount to forced labor.

The UAE has recently been reviewing many of its labor regulations and introducing positive reforms. Despite recent changes in the UAE's transfer laws, limitations on migrant domestic workers' ability to transfer employment to a new sponsor expose

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<sup>423</sup> Human Rights Watch interview with retired labor agent, name withheld, Colombo, Sri Lanka, November 18, 2006.

migrant domestic workers to abuse. In the UAE, a February 2006 reform of the country's transfer laws withdrew a one-year work ban on migrant domestic workers who wished to transfer sponsors. Under the previous system, migrant domestic workers could not change sponsors, as leaving their sponsor's employment resulted in cancellation of their visas, and those wishing to change employers were banned by law from working in the UAE for one year. However, even under the revised transfer laws, domestic workers can change sponsors only if they obtain a "no objection certificate" from the original employer or have completed their work contract, and domestic workers must pay visa transfer fees that range from 1,500 dirhams [US\$408] in Dubai and 500 dirhams [US\$136] in the other emirates.<sup>424</sup> According to Sharla Musabih, a director of the UAE's only shelter for domestic workers abused by their employers, "[M]any previous sponsors punish their employees by not issuing a no objection certificate, forcing them to exit the country. Others put a ban on [workers] from several months to one year, which prevents them from entering the country or finding work during this period."<sup>425</sup> Although the law does provide an exception for workers who can prove they have not received their salary for two months or have a labor case in the courts—allowing them to request a sponsorship transfer without approval of the original sponsor—in practice it is difficult to prove non-payment of wages and few domestic workers' cases are pursued in the courts.

In Kuwait, the Ministry of Interior's standardized domestic labor contract, put into effect on October 1, 2006, changed the sponsorship regulations for migrant domestic workers and instituted a total ban on transfer of sponsorship, which is likely to have a disastrous effect on domestic workers wishing to flee abusive work conditions.<sup>426</sup> Under the standardized domestic labor contract, domestic workers are no longer allowed to transfer residence to another employer or find other jobs while in Kuwait, but instead are to be immediately deported if they leave their employer or

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<sup>424</sup> Bassma Al Jandaly, "Decision on Maids will Benefit all Parties, Say Officials," *Gulf News* (Dubai, UAE), August 22, 2006, [http://archive.gulfnews.com/indepth/labour/visas\\_and\\_the\\_law/10061828.html](http://archive.gulfnews.com/indepth/labour/visas_and_the_law/10061828.html) (accessed September 6, 2007).

<sup>425</sup> Email communication from Sharla Musabih, City of Hope/Dubai Foundation for Women and Children, to Human Rights Watch, September 29, 2007.

<sup>426</sup> The standardized contract cancels and replaces a previous directive that allowed domestic workers to transfer to a different visa sponsor only once every two years, with the consent of the former sponsor, in the form of a signature on a letter of release.

if their employer terminates them.<sup>427</sup> Hashem Majed, General Manager of the Kuwait Union of Domestic Labor Offices (KUDLO), an association of labor recruitment agencies, has criticized the provision.<sup>428</sup> Although the government of Kuwait announced in 2005 that it intended to reform the sponsorship law, a revised sponsorship law had not come into effect as of this writing.<sup>429</sup> The Social Affairs and Labor Ministry has reported that three studies are underway to examine possible reforms to the sponsor system, to be considered by Kuwaiti ministers, but it is unclear whether these reforms would supersede the standardized contract's transfer provisions.<sup>430</sup>

### *Obstacles to Investigation and Prosecution of Reported Abuses*

Human Rights Watch documented several cases in which authorities in Saudi Arabia, Kuwait, Lebanon, and the UAE failed to investigate and prosecute abuses reported by Sri Lankan domestic workers, despite the existence of directly applicable criminal laws. Domestic workers who experience abuse encounter numerous obstacles to the investigation and prosecution of abuses. Domestic workers face the threat of countercharge for theft if they lodge a complaint against an abusive employer. In many cases, domestic workers do not know their employers' full names or addresses, making it difficult for the authorities to locate employers against whom complaints have been lodged. One worker said, "The embassy staff asked for Baba's phone number, they are trying to call the police and catch him.... They told me, we have no telephone number, no address, what can we do? I don't know the employer's telephone number."<sup>431</sup> Employers and labor agents sometimes fail to register changes of address, and the Sri Lankan embassy loses track of workers when employers do not register a change of employer or address, similarly making it difficult to locate abusive employers.

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<sup>427</sup> Ahmad Zakaria, "Domestics Transfer Ban Effective October 1," *Daily Star Kuwait Edition*, August 26-27, 2006.

<sup>428</sup> *Ibid.*

<sup>429</sup> International Confederation of Free Trade Unions, *Annual Survey of Violations of Trade Union Rights 2006*, p. 364.

<sup>430</sup> "Sponsor System Alternatives," *Kuwait Times*, May 18, 2007, [http://www.kuwaittimes.net/read\\_news.php?newsid=MTUoNDYxMzYwMg==](http://www.kuwaittimes.net/read_news.php?newsid=MTUoNDYxMzYwMg==) (accessed September 6, 2007).

<sup>431</sup> Human Rights Watch interview with Ponnamma S., Riyadh, Saudi Arabia, December 14, 2006.



Several migrant domestic workers Human Rights Watch interviewed reported that when they sought assistance from the authorities in their country of employment, these authorities returned them to the very employers from whom they had escaped. Ponnamma S. tried to run away from her employer in Saudi Arabia and told Human Rights Watch that police returned her to her employer against her wishes:

Once I escaped, I went to the police. I told them to take me to the embassy. This happened on the 22<sup>nd</sup> of last month [November 2006]. They took me back to the employer and the employer went wild. They kept me at the police station for awhile. Then a senior officer came. I complained about the marks [bruises]. I complained that Baba had beaten me up. Baba claimed that he was not there at the time. Then they asked if Baba paid me. I said, for one and a half years I have not been paid. I refused to go back to Baba. I insisted to go to the embassy house. The police told me, “We will drop you to the embassy, not to Baba’s house.”

The police told Baba to drop me at the embassy, but he took me back to the house. I asked Baba, why are you taking me to the house, he said I don’t have the cash to send you home. I said, if you have no cash, why did you employ me? The lady beat me really badly. She told me, “Anywhere you go in Saudi Arabia, they’ll return you back here. Even if we kill you, the police won’t say anything to us. If you hadn’t run, we would have killed you and thrown you in the trash.”  
My body aches. I couldn’t bear the pain.<sup>432</sup>

She later ran away a second time, and went to the Sri Lankan embassy instead of the police because a Sri Lankan warned her that the police would return her to her employer again.

In some cases, domestic workers do not receive assistance when they seek help from police. These authorities sometimes return the domestic worker to her employer

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<sup>432</sup> Ibid.

against her wishes, or fail to investigate the reported abuse. Selvakumari W., a 26-year-old domestic worker, told us that after nine months of enduring sexual harassment by her employer and employer's son, she ran away and sought assistance from the police in Saudi Arabia. She told us the police returned her to the custody of her employer:

I gave a statement to the police. I complained to the police, my employer does not have a good character.... The police officer threatened me, "How did you come to me?" with a big baton in his hands. I said, "I came alone with no help." The policeman wrote my complaint and gave me again to Baba. The police explained that they will transfer me to another house. But they gave me back to Baba.<sup>433</sup>

Domestic workers also confront other obstacles to prosecution. When they seek assistance from authorities in Saudi Arabia, Kuwait, Lebanon, and the UAE, or in the Sri Lankan foreign missions, they often do not receive information on how and where to present a complaint. Domestic workers also have to stay in the country, not working, while a criminal case is pursued. They face the threat of counterclaims by employers falsely accusing them of theft or adultery, and they face the threat of prosecution for adultery or fornication if they have been raped. The International Confederation of Free Trade Unions (ICFTU) reports that although theoretically domestic workers can turn to the courts in the UAE, "more often than not, legal fees and the fear of reprisals or even expulsion deter them from taking any official action."<sup>434</sup> Another factor that hinders prosecutions is lack of evidence, because abuse cases take place in the private sphere and police lack training on identifying potential abuse cases and collecting relevant evidence.

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<sup>433</sup> Human Rights Watch interview with Selvakumari W., Katunayake, Sri Lanka, November 9, 2006.

<sup>434</sup> International Confederation of Free Trade Unions, *Annual Survey of Violations of Trade Union Rights 2006*, p. 374.

## **VI. Conclusion and Recommendations**

The government of Sri Lanka has taken important steps to improve the protection of Sri Lankan migrant domestic workers' rights, but as this report demonstrates, those steps have been inadequate and require improved implementation and expansion to ensure the programs fulfill their stated goals. The Sri Lankan government can do more to ensure that domestic workers are not exposed to abuse when they migrate for work.

There is an urgent need for meaningful and prompt reform and enforcement of the labor laws in Saudi Arabia, Kuwait, Lebanon, and the UAE to extend equal protection of the labor laws to domestic workers, including rights to a just wage, overtime pay, weekly rest days, benefits, and workers' compensation. The governments of Saudi Arabia, Kuwait, Lebanon, and the UAE also must enforce legal protections enshrined in existing domestic criminal laws, standardized contracts for domestic workers, and international human rights treaties to which each country is a party.

Human Rights Watch makes the following recommendations:

### **To the Government of Sri Lanka**

- **Strengthen the regulation and monitoring of recruitment agents and subagents.**
  - Require labor agents to register their subagents; hold agents responsible for the actions of retained subagents.
  - Directly regulate subagents through measures that, among other things: require subagents to register with the government or with the labor agents retaining them; set forth clearly defined standards for fees and recruitment practices to reduce overcharging and deception by subagents; and ensure that subagents who violate the regulations face meaningful penalties.
  - Establish mechanisms for regular and independent monitoring of labor agencies and retained subagents. Conduct unannounced inspections of recruitment agencies.

- Ensure that labor agents fully translate migrant domestic workers' job contracts into Tamil as well as Sinhala.
  - Establish a monitoring system by which domestic workers report to the SLBFE the costs they paid to recruitment agents and subagents prior to migrating.
  - Rigorously collect and investigate complaints about Sri Lankan nationals working at labor agencies in the countries of employment. Create procedures that allow domestic workers to register this information at foreign missions in the countries of employment and upon return to Sri Lanka.
- **Improve services for migrant domestic workers at Sri Lankan embassies and consular offices in Saudi Arabia, Kuwait, Lebanon, and the UAE.**
    - Provide adequate staffing to assist migrant domestic workers seeking assistance, especially in the areas of collection of wages, investigation and prosecution of alleged abuses, and rights while in detention.
    - Improve conditions in shelters and safe houses by training staff, providing trauma counseling and health care, and alleviating overcrowding.
    - Provide helpdesks and hotlines for workers in Sri Lankan missions in countries of employment; provide referrals for health care, counseling, shelter, and legal aid in Saudi Arabia, Kuwait, Lebanon, and the UAE.
    - Train staff in Sri Lankan foreign missions in Saudi Arabia, Kuwait, Lebanon, and the UAE regarding options for redress for migrant domestic workers who have experienced abuse, including procedures for filing a criminal complaint or recovering unpaid wages and legal service providers that provide services to migrant workers.
    - Develop a system for picking up domestic workers who are in distress and unable or unwilling to run away. Secure cooperation of local law enforcement as necessary.
    - Develop a system for periodically checking on the welfare of domestic workers who have previously contacted the Sri Lankan foreign mission for assistance.

- **Cooperate with the governments of Saudi Arabia, Kuwait, Lebanon, and the UAE to create mutually recognized and enforceable employment contracts and mechanisms to ensure redress for workers with complaints.**
  
- **Enhance the existing pre-departure training program for domestic workers by:**
  - Increasing the rights-awareness and foreign language components of training.
  - Providing more detailed information about redress mechanisms such as how to pursue cases against employers and labor agents in the countries of employment, as well as after return to Sri Lanka.
  - Providing information about legal limits on recruitment fees and mechanisms for lodging complaints against recruitment agents and subagents who violate the law.
  - Ensuring departing domestic workers receive an information kit containing the name, address, and telephone number of their employer; the address and telephone number of the Sri Lankan embassy; the name, address, and telephone number of their labor agency based in the country of employment; a telephone card with pre-programmed numbers of the Sri Lankan embassy and any help centers or shelters; a certain amount of money in local currency; a copy of their passport; and a copy of their employment contract.
  
- **Improve services for returning migrant domestic workers, including by widely disseminating information about complaint mechanisms and providing counseling for migrant domestic workers returning in distress.**
  - Better publicize complaint and redress mechanisms for abuses available to migrant domestic workers after return to Sri Lanka. Provide detailed information about complaint and redress mechanisms to returning migrant domestic workers at the international airport and at the SLBFE Sahana Piyasa shelter.
  - At the international airport and at the SLBFE Sahana Piyasa shelter, record complaints of returning workers in a more consistent and rigorous manner. Canvass returning workers for information about abusive employers and labor agencies, and as privacy considerations

- permit, make information publicly available, especially to Sri Lankan civil society groups working on domestic workers' rights. Maintain blacklists of proven abusive employers and recruitment agencies.
- Provide trauma counseling services to returning migrant domestic workers at the SLBFE Sahana Piyasa shelter.
  - Distribute information to returning domestic workers outlining the existing institutions and programs that provide counseling and medical care services, legal assistance for domestic workers wishing to pursue cases against labor agents or employers, and post-return economic and reintegration assistance to domestic workers.
- **Ensure any medical testing of prospective migrant women or administration of contraceptive medication is voluntary and performed with informed consent. Ensure that prospective migrant domestic workers receive their test results and that confidentiality of medical information is respected.**
  - **Expand public awareness-raising programs for prospective migrant domestic workers to disseminate information on the obligations of labor agents and mechanisms for lodging complaints against recruitment agents and subagents.**
    - Target villages and local places of employment (e.g. garment factories, tea estates) of prospective migrant domestic workers to inform them about legal limits on recruitment fees, work contract regulations for each country of employment, availability of low-interest loans, and mechanisms for lodging complaints against recruitment agents and subagents who violate the law.
    - Collaborate with migrants' rights groups to make this information available to prospective migrant domestic workers before they have made the decision to migrate and have retained a labor agency.
  - **Expand state bank and financial institution lending for migrant women to provide an alternative to private moneylenders who provide loans at exorbitant interest rates.**

- Ensure these programs feature lower interest rates and extended repayment periods.
  - Limit co-guarantor and collateral requirements for migrant women workers.
  - Better publicize existing and new credit programs.
  - Increase public awareness of the Ministry of Trade's Sri Lanka Export Credit Insurance Corporation (SLECIC) Bank Guarantee Scheme.
- **Better publicize and expand the SLBFE's Workers Welfare Fund insurance scheme for domestic workers.**
    - Make coverage more comprehensive by expanding it beyond occupational accident, disability, and death to include harms resulting from physical and sexual abuse and to cover return airfare.
    - Provide clearer information to migrant workers about the benefits offered under the insurance scheme. Distribute this information to prospective migrant domestic workers at recruitment agencies and training centers, and to departing and arriving domestic workers at the international airport and the SLBFE Sahana Piyasa shelter.
    - Extend the period of validity for migrant workers' insurance from six months to cover the entire period of the work contract, to ensure that the insurance scheme covers reimbursement of the cost of air ticket in the event of abuse.
- **Actively solicit the input of migrants' rights groups in crafting and implementing policies.**
    - Include migrants and migrants' rights advocates in the SLBFE board of directors.
    - Consult with migrants and migrants' rights groups and stakeholders to create social-service programs to identify and address the needs of migrant workers' families, and to develop projects that provide support to families of migrant workers.

- **Eliminate the 10,000-rupee reissuing/replacement fee for confiscated passports.**
  - The Department of Immigration and Emigration should eliminate this fee for migrant domestic workers who lose their passports while abroad through no fault of their own (e.g. in cases of confiscation by the employer).

## **To the Governments of Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates**

- **Cooperate with the government of Sri Lanka to:**
  - Promptly notify Sri Lankan embassies of detention of Sri Lankan nationals.
  - Create mutually recognized and enforceable work contracts.
  - Create accessible complaint mechanisms and avenues for redress in cases of unpaid wages, other labor abuses, and criminal complaints.
  - Craft agreements with Sri Lankan foreign missions for swift repatriation of migrant domestic workers in cases where repatriation is unavoidable, or if the worker wishes to return to Sri Lanka, to minimize time spent in detention pending return or deportation.
  - Create mechanisms to rescue abused domestic workers and investigate abuse of migrant domestic workers. Provide Sri Lankan foreign missions with the authority to conduct joint workplace spot-checks with local authorities, and to go to employers' homes to pick up Sri Lankan domestic workers in distress.
  
- **Provide equal and comprehensive legal protection to migrant domestic workers.**
  - Revise labor laws to provide legal protection for domestic workers equal to that afforded to other workers, including provisions governing hours of work, payment of wages, salary deductions, rest days, paid holidays, and workers' compensation.
  - Transfer responsibility for migrant domestic workers' welfare from the Ministry of Interior to the Ministry of Labor in Saudi Arabia, Kuwait, and the UAE.



- Cease pregnancy testing of migrant domestic workers as a condition of entry to the country and authorization to work, and repeal immigration laws that discriminate on the basis of reproductive status.
- **Reform sponsorship laws that require the consent of the employer to change sponsors or exit the country of employment.**
  - Facilitate transfer of sponsorship, for example, by making temporary employment-based visas nonspecific about employer, so that workers can change employers without losing legal status in the country of employment.
  - Facilitate swift repatriation of migrant domestic workers in cases where repatriation is unavoidable, or if the worker wishes to return to Sri Lanka, by eliminating exit visas that require the consent of the sponsor.
- **Rigorously prosecute employers and employment agents whose treatment of domestic workers violates existing national laws.**
  - Investigate, prosecute, and punish perpetrators of physical and sexual violence against domestic workers.
  - Investigate, prosecute, and punish perpetrators of forced labor and other labor rights abuses that violate existing national laws.
- **Enhance domestic workers' access to the justice system.**
  - Provide training for police to identify and investigate abuse against domestic workers and protocols on how to respond to such situations and offer appropriate referrals. Educate police and immigration authorities about the importance of not returning domestic workers to abusive employers against workers' wishes, and make sure they are familiar with procedures for filing complaints against employers and labor agents.
  - Promptly notify detained Sri Lankan migrant workers of their right to contact their consular officials, and provide access to facilities to do so.

- Make visas available to domestic workers so that they can remain in the country of employment while pursuing claims against abusive employers. Do not charge workers for these visas, do not force workers to stay in detention centers or confine them to shelters for duration of their case, and allow complainants to work while pursuing their cases.
- **Create and improve mechanisms to monitor and respond to abuse of migrant domestic workers, by:**
  - Creating accessible complaint mechanisms and avenues for redress in cases of unpaid wages, other labor abuses, and criminal complaints.
  - Inspecting workplace conditions regularly. Conduct workplace visits to the homes of employers against whom complaints have been filed and privately interview migrant domestic workers during site visits.
  - Imposing meaningful penalties on employers and employment agents, both citizens and non-citizens, who violate the law. Coordinate with Sri Lankan foreign missions as necessary.
- **Eliminate policies that require mandatory HIV testing of migrant domestic workers as a condition of entry to the country and authorization to work.**
- **Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention) and key ILO conventions. Comply with treaty-body reporting requirements.**
- **Issue invitations to the UN Special Rapporteur on the Human Rights of Migrants to conduct country visits to investigate the situation of migrant domestic workers.**

### **To the International Labour Organization (ILO)**

- Issue a model employment contract for domestic workers. Translate the model contract into Arabic, Sinhala, and Tamil languages, and make it widely available to prospective migrants.
- Work with local groups to expand technical programs that provide labor rights-based education for migrant workers regarding ILO standards.

- Work with governments to provide technical assistance and specific language to strengthen labor regulations and enforcement consistent with international labor standards.

### **To the UN Special Rapporteur on the Human Rights of Migrants**

- Issue a specialized report on the conditions experienced by migrant domestic workers that includes a delineation of their rights under international law.
- Conduct a country visit to Sri Lanka, Saudi Arabia, Kuwait, Lebanon, and/or the UAE to investigate the situation of migrant domestic workers and make recommendations for reforms.

### **To International Donors, including the Japan International Cooperation Agency (JICA), Asian Development Bank (ADB), the World Bank, United States Agency for International Development (USAID), and the Swedish International Development Cooperation Agency (SIDA)**

- Provide greater financial and institutional support for local NGO and other civil society advocacy efforts and services for migrant domestic workers.
- Fund microcredit lending programs that provide more favorable interest rates for women who want to migrate, to cover migration costs.
- Fund long-term domestic employment strategies for women, such as projects to develop sustained income-earning activities within Sri Lanka, and job training, vocational skills training, and education programs for Sri Lankan women and girls.
- Fund microcredit lending programs for returned migrant women to launch and sustain self-employment micro-enterprise projects.

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