



الجمعية الكويتية لحقوق الإنسان
KUWAIT SOCIETY FOR HUMAN RIGHTS



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

THE RIGHTS OF DOMESTIC WORKERS BETWEEN LEGISLATIVE SYSTEM AND ENFORCEMENT

Through Law No. 68 of Year 2015







THE RIGHTS OF DOMESTIC WORKERS BETWEEN LEGISLATIVE SYSTEM AND ENFORCEMENT

Through Law No. 68 of Year 2015





All rights are reserved by Kuwait Society for Human Rights.

First edition 2018.

Brief extracts of the study may be used without consent, provided that their source is duly indicated. Reproduction or translation are subject to prior authorization by the Kuwait Society for Human Rights.

email: info@kuwaithr.org

This study was prepared for the Kuwait Society for Human Rights within the "Support" project funded by the Swiss Agency for Development and Cooperation.

The Swiss Agency for Development and Cooperation does not endorse the content of the study & do not hold a legal responsibility towards it

Prepared by:

Kuwait Center for Research and Studies

Saleh Hasan Al Hassan Legal Researcher

Mohammed Khaled Mohammed Legal Researcher

Reviewed by:

Mr. Khaled Al Hamidi Al Aajami

Dr. Abdul Fatah Naji

Dr. Mohammed Khaled Al Chucri

Dr. Fawzi Al Shami

Dr. Manal Bouhaimeed

Proofreading:

Omar Abdul Rahman Hajj Hassan

Designed and produced by:

Omelet Studio for Advertising and Marketing



Table of Content

Executive Summary	7
Introduction	9
Methodology	10
Chapter One	
Study One	11
Domestic workers under the sponsorship system	11
Fundamental Principles and Rights at work according to international standards	12
Legal framework for domestic workers in Kuwait	13
a) National context	13
b) Regional and international context	16
Study Two	20
Compatibility between Convention on Decent Work No. 189 and Law No. 68 of year 2015 regarding Domestic Workers in Kuwait	20
Brief overview of the Convention	20
Brief overview of the Law	20
- Protecting the Fundamental Rights of domestic workers	20
- Respecting and protecting the Fundamental Principles and Rights of domestic workers	21
- Effective protection against all forms of abuse, harassment and violence	21
- Working terms and conditions provided for by the Convention on Decent Work for Domestic Workers	21
- Protecting domestic workers against the abusive practices of recruitment agencies	23
- Settling disputes and complaints and effective access to justice	23
Chapter Two	
Study One: (Methodology Section)	25
Sample and study instrument	25
Findings of the study	25
Study one: Employers	
a. Description of the sample's characteristics	26
b. Responses of employers regarding Law No. (68/2015)	26
c. Key findings and remarks regarding the (Employers') knowledge of the Law No. (68/2015), and their compliance with it.	33



study Two: Domestic Workers	36
a. Description of the sample's characteristics.	36
b. Domestic Workers' responses to law no. (68/2015)	36
c. Key findings and remarks regarding the (Domestic Workers') knowledge of the Law No. (68/2015), and their compliance with it.	42
Study Third: Employees of Civil Society Organizations	45
a. Description of the sample's characteristics.	45
b. Responses of employees of Civil society Organizations regarding Law No. (68/2015)	45
c. Key findings regarding the knowledge of the (Employees of the Civil Society Organizations) of the Law No. (68/2015)	47
Study Fourth: Owners of Recruitment Offices	48
a. Description of the sample's characteristics.	48
b. The responses of the recruitment offices' owners to the questionnaire are listed below	48
c. Key findings regarding the (recruitment offices' owners) knowledge of the Law No. (68/2015).	53
Abstract	54
Recommendations	57





Executive summary

This study aims at examining the extent to which domestic workers, employers, recruitment offices and human rights associations that deal with domestic workers benefit from Law No. (68 of year 2015) regarding domestic workers, as well as comparing the extent of its effectiveness, implementation and impact prior to promulgating the law, and more than three years after its issuance. The domestic workers in Kuwait account for (27%) of the total number of the migrant workers engaged in the private sector in the State in the State of Kuwait⁽¹⁾. This study encompasses a number of questionnaires which include questions addressed to the beneficiaries of Law No. (68) and the following categories:

- **Domestic workers.**
- **Employers.**
- **Recruitment offices.**
- **Employees in civil society organizations.**

Therefore, special attention must be devoted to the truth behind the extent to which domestic workers, employers, and recruitment offices benefit from this law. The findings of this study unveil their insufficient knowledge of the stipulations of this law, as it also reveals their lack in the capacity to deal with the provisions and the procedures stipulated in this law. It is worth noting that the knowledge of domestic workers and employers and their commitment and eagerness to implement are deemed one of the most important indicators of the effectiveness of the law. Among the most salient findings that may be referred to in the relation between the surveyed entities regarding the law:

- The law failed to prevail as desired among the relevant sectors, as the degree of knowledge of employers, domestic workers, recruitment offices, and civil society workers is rather weak and does not exceed the superficial knowledge of the law.
- (62.2%) of the employers are unaware of Law (68/2015) regarding domestic workers, despite the fact that the law has come to force for more than three years.
- (71.59%) of the employers are unaware of Law (68/2015) regarding domestic workers, despite the fact that the law has come to force for more than three years.
- Despite the desire of the employers of the existence of a law regulating their relationship with the domestic workers and recruitment offices, they still violate the law by retaining the travel documents, in view of the fact that (91.9%) of employers retain the travel documents of their domestic workers, while depriving them of additional fees when working beyond the working hours, and while also depriving them of their annual leave and weekly rest, and making them work longer hours than stipulated by law.
- Domestic workers comply with the instructions given to them by employers according to (84.97%) of employers, despite the fact that they are still being treated in a humiliating manner sometimes, and are entrusted with difficult and hazardous works at other times.
- Absence of an employment contract between (56%) of employers and domestics workers.

(1) Statistical services on the website of the Public Authority for Civil Information.



- The majority of domestic workers, i.e. (77.64%), work more than ten hours a day.
- (86.95%) of the owners of recruitment offices believe that the law has failed to create a positive relationship between the recruitment offices and the management of domestic workers.
- (78.25%) of the owners of recruitment offices believe that the conditions for issuing and renewing the license to recruit domestic workers stipulated in the law are unjust and complicated.
- The lack of specialized civil societies activities existence which provide their assistance to the domestic workers , such as legal aid and presentation in courts , consultations and guidenss regarding laws regulating their work contracts , their rights and obligations , raising public awareness regarding the laws regulating house workers contracts

Finally, this study puts forward a number of evidence-based recommendations through practical activities, which improve the legal status of domestic workers, protect their rights, and restores the relationship balance between domestic workers, employers, and recruitment offices.



Introduction

The International Labor Organization (ILO) estimates the presence of 2.1 million domestic workers in the Middle East and North Africa⁽²⁾. The domestic workers working in the Arab countries, and particularly in the State of Kuwait, are involved in housecleaning, child care and elderly care, cooking, gardening, driving as well as other household occupations for the benefit of the employers and their families.

Kuwait holds the second largest number of domestic workers in the Middle East after Saudi Arabia, and it is an undeniable fact that domestic workers play an indispensable effective role in every household in Kuwait. Many employers give the domestic workers working for them their rights, whereas others mistreat them while taking advantage of their isolation and the weak measures of protection stipulated in the law under the sponsorship system and its negative impacts.

The Kuwait Society for Human Rights has received many complaints from migrant workers, including domestic workers, who have stated similar dissatisfactions in terms of "long working hours with no break, long working hours with no additional pay, denial of annual leave, retention of passports, making false allegations of absence from work, and delayed payment of salary". Such complaints were being received before and after the enactment of Law No. 68 of year 2015 regarding domestic workers, which represents a significant progress in the safeguarding the rights of domestic workers. However, can it be said that the law has proved effective in providing the necessary protection by eradicating coercive practices against domestic workers? And has this law impacted the employers and convinced them that these workers have the right for a weekly rest day like any other worker?

This is what pushed us to conduct this study to determine the most important findings, in order to keep track and find out the impact of the law on the ground, and whether domestic workers received tangible benefits after its promulgation.

Therefore, this study will be divided into two chapters: the first one is theoretical and gives an overview of the general and legal status of domestic workers under the sponsorship system based on the available information, and aims at determining the comprehensiveness of the law and its coverage of the fundamental principles and rights at work according to international standards by comparing it with ILO Convention No. (189) concerning decent work for domestic workers.

In chapter 2, the views of the surveyed individuals concerned in this law ranging from domestic workers to employers (sponsors) and recruitment offices, in addition to some civil societies, will be clarified. We will study their knowledge of Law No. (68/2015) and its effectiveness and real benefit after nearly three years of its enactment, as well as its impact on human rights and at the social level through a questionnaire given to a group of people benefiting from the law, where its effectiveness has not been measured since its promulgation and publication in the official gazette.

(2) ILO's website – Regional offices for Arab States – Areas of work (Domestic Labour).



Methodology

This survey is based on a descriptive analytical approach. A number of questionnaires was distributed to the sample of the study. This questionnaire was prepared based on the review of the relevant available documents. The questionnaires were then distributed to a random sample targeting four categories: "domestic workers, employers, recruitment offices, and the employees of civil society organizations". (400) electronic questionnaires and (200) paper-based questionnaires were collected, through which the views of the stratified sample were measured effectively, as well as the law's relevance, and the extent of their knowledge and adherence to the provisions contained herein, in addition to seeking their personal opinion regarding the law and its contents.



CHAPTER ONE

(Study one)

Domestic workers in the State of Kuwait

1

Domestic workers under the sponsorship system

The domestic labour sector constitutes one of the largest sectors in the State of Kuwait in terms of the number of workers. To be precise, by the end of 2017, the number of domestic workers reached 669,000⁽³⁾, equivalent to 27% of the total of migrant workers in the non-governmental private sector in the State of Kuwait, and the majority of individuals working in the domestic labour sector come from Asian countries, such as India, Bangladesh, Philippines, Sri Lanka, and Nepal, in addition to the African countries, such as Ethiopia, Ghana, Ivory Coast, and Cameroon among other African countries.

The State of Kuwait deals directly with migrant domestic workers under the sponsorship system, as in the rest of the Gulf Cooperation Council (GCC) countries. This system imposes many restrictions on the domestic workers, in which the sponsor specifies their work and living conditions, making them vulnerable to exploitation, abuse and forced labour, while stripping them of their fundamental rights at work. This situation is further exacerbated by the difficulty of reaching the departments concerned with monitoring and organizing work, as well as the difficulty of reaching the laws governing and organizing the nature of their work through which they can identify their rights and obligations, and address any exploitation they are subjected to from their employers.

Some of the domestic workers in Kuwait suffer grave abuses, among which the long working hours with no break, long working hours with no additional pay, delayed payment of salary, denial of annual leave or weekly rest day or prohibiting them from going out to spend their weekly rest day, confiscation of passports from sponsors, and physical, psychological and sexual abuse. Many migrant domestic workers are victims of debt bondage as part of their employment conditions from recruitment offices. In most cases, victims are exploited through the violation of the employment contract, and reducing or refraining from paying their wages. This type of behavior led the Kuwaiti government to establish a department for "domestic worker" affiliated with the Ministry of Interior's General Department of Residence Affairs in order to handle the issues of domestic workers and protect their rights.

Until the end of year 2017, the Department of Domestic Labour announced that it received 2,068 complaints⁽⁴⁾, including 1,624 complaints from employers and 81 complaints from recruitment offices, whereas domestic workers' complaints were limited to 363, i.e. one complaint per day. Pursuant to the law, the Department of Domestic Labour has the jurisdiction over disputes, and where such a settlement is not possible, the dispute shall be referred to the competent court. The total number of cases referred to court from all aforementioned categories reached 304 in 2017, with 86 offices having violated the law, 79 of which had their licenses revoked, and 7 offices temporarily suspended for a period of 3 to 6 months.

Since the beginning of year 2018 and until October, the Department of Domestic Labour has received 2,056 complaints, among which 1,297 from employers, 47 complaints from recruitment offices, and 447 complaints have been referred by the General Authority for Manpower to the Department of Domestic Labour, which the latter received during the period in which the decision of the Council of Ministers No. 614/2018 and that includes the transfer of powers, mentioned in law No. 68/2015 regarding domestic labour, from the Ministry of Interior to the Ministry of Social Affairs, Ministry of Labour, and the General Authority for Manpower. Subsequently, the General Authority for Manpower referred these complaints to the Department of Domestic Labour after a transitional period that ends

(3) Statistical Centre of the Public Authority for Civil Information.

(4) Statistics issued from the Department of Domestic Labour in the Ministry of Interior for year 2017.



on March 31/03/2019, while the number of complaints submitted by domestic workers reached 265 complaints only. The number of complaints referred to the court has reached 372 complaints, as for the rest, equal to 1,684 complaints, they were settled amicably through the Department of Domestic Labour⁽⁵⁾.

Many domestic workers are incapable of filing complaints against employers for several reasons, such as: fear of submitting complaints before the Ministry of Interior, or inability to leave the house in which they work, or lack of awareness concerning the Department for reasons related to their non-Arabic language. Whereas the restricted sponsorship system grants broad powers through which they determine the work and living conditions of the domestic workers.

The Special Rapporteur on Trafficking in Human Beings, and especially women and children, mentioned in her report to the Human Rights Council in June/2017 the following:

(The sponsorship (Kafala) system, which binds every worker to an employer, is creating a situation of vulnerability which favors exploitative work relationships leading to human trafficking in the domestic work and in other sectors. As there is a lack of capacity of identifying trafficked persons promptly and accurately and the rate of prosecution of cases for trafficking remains very low, thus perpetuating impunity for traffickers and impeding the access of victims to justice)⁽⁶⁾.

2 Fundamental principles and rights at work according to international standards⁽⁷⁾ :

The full implementation of the fundamental principles and rights in the domestic labour sector is necessary in order to enable domestic workers and to ensure their access to decent work, as they are the most vulnerable to violations of these fundamental rights at work, given the historic links between domestic work and slavery and other forms of servitude, persisting patterns of discrimination based on sex, ethnicity, social origin and other grounds, and the fact that domestic work is often performed informally⁽⁸⁾. These principles and rights were affirmed by ILO in the 1998 Declaration, which are Freedom of Association, the Right to Collective Bargaining, Effective Abolition of Child Labour, Effective Abolition of Forced Labour, and Elimination of Discrimination in respect of Employment and Occupation. These principles and rights were interpreted and developed in the form of rights and obligations specified in a number of conventions that are recognized as fundamental conventions⁽⁹⁾ which apply to all workers. As referred to in Convention No. 189 on Decent Work for Domestic Workers, in which it emphasized its importance in the context of domestic labour. At its 86th Session in 1998, the International Labor Conference declared that all Member States shall be committed, once they were members of the ILO, to respect the principles of rights enshrined in the fundamental conventions, and also since the organization is committed to helping the Member States to the fullest extent in order to achieve these goals through the provision of technical cooperation and advisory services, and support States' efforts in respecting these principles and their efforts in providing environment conducive to economic and social development⁽¹⁰⁾.

- (5) Statistics issued from the Department of Domestic Labour in the Ministry of Interior since the beginning of year 2018 until October 11, 2018.
- (6) The Special Rapporteur on Trafficking in Human Beings, and especially women and children, during her visit to Kuwait from 04-08 / September/ 2016, paragraph 84 in third part (conclusions and recommendations).
- (7) The international labour standards are legal instruments drawn up by ILO's constituents (governments, employers and workers) that sets out the fundamental principles and rights at work. The labour standards are adopted at the ILO's annual International Labour Conference, and are either conventions or recommendations. Conventions are legally binding international treaties that may be ratified by Member States, while recommendations serve as non-binding guidelines. Ratifying countries commit themselves to applying the convention in national law and practice and reporting on its application at regular intervals.
- (8) Effective protection for domestic workers: "a guide to designing labour laws", Part 4: Fundamental principles and rights at work – Page 25.
- (9) The fundamental conventions are Forced Labour Convention, 1930 (No. 29) and the Protocol of 2014 to the Forced Labour Convention – Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) - Right to Organize and Collective Bargaining Convention, 1949 (No. 98) - Equal Remuneration Convention, 1951 (No. 100) - Abolition of Forced Labour Convention, 1957 (No. 105) - Convention on Discrimination in Respect of Employment and Occupation, 1958 (No. 111) - Minimum Age Convention, 1973 (No. 138) - Worst Forms of Child Labour Convention, 1999 (No. 182).
- (10) For further information, see ILO Declaration on Fundamental Principles and Rights at Work and its follow-up adopted by the International Labor Conference at its eighty-sixth session, held in Geneva and declared closed the 18 June 1998.



3 Legal framework for domestic workers in Kuwait

a) National context:

The work of domestic workers previously involved weak protection measures, and the focus pivoted on the working mechanism of recruitment offices more than on regulating the work of domestic workers and granting them enforceable rights such as Decree-Law No. 40 of year 1992 concerning the regulation of recruitment offices., and Ministerial Decision No. 617 of year 1992 regulating the rules and procedures for obtaining licenses for the private recruitment agencies⁽¹¹⁾. One of the most salient provisions of the decision was that the office shall be committed to concluding a tripartite contract between the office, the employer and the domestic worker, in which the obligations and rights of each of them is determined according to the contract sample prepared by the General Department of Immigration.

• **Law No. 68 of year 2015 regarding domestic labour and the regulations and decisions pertaining thereto:**

The State of Kuwait promulgated Law No. 68 of year 2015 regarding domestic labour, which is the main focus of our study. The law was intended to remedy legislative gaps related to the regulation of domestic workers' affairs, as the Labour Law No. 6 of year 2010 in the Private Sector did not apply to them.

The law is deemed as a significant pioneering step because for the first time, domestic workers were granted enforceable rights, such as the right to a weekly rest day, one-month paid annual leave. Additionally, the number of working hours was set to 12 hours a day with a one-hour break, provided that working continuously does not exceed five hours per day followed by a rest period no less than one hour and a at least eight hours of continuous night rest⁽¹²⁾. As it stipulated the end-of-service benefit estimated at a one-month salary for each year worked that shall be due at the end of the contract, in addition to other rights, among which the employer shall be required to provide adequate housing, food, clothing and treatment for domestic workers. It also guarantees, by judicial remedies, the collection of their unpaid wages. In most of its provisions, the law focused on regulating the work of recruitment offices and their obligations towards the government, employers and workers, and prohibits them from charging fees to domestic workers, or the like, inside or outside Kuwait, directly or indirectly, in return for employing them or keeping them with their employer. In the event that the receipt of any amount of money is proven, the licensed office shall be penalized under the Penal code for the crimes of extortion and unlawful gains. However, the law is not without loopholes which significantly affected the mechanisms of its implementation in the past, especially when not explicitly imposing dissuasive penalties commensurate with the size of the violation. This has been further confirmed by the Department of Domestic Labour⁽¹³⁾, entrusted with the implementation of the law, acknowledging the incapacity to impose penalties on employers in the event of any violations against domestic workers, such as confiscating passports, or forcing them to work, or refraining from giving them their weekly rest among other irregularities, due to the absence of a legal basis to this end. All that it can do is to prohibit the employer from recruiting workers for a period of six months, and in the event that the violation is repeated, the prohibition period shall be extended to one year⁽¹⁴⁾. Furthermore, the law does not expressly provide for the possibility of workers leaving the house during their free time, as it did not address the working hours during which domestic workers are not free to dispose of their time as they

(11) Ministerial Decision No. 1182/2010 amending some of the articles contained in Decision No. 617/1992, and notably, the granting of rights to domestic workers through Article 8, which stipulates that the Office shall undertake to conclude a tripartite contract between the Office, the sponsor and the domestic worker or anyone with a similar capacity, in which the obligations and rights of each of them is determined (salary of worker or the like – commission of the office – annual leave – working hours – providing adequate housing – medical treatment in the event of sickness – compensation for injuries suffered during work among other obligations), and this according to the contract sample prepared by the General Department of Immigration upon recruiting a worker or the like, and the sponsor has to submit the contract when applying for an entry visa to the worker or when undertaking the residence procedures.

(12) Ministerial Order No. 2302 of year 2016 on the Rules and Procedures of enforcement of the Provisions of Law No. 68/2015 regarding Domestic Labour.

(13) In an interview with the Director of the Department of Domestic Labour in the Ministry of Interior, Mr. Mohammed Al Ajmi, stating the law restricted the Ministry of Interior and prevented it from taking any action against the employer (sponsor or kafeel), or the recruitment office or the domestic worker, so as refrain from violating the articles of the law.

(14) Article 30 of law No. 68 of year 2015 regarding Domestic Labour, Article 20 of Ministerial Order No. 2194 of year 2016 regarding the Implementing Regulations of Law No. 68.



please and remain at the disposal of the household in order to respond to possible calls⁽¹⁵⁾.

The Ministry of Interior issued ministerial decisions implementing and supplementing the provisions of the Domestic Labour Law, which are Ministerial Order No. 2194 of year 2016 regarding the Implementing Regulations of Law No. 68, and Ministerial Order No. 2302 of year 2016 on the Rules and Procedures of enforcement of the Provisions of Law No. 68/2015 regarding Domestic Labour. These decisions included details regarding certain articles, elaborating the working hours, breaks, overtime, stating a minimum wage equal to 60 Dinars (equivalent to 200 USD) as well as the responsibility of the employer and recruitment agencies, in addition to the samples for the bilateral contract (worker – employer) and tripartite contract (worker – employer – recruitment office) but fail to add much substance to the law. Nevertheless, establishing the rate of minimum wage on the basis of the nationality of the domestic workers is still prevalent. However, they did not contain articles emphasizing the need for the implementation of the law, as they did not impose dissuasive penalties on offenders. Rather than proactively protecting and guaranteeing workers' rights, the law and its regulations offer only the slim potential to compensate to workers who manage to navigate the arduous road to lodging and seeing through a complaint⁽¹⁶⁾.

• Law No. 91 of 2013 on Combating Trafficking in Persons and Smuggling of Migrants:

Law No. 91 of 2013 on Combating Trafficking in Persons and Smuggling of Migrants set forth, through the definition of Trafficking in Persons, the practices that clearly constitute the elements of a crime⁽¹⁷⁾. It stated that the individuals involved in trafficking in persons shall be sentenced to up to fifteen years, and has imposed more severe sanctions amounting to life imprisonment in the event that the crime was committed by an organized crime group or if the accused joined or contributed to establishing, organizing or running this group while aware of its purposes, or if the crime had a non-national element, or if the perpetrator is related to the victim, or if the crime was committed by a person using a weapon, or if the crime significantly harmed or permanently disabled the victim, or if the accused holds a public position in the country in which the crime was committed and this position played any role in facilitating the commission or execution of the crime, or if the victim was a child, a female or a person with special needs. The law also imposed a heavier punishment, namely the death penalty, in the event that the victim is killed as a result of the crime⁽¹⁸⁾.

The public prosecution shall be responsible for the characterization of the crimes of trafficking in persons through investigation, assessment and prosecution⁽¹⁹⁾ based on preliminary findings submitted by law enforcement agencies, such as the Public Moral Protection & Anti Human Trafficking Department, and the labour inspectors in the Public Authority for Manpower.

In implementing the provisions of Law 91, a lighter penalty shall not be imposed in accordance with Article (83) of the Penal Code⁽²⁰⁾, or order the suspended execution of a sentence or refrain from pronouncing a sentence to any of the crimes stipulated in this law⁽²¹⁾.

What is unfortunate is the failure to stipulate the establishment of a national mechanism to combat the trafficking in persons that contributes to the coordination of efforts in combating this crime, in cooperation with civil society organizations and international organization to develop a national plan to combat the crime of trafficking, the failure to stipulate the establishment of specialized departments within the office of the public prosecution, and the failure to grant broad and appropriate powers to the enforcement authorities. This is what we have experienced in the Kuwait Society for Human Rights through the complaints and reports we have received regarding suspected cases, such as at trafficking crimes, and we have contacted the Public Moral Protection & Anti Human Trafficking Department to

(15) Article 10, paragraph 3 of ILO Convention No. 189/2011 concerning decent work for domestic workers.

(16) For more information, see migrant-rights report published on 14/07/2017, entitled the "Regulations introduced to strengthen Kuwait's domestic workers' law offer scant support".

(17) Article 1 of Law 91/2013 on Combating Trafficking in Persons and Smuggling of Migrants.

(18) Article 2 of Law 91/2013 on Combating Trafficking in Persons and Smuggling of Migrants.

(19) Article 11 of Law 91/2013 on Combating Trafficking in Persons and Smuggling of Migrants.

(20) Article 83 of the Penal Code stipulates that in the event that the court believes that the accused is entitled to compassion, in view of the circumstances in which the offense was committed, or in view of the past, morals or age of the accused, it shall replace the death penalty by life imprisonment or provisional detention for no less than five years, and life imprisonment shall be replaced by provisional detention for no less than three years.

(21) Article 13 of Law 91/2013 on Combating Trafficking in Persons and Smuggling of Migrants.



notify them, but to no avail, since they must obtain the permission of the deputy prosecutor to carry out the inspection.

• Law No. 17 of year 1959 on the Residence of Foreigners:

Law No. 17 of year 1959 on the Residence of Foreigners remain the fundamental law that regulates the legal residence of migrant workers in general, since all migrant workers are required to have a local sponsor through direct personal sponsorship for domestic workers called "Domestic Servant Visa" Article 20⁽²²⁾, or an indirect sponsorship through a legal person such as companies or institutions for workers in the private sector. The law requires that the sponsor shall be the employer, and working for someone other than the sponsor is unlawful, otherwise he shall be considered as violating the law. The employer shall be responsible for ensuring the validity of the domestic worker's visa and shall renew it periodically upon expiration. In the event that the domestic worker absconds, the employer shall be entitled to notify the Ministry of Interior within one week⁽²³⁾. This notice entails the revocation of the worker's visa and the issuance of an order to arrest and detain them, to be later deported to their country. In the event that the domestic worker resorts to the Department of Domestic Labour to lodge a complaint against the employer, the latter, in this case, cannot file an absconding notice against the worker. This law confers broad powers on the sponsor, and it is unfortunate that it fails to provide effective protection guarantees to domestic workers, as it also fails to give workers the right to resort to justice and appeal against the deportation or expulsion order, which is called administrative expulsion⁽²⁴⁾.

Domestic workers are not entitled to change their employer, since they must obtain the consent of their employer, through a signed waiver transferring the sponsorship to another employer.

• Law No. 69 of 2015 Concerning the Establishment of a Closed Joint Stock Company for the Recruitment and Employment of Domestic Workers:

Law No. 69 of 2015 includes the Establishment of a Closed Joint Stock Company for the Recruitment and Employment of Domestic Workers. It is committed to developing a basic regulation to regulate the working conditions of the categories working in all types of domestic and family care services, and in a manner guaranteeing the payment of fair wages, provision of health services and medical treatment, and including them in the recruitment contracts. The company is managed by a Board of Directors as representatives of the shareholders and an Advisory Board composed of representatives of the Ministry of Interior, Ministry of Health, and General Authority for Manpower.

The company shall be committed to qualifying and training workers in specialized centers before entering the country. After the promulgation of the law in 2015, the establishment of a joint stock company for recruitment (Al Durra Company) was delayed until 2018, when it started recruiting the first group of Sri Lankan domestic workers equal to 450 workers approximately, the second group being on its way in the next few days⁽²⁵⁾.

These workers were trained and qualified in Sri Lanka during the period in which travel formalities were being carried out by the agencies contracted with Al Durra. The training lasted for a period of one month. The Company is currently working on a number of employment contracts to recruit domestic workers from the Philippines and India, where it has been in contact with (6) recruitment agencies within India⁽²⁶⁾.

According to an ILO study issued on 2016 on the challenges faced by domestic workers, the current practices of private recruitment agencies that charge low-skilled migrant workers amounts of money enormously exceeding the ceiling allowed by the governments of the mother countries, are at the core of the fraudulent behavior within the recruitment sector⁽²⁷⁾.

Therefore, the Establishment of a Joint Stock Company for the Recruitment of Domestic Workers is

(22) Website of the Ministry of Interior of Kuwait www.moi.gov.kw.

(23) Ministerial Order No. 640 of year 1987 on the Residence of Foreigners.

(24) For more information on compulsory expulsion or what is known as administrative expulsion – see shadow report of the State of Kuwait issued by Kuwait Society for Human Rights Regarding the Kuwait government on implementing of the International Covenant on Civil and Political Rights on October 02, 2015 – published on the website of the High Commissioner for Human Rights.

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICO%2fKWT%2f21869&Lang=ar.

(25) Kuwait's online newspaper reported the arrival of domestic workers through Al Durra Company.

(26) Interview with the Director-General of Al Durra Company Mr. Mohammed Salem Al-Adl on November 07, 2018.

(27) Study issued by ILO in 2016 on "Ways Forward in Recruitment of "Low-Skilled" Migrant Workers Asia-Arab States Corridor by Ray Jureidini.



expected to help in the prevention of the exploitation and the human trafficking of domestic workers.

• The Decision of the Council of Ministers No. 614 of year 2018 on the transfer of the powers of the Department of Domestic Labour to the Ministry of Social Affairs and the General Authority for Manpower:

The decision of the Council of Ministers No. 614/2018 included the transfer of powers, stated in law No. 68/2015 regarding domestic labour, from the Ministry of Interior to the Ministry of Social Affairs, Ministry of Labour, and the General Authority for Manpower, while maintaining the existing applicable regulations and decisions, until they are amended or abolished as a step to equalizing the rights of domestic workers with the other categories of workers, through their registration with the General Authority for Manpower⁽²⁸⁾.

However, it seems that the General Authority for Manpower was not yet ready to assume its functions and competencies by fully supervising domestic workers, requesting a transition period not exceeding the end of the current fiscal year on 31/03/2019, in order to address all aspects related to transferring domestic workers from the Ministry of Interior to the General Authority for Manpower, with the Ministry of Interior proceeding with carrying out the powers stated in Law No. 68 regarding Domestic Workers during the transition period⁽²⁹⁾.

• Decision of the Council of Ministers No. (1036)⁽³⁰⁾ approving the request of the General Authority for Manpower for a transition period ending on 31/03/2019:

The Council of Ministers approved the request of the General Authority for Manpower for a transition period that ends on 31/03/2018, to address all aspects related to the transfer of powers related to domestic workers from the Ministry of Interior to the General Authority, with the Ministry of Interior proceeding with carrying out the powers stated in Law No. 68 regarding Domestic Workers until the date mentioned above.

b) Regional and international context:

The State of Kuwait ratified the Arab Charter on Human Rights through law 84/2013 dated 14/02/2013. The Charter recognizes that every worker has the right to the enjoyment of just and favorable conditions of work, regulating working hours, rest and holidays with pay, as well as the rules for the preservation of occupational health and safety and the protection of women, children and disabled persons in the place of work.

Each State party shall ensure the necessary protection of migrant workers in accordance with the laws in force⁽³¹⁾.

Kuwait has been an ILO member State since 1961. Since its accession, it has ratified 19 ILO conventions⁽³²⁾, including seven of the eight Fundamental Conventions, which constitute the Fundamental Principles and Rights at work (mentioned above). However, the convention, among the Fundamental Conventions, that Kuwait has not ratified is the Convention C100 – Equal Remuneration Convention, 1951 (No. 100).

(28) The Decision of the Council of Ministers No. 614 of year 2018 on the transfer of the competencies of the Department of Domestic Labour to the Ministry of Social Affairs and the General Authority for Manpower.

(29) A letter issued by the Ministry of Social Affairs and the Ministry of Labor No. (6984) dated 7/6/2018 to the Presidency of the Council of Ministers requesting the approval on the transition period for the transfer of domestic workers to the General Authority for Manpower.

(30) Decision 1036 was issued by the General Secretariat of the Council of Ministers on July 25, 2018 on the basis of two coordination meetings between the Ministry of Interior and the General Authority for Manpower to discuss the mechanism for implementing Decision 614. It was recommended that two working groups (administrative/legal – technical) from both sides, and both parties issued two initial reports that revealed real obstacles preventing the transfer from being completed immediately and therefore the need to grant a transition period.

(31) Arab Charter on Human Rights, Article 34 the right to work

(32) The 19 ILO Conventions ratified by the State of Kuwait: Forced Labour Convention, 1930 (No. 29), and Protocol of 2014 to the Forced Labour Convention - Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) -Right to Organize and Collective Bargaining Convention, 1949 (No. 98) - Equal Remuneration Convention, 1951 (No. 100) - Abolition of Forced Labour Convention, 1957 (No. 105) - Discrimination (Employment and Occupation) Convention, 1958 (No. 111) - Minimum Age Convention, 1973 (No. 138) - Worst Forms of Child Labour Convention, 1999 (No. 182) - Labour Inspection Convention, 1947 (No. 81) - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) - Hours of Work (Industry) Convention, 1919 (No. 1) - Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) - Holidays with Pay Convention, 1936 (No. 52) - Night Work (Women) Convention, 1948 (No. 89) - Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) - Final Articles Revision Convention, 1961 (No. 116) - Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) - Guarding of Machinery Convention, 1963 (No. 119) - Benzene Convention, 1971 (No. 136) - Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).



Therefore, Kuwait shall be committed to respecting, promoting and enforce the rights contained in all the Fundamental Conventions, even if not all of them have been ratified under the 1998 Declaration.

Kuwait also ratified international charters and conventions on Human Rights⁽³³⁾, which require it to give full effect to the rights contained in these conventions and to all individuals present on its territory, ranging from citizens to migrants, including domestic workers.

The International Covenant on Civil and Political Rights, ratified by Law 12/1996, states that each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind⁽³⁴⁾, and no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment⁽³⁵⁾, and no one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited⁽³⁶⁾, and all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground⁽³⁷⁾.

The Human Rights Committee, through its concluding observations to Kuwait⁽³⁸⁾ in 2016, expressed its concern regarding the discrimination, exploitation and abuse of foreign domestic workers, which is exacerbated by the sponsorship (kafala) system; the discrepancies between the rights afforded to domestic workers, the majority of whom are foreigners, under Law No. 68/2015 and the rights provided to other workers; and information indicating that cases of violence against domestic workers are underreported owing to fear of reprisal from the sponsor, the loss of livelihoods and the risk of deportation⁽³⁹⁾, as it also stated that, despite the Law 68/2015 stipulates the prohibition on withholding workers' passports, the practice remains common among employers and sponsors of foreign workers⁽⁴⁰⁾. The International Covenant on Economic, Social and Cultural Rights ratified by the State of Kuwait by Law 11/1998 states that everyone has the right to the enjoyment of just and favorable conditions of work that ensures remuneration which provides all workers, as a minimum, safe and healthy working conditions and Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays⁽⁴¹⁾. The Committee on Economic, Social and Cultural Rights, through its concluding observations⁽⁴²⁾, expressed its concern as to whether the minimum wage of KD 60 (approximately US \$200) per month enables a decent living for the workers and their families⁽⁴³⁾. The Committee recommended that the State party raise awareness among employers and the population in general of the need to respect the human rights of domestic workers⁽⁴⁴⁾.

The International Convention on the Elimination of All Forms of Racial Discrimination, ratified by the State of Kuwait by Law 33/1968 undertook to prohibit and to eliminate racial discrimination in all

- (33) The 7 Fundamental Conventions ratified by the State of Kuwait: International Covenant on Civil and Political Rights - International Covenant on Economic, Social and Cultural Rights - International Convention on the Elimination of All Forms of Racial Discrimination - Convention on the Elimination of All Forms of Discrimination against Women - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - Convention on the Rights of the Child - Convention on the Rights of Persons with Disabilities.
- (34) See Article (2) of the International Covenant on Civil and Political Rights.
- (35) See Article (7) of the International Covenant on Civil and Political Rights.
- (36) See Article (8) of the International Covenant on Civil and Political Rights.
- (37) See Article (26) of the International Covenant on Civil and Political Rights.
- (38) The Committee considered the third periodic report of Kuwait (CCPR/C/KWT/3) at its 3269th and 3270th meetings (see CCPR/C/SR.3269 and 3270), held on 21 and 22 June 2016. At its 3293rd meeting, held on 8 July 2016, and it adopted the present concluding observations at its 3293 meeting, held on 08 July 2016.
- (39) Paragraph (32) of the Human Rights Committee's concluding observations at its 3293 meeting. Held on 08 July 2016 on the third periodic report of Kuwait of the International Covenant on Civil and Political Rights.
- (40) (c) of Paragraph 34 of the Human Rights Committee's concluding observations at its 3293 meeting. Held on 08 July 2016 on the third periodic report of Kuwait of the International Covenant on Civil and Political Rights.
- (41) Article (7) of the International Covenant on Economic, Social and Cultural Rights.
- (42) The Committee on Economic, Social and Cultural Rights considered the second periodic report of Kuwait on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/KWT/2) at its 31st and 32nd meetings, held on 5 November 2013 (E/C.12/2013/SR.31-32), and adopted at its 68th meeting, held on 29 November 2013, the following concluding observations.
- (43) Paragraph (16) of the International Covenant on Economic, Social and Cultural Rights' concluding observations on the second periodic report of Kuwait on the implementation of the International Covenant on Economic, Social and Cultural Rights at its 68th meeting, held on 29 November 2013.
- (44) Paragraph (18) of the International Covenant on Economic, Social and Cultural Rights' concluding observations on the second periodic report of Kuwait on the implementation of the International Covenant on Economic, Social and Cultural Rights at its 68th meeting, held on 29 November 2013.



its forms and to guarantee the right of everyone, without distinction, as well as the right to just and favorable conditions of work⁽⁴⁵⁾.

The concluding observations of the Committee on the Elimination of Racial Discrimination to Kuwait in 2017 regarding domestic workers stated that (it remains alarmed by reports that some foreign domestic workers face serious physical, verbal and sexual abuse by employers. The Committee is concerned by the lack of precise information concerning the outcome of complaints by foreign domestic workers of abuse, penalties under the Law and relevant enforcement mechanisms. It also expresses its concern that employers are allowed to retain foreign workers' personal identification documents with the workers' consent, as the nature of the employer-employee relationship means that workers' consent may not be freely given. The Committee further notes with concern the information provided by the State party to the effect that, in 2015, the Department of Domestic Labour received 2,487 complaints demanding the return of passports, and also remains concerned that foreign domestic workers in disputes with their employers are often deported by administrative decisions, without a reasoned court order or possibility of appeal⁽⁴⁶⁾).

The Convention On the Elimination of All Forms of Discrimination Against Women, ratified by the State of Kuwait by Amiri Decree 24/1994, affirmed the elimination of discrimination against women in the field of employment in particular the right to work as an inalienable right of all human beings and the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment⁽⁴⁷⁾.

The Committee on the Elimination of Discrimination Against Women, in its concluding observations to Kuwait in 2017, welcomed the progress achieved in undertaking legislative reforms, and in particular the adoption of several laws, including Law No. 68 of year 2015 regarding domestic workers, which strengthens the rights of women domestic workers and provides them with social and legal protection and healthcare⁽⁴⁸⁾, then it stated the presence of (legal gaps contained in Law No. 68 of year 2015 regulating domestic work to effectively protect domestic workers from abuse, exploitation and violence, including the lack of labour inspection mechanisms; weak penalties imposed on labour recruitment firms for abusive practices; the tying of the immigration status of the domestic workers to one employer or sponsor, and requiring the Ministry of Interior to deport a worker who left his work place the absence of sanctions applied to employers for withholding the passports of domestic workers or fail to provide adequate housing, food, medical expenses, daily breaks or weekly rest days; the absence of a requirement for employers to be present in dispute resolutions between employer and domestic worker, as well as the absence of complaint mechanisms)⁽⁴⁹⁾.

The Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by the State of Kuwait by virtue of Law No. 1/1996, stated that each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction⁽⁵⁰⁾.

While the Committee against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, which monitors the implementation of the Convention, expressed concern about the reports of exploitation, of ill-treatment and torture against individuals, and other abuse of numerous foreign workers from various countries by their employers, in particular domestic workers, who work under the sponsorship system and the legal provisions regulating it and which includes long working hours without rest, deprivation of food, threats, physical or sexual abuse, restriction of movement such as

(45) The International Convention on the Elimination of All Forms of Racial Discrimination, Article 5.

(46) Paragraph (23) entitled "Foreign Domestic Workers" from the concluding observations of the Committee of the combined twenty-first to twenty-fourth periodic reports of Kuwait (CERD/C/KWT/21-24), submitted in one document, at its 2550th and 2551st meetings (CERD/C/SR.2550 and 2551), held on 2 and 3 August 2017. At its 2564th meeting, held on 11 August 2017, it adopted the present concluding observations.

(47) Convention on the Elimination of All Forms of Racial Discrimination Against Women, Article (11).

(48) Paragraph (4), Subparagraph (A) from the concluding observations of the Committee on the fifth periodic report of Kuwait (CEDAW/C/KWT/5) at its 1544th and 1545th meetings (see CEDAW/C/SR.1544 and 1545) held on 1 November 2017. The Committee's list of issues and questions is contained in CEDAW/C/KWT/Q/5 and the responses of the State party are contained in CEDAW/C/KWT/Q/5/Add.1.

(49) Paragraph (36), Subparagraph (e) from the concluding observations of the Committee on the fifth periodic report of Kuwait (CEDAW/C/KWT/5) at its 1544th and 1545th meetings (see CEDAW/C/SR.1544 and 1545) held on 1 November 2017. The Committee's list of issues and questions is contained in CEDAW/C/KWT/Q/5 and the responses of the State party are contained in CEDAW/C/KWT/Q/5/Add.1.

(50) Article (2) of The Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment.



confinement to kidnapping in the workplace, confiscation of passports and other personal documents and non-payment of wages, which may amount to forced labour and resemble slavery⁽⁵¹⁾.

Furthermore, Kuwait ratified the United Nations Convention against Transnational Organized Crime by virtue of Law No. 5/2006, and the two Protocols thereto, the first Protocol being to Prevent, Suppress and Punish Trafficking in Persons,

Especially Women and Children, and the second being against the Smuggling of Migrants by Land, Sea and Air, and the Slavery Convention⁽⁵²⁾, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery⁽⁵³⁾, and joined the International Convention on the Suppression and Punishment of the Crime of Apartheid⁽⁵⁴⁾.

Therefore, the State of Kuwait is legally bound by these ratified Conventions to implement and enforce the rights contained therein for all individuals present on its territory. In the framework of the Universal Periodic Review (UPR), Kuwait submitted its second national report to the UPR Working Group on the Human Rights Council on 30 November 2014, which was considered at the 21st session on 28 January 2015. The report included several key elements, including domestic workers, regarding the mechanism of investigation and prosecution in cases of abuse of domestic workers and the confiscation of their passports⁽⁵⁵⁾.

In the Universal Periodic Review at the twenty-ninth session of the Human Rights Council, 278 recommendations were submitted to the State of Kuwait, of which approximately 27 were regarding migrant workers in general, including the domestic sector⁽⁵⁶⁾, and after reviewing the recommendations, Kuwait submitted responses, accepting 178 recommendations, rejecting 71, noting 25, and partially supporting 4 recommendations⁽⁵⁷⁾; of the accepted recommendations (continue strengthening the efforts to protect the safety, security and dignity of migrant workers, including women domestic workers, and to protect their interests by taking appropriate institutional and legislative measures)⁽⁵⁸⁾, (Adoption of specific labor law to protect the rights of domestic workers, including complaint mechanisms and penalties for the violators of the law)⁽⁵⁹⁾, and among the most important rejected recommendations (considering the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and ILO Convention No. 189/2011 on Decent Work for Domestic Workers)⁽⁶⁰⁾.

(51) The Committee against Torture considered the third periodic report of Kuwait (CAT/C/KWT/3) AT ITS 1443rd and 1435th meetings (see CAT/C/SR.1433 and CAT/C/SR.1435), held on 25 and 26 July 2016, and adopted the present concluding observations at its 1451st and 1453rd meetings, held on 8 and 9 August 2016 – Paragraph (29) Subparagraph (a).

(52) The Slavery Convention also known as the Convention to Suppress the Slave Trade and Slavery, is an international treaty created under the auspices of the League of Nations signed in Geneva on September 25, 1926. For the first time it was registered in the League of Nations Treaty Series on 9 March 1927 was entered into force on the same day. The objective of the Convention was to confirm and advance the suppression of slavery and the slave trade, was ratified by Kuwait by virtue of a decree on 18 May 1963.

(53) Adopted by a Conference of Plenipotentiaries convened by Economic and Social Council resolution 608 (XXI) of 30 April 1956 and done at Geneva on 7 September 1956, was entered into force on 30 April 1957. It was ratified by the State of Kuwait by virtue of a decree on January 18, 1963.

(54) Adopted and opened for signature, ratification and accession by virtue of the United Nations General Assembly resolution 3068 (XXVIII), 30 November 1973, entry into force on 18 July 1976, in accordance with the provisions of Article (15), ratified by the Kuwait by virtue of Decree-Law No. 5/1977.

(55) Kuwait's second national report submitted to the Human Rights Council pursuant to paragraph 15 (a) of the Human Rights Council resolution 5/1, within the universal periodic review mechanism (UPR) through the following link:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/196/57/PDF/G1419657.pdf>.

(56) The recommendations on migrant workers in general were approximately 27, of which 15 were accepted, 7 were rejected, 3 were noted, and 2 were partially supported. To see the report of the Working Group on the Universal Periodic Review of the Human Rights Council, click on the following link:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/076/68/PDF/G1507668.pdf>.

(57) For the report of the Working Group on the Universal Periodic Review of the Human Rights Council on the responses submitted by the State of Kuwait to the recommendations addressed to it, click on this link:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/113/19/PDF/G1511319.pdf>.

(58) Recommendation No. 232 addressed to the State of Kuwait by Nepal.

(59) Recommendation No. 233 addressed to the State of Kuwait by Norway.

(60) Recommendation No. 16 addressed to the State of Kuwait by the Philippines.



(Study Two)

Compatibility between Convention on Decent Work No. 189 and Law No. 68 of year 2015 regarding Domestic Workers in Kuwait.

The results of the comparison between Law No. 68/2015 regarding Domestic Labour and Convention No. 189 concerning Decent Work for Domestic Workers will be briefly outlined.

Brief overview of the Convention

The Convention concerning decent work for domestic workers No. 189 of 2011, issued in Geneva at the 100th session of the ILO Conference, mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, the Convention provides for a set of measures and procedures that must be applied by Member States that ratify the Convention to promote the decent work for all domestic workers.

Brief overview of the Law

The Law No. 68 of Year 2015 was intended to remedy legislative gaps related to the regulation of this category of migrant workers, as the Labour Law in the Private Sector did not apply to domestic workers despite the fact that they constitute a large proportion of foreign workers. Furthermore, the current legislative provisions failed to provide the legal protection necessary for this category, which therefore led it to face many violations according to the reports of human rights organizations. The law provided for many rights to domestic workers, and stipulated the commitment of the parties to the contract (employers – domestic workers – recruitment offices) with respect to wages, working hours, holidays, child labour, penalties and how to settle disputes.

The comparison between Law No. 68/2015 regarding Domestic Labour and Convention No. 189 concerning Decent Work for Domestic Workers has been made in consideration of the following criteria:

1. Protecting the Fundamental Rights of Domestic Workers⁽⁶¹⁾:

Law No. 68 of year 2015 regarding Domestic Workers included the protection of some of the Fundamental Rights of domestic workers that protect their human dignity by prohibiting the advertisement and promotion of workers in any humanly degrading manner and by prohibiting the categorization and discrimination on the basis of faith, gender, color or cost. The Law also provided for the right of the worker to adequate housing in which adequate living conditions, food, clothing and medical treatment are available. The employer shall not be allowed to retain any of the worker's personal identification document, such as a passport or civil card, except upon the consent of the domestic worker⁽⁶²⁾.

Whereas the Convention was more comprehensive by emphasizing measures to ensure the effective promotion and protection of the human rights of all domestic workers.

(61) Article (3) of the Convention on Decent Work for Domestic Workers.

(62) Articles (5 – 11 – 12) of Law No. 68/2015.



2. Respecting and protecting the Fundamental Principles and Rights of domestic workers⁽⁶³⁾ :

- a. Freedom of Association and the effective recognition of the Right to Collective Bargaining which the Convention affirmed, but the Law failed to grant this right to domestic workers.
- b. The Elimination of All Forced or Compulsory Labour. The Law provided for the latter by affirming that the relationship between the worker and the employer is a contractual relationship with the consent of both parties⁽⁶⁴⁾. As it prohibited the recruitment offices and their employees from charging the domestic worker any fees in return for employing the worker with an employer or arranging for the worker to stay employed with the employer⁽⁶⁵⁾, and the contract may not be renewed automatically if neither of the two parties expresses their wish to renew the contract at least two months before the end of the contract⁽⁶⁶⁾.
- c. The effective abolition of child labour was affirmed by the Law by prohibiting the recruitment or employment of a domestic worker whose age is less than 21 years⁽⁶⁷⁾.
- d. Elimination of Discrimination in respect of Employment and Occupation. The Law merely cited the prohibition of advertisement and promotion of domestic workers and categorizing them on the basis of faith, gender, color or cost⁽⁶⁸⁾, but failed to provide for the prohibition of discrimination in employment and occupation in all work aspects, and in particular the prohibition of sexual harassment and discrimination on multiple grounds including the sponsorship system and the promotion of equal opportunities and equal treatment.

3. Effective protection against all forms of abuse, harassment and violence⁽⁶⁹⁾ :

The convention recognized the need for taking the necessary measures that ensure the enjoyment of each domestic worker of an effective protection against all forms of abuse, harassment and violence. The Law prohibited the recruitment offices from advertising and promoting the domestic workers in a humanly degrading manner, as it prohibited them from assigning domestic workers with hazardous works that may affect their health or insult their human dignity, while stating that The Department of Domestic Labour has the jurisdiction to handle any claims that arise from such behavior⁽⁷⁰⁾. In the event that a complaint is proven against the employer before the Department of Domestic Labour, no further entry visas will be issued for that employer for a period of 6 months⁽⁷¹⁾ defined by the executive regulations of this law⁽⁷²⁾, and in the event of a recurrence, the period shall be doubled. The Law also prohibits the confiscation of workers' passports, which is a frequent violation, but does not provide for dissuasive penalties through which effective protection of domestic workers can be guaranteed at the required level.

4. Working terms and conditions provided for by the Convention on Decent Work for Domestic Workers:

- Written employment contract: The Law stipulated that it is not permissible for the employer to hire a domestic worker without a recruitment contract (bilateral or trilateral according to the circumstances) issued by the Department of Domestic Labour at the Ministry of Interior and written in both Arabic and English, containing the information of all the parties and the work details⁽⁷³⁾.

(63) Article (3) of the Convention on Decent Work for Domestic Workers.

(64) Article (18) of Law No. 68/2015.

(65) Article (4) of Law No. 68/2015.

(66) Article (16) of Law No. 68/2015.

(67) Article (21) of Law No. 68/2015.

(68) Article (5) of Law No. 68/2015.

(69) Article (5) of the Convention on Decent Work for Domestic Workers.

(70) Article (10) of Law No. 68/2015.

(71) Article (20) of Ministerial Order No. 2194 of year 2016 regarding the Implementing Regulations of the Law.

(72) Article (30) of Law No. 68/2015.

(73) Article (18) of Law No. 68/2015.



- Working hours and breaks: The Law did not equally treat domestic workers to the rest of the workers in terms of normal working hours as it set the length of work hours at 12 hours per day, interspersed with break hours⁽⁷⁴⁾, where an employee is entitled for a one hour break after 5 hours of work⁽⁷⁵⁾. Therefore, the domestic workers were not equal to the other workers to which the Labour Law in the private sector No. 6 of 2016 is applied, and which set the working hours at 8 hours per day or 48 hours per week. The Law recognized that the domestic worker has the right to weekly break as other workers⁽⁷⁶⁾.
- Free time: The Law did not tackle this issue at all, which are the periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls⁽⁷⁷⁾.
- Annual leave: The law provides for domestic workers the right to annual paid leave⁽⁷⁸⁾, but the Law failed to determine the duration of the leave, and even its implementing regulations did not determine the duration.
- Sick leave: The Convention recognizes the right of domestic workers to enjoy conditions that are no less favorable than those applicable to workers generally in relation to the social security protection, including maternity. However, the law did not provide for sick leave and only requires the employer to pay for the treatment and hospitalization of workers and compensate them for the injury, and did not mention maternity leave.
- End-of-service benefits: The Convention does not explicitly provide for end-of-service benefits for domestic workers, but refers to the issue of social security⁽⁷⁹⁾, while the law provides explicitly for an end-of-service benefit after completion of the contract period, equivalent to one month's salary for each year⁽⁸⁰⁾.
- Minimum wage: The Convention emphasized the need of domestic workers to enjoy minimum wage coverage⁽⁸¹⁾, and the Law provided for the minimum wage equal to KD (60) equivalent to (\$ 200) according to Ministerial Order No. 2302 of year 2016 on the Rules and Procedures of enforcement of the Provisions of Law No. 68/2015 regarding Domestic Labour.
- Health and occupational safety: Every domestic worker has the right to a safe and healthy working environment according to the Convention⁽⁸²⁾, and this was further affirmed by the Law that prohibited the assignment of domestic workers with hazardous works that may affect their health or insult their human dignity, and the employer shall be obligated to provide medical treatment for the worker and compensate them for injuries if injured on the job⁽⁸³⁾.
- Minimum age: The Convention provided for the minimum age of domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), not lower than that established by national laws and regulations for workers generally⁽⁸⁴⁾. The Law set the minimum age at 21 years and the maximum age at 60 years, and prohibited the recruitment or employment of a domestic worker, whether female or male, whose age is less than stipulated⁽⁸⁵⁾, as it punishes anyone who recruits a domestic worker younger than the age stipulated by imprisonment of no more than six months and will be required to pay a fine of no more than 500 Kuwaiti dinars, or one of the two punishments⁽⁸⁶⁾.
- Living conditions: The Convention emphasized the need to provide decent living conditions that

(74) Article (22), Paragraph (2) of Law No. 68/2015.

(75) Ministerial Order No. 2302 on the enforcement of the Provisions of the Law.

(76) Article (22), Paragraph (3) of Law No. 68/2015.

(77) Article (10), Paragraph (3) of the Convention on Decent Work for Domestic Workers.

(78) Article (22), Paragraph (3) of the Convention on Decent Work for Domestic Workers.

(79) Article (14) of the Convention on Decent Work for Domestic Workers.

(80) Article (23) of Law No. 68/2015.

(81) Article (11) of the Convention on Decent Work for Domestic Workers.

(82) Article (13) of the Convention on Decent Work for Domestic Workers.

(83) Article (22), Paragraph (1) of Law No. 68/2015.

(84) Article (4) of the Convention on Decent Work for Domestic Workers.

(85) Article (21) of Law No. 68/2015.

(86) Article (29) of Law No. 68/2015.



respect the lives of domestic workers. The Law also required the employer the provision of adequate housing with decent livelihoods for domestic workers, and the provision of clothing and food.

- Domestic workers' documents: The Convention recognized the right of the domestic workers to keep in their possession their travel and identity documents⁽⁸⁷⁾. The Law also prohibits the employer from keeping in their possession any of the domestic worker's personal identity documents⁽⁸⁸⁾.
- Residence and freedom of movement: The Convention recognized that domestic workers are free to reach agreement with their employer on whether to reside in the household, and are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave⁽⁸⁹⁾. However, the Law failed to specify whether or not the worker was to reside with the family, but the prevailing practice in Kuwait is to provide independent housing for domestic workers within the family household. As for daily or weekly rest periods stipulated by law, the latter did not obligate the worker to remain in the household.

5. Protecting domestic workers against the abusive practices of recruitment agencies:

The Convention provides for a set of measures to be taken in order to ensure effective protection of domestic workers against the abusive practices of recruitment agencies⁽⁹⁰⁾:

- a. Conditions for the operation of recruitment agencies for the employment of domestic workers:

Through comparison, we found that the Law did not fail to mention the conditions of issuing licenses for recruitment offices and their renewal⁽⁹¹⁾, and also specified the bank guarantee amount at (KD 40,000) for personal licenses, provided that it is valid for two years from the date of application, as for commercial licenses, the amount is set at (KD 100,000), and in the event that the company sets up subsidiaries, the letter of guarantee shall amount to (KD 40,000 for each subsidiary) provided that it is valid for two years from the date of application⁽⁹²⁾. The law also emphasized the need to comply and respect the conditions for the obtainment of a valid license issued by the Ministry of Interior, and in the event that workers were recruited without a license, such offence will be punishable by law with a term of imprisonment for a period not exceeding 3 years and a fine not exceeding ten thousand dinars, and the penalty shall be doubled in case such offence is repeated within two years from the date of the final sentence in the first crime⁽⁹³⁾.

- b. Ensuring that appropriate mechanisms and measures are in place in the event that recruitment offices engage in abuse practices against domestic workers:

The Law recognized a set of mechanisms and measures to protect domestic workers from recruitment offices by imposing penalties, under the Kuwaiti Penal Code, for the crimes of extortion and illicit gains in the event that the recruitment offices, or any of their employees, charge domestic workers any fees in return for employing the worker or arranging for the worker to stay employed with the employer, whether such charges are direct or indirect⁽⁹⁴⁾. The Law also prohibited recruitment offices from advertising or promoting domestic workers in any humanly degrading manner, or categorizing them on the basis of faith, gender, color or cost⁽⁹⁵⁾.

The Law also determined the administrative measures that shall be taken in the event that its provisions are violated through temporary suspension for a period of three or six months, and if the violation is repeated the period shall be doubled. As well, it specified the cases in which licenses are revoked⁽⁹⁶⁾.

(87) Article (9), Paragraph (c) of the Convention on Decent Work for Domestic Workers.

(88) Article (12) of Law No. 68/2015.

(89) Article (9), Paragraphs (a and b) of the Convention on Decent Work for Domestic Workers.

(90) Article (15) of the Convention on Decent Work for Domestic Workers.

(91) Article (2) of Law No. 68/2015.

(92) Ministerial Order No. 2302 on the enforcement of the Provisions of Law 68/2015.

(93) Article (48) of Law No. 68/2015.

(94) Article (4) of Law No. 68/2015.

(95) Article (5) of Law No. 68/2015.

(96) Ministerial Order No. 2194/2016 regarding the Implementing Regulations of Law No. 68.



6. Settling disputes and complaints and effective access to justice:

The Convention affirmed that each State Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers⁽⁹⁷⁾.

The Law adopted gradualism as an approach that begins with negotiations, then the recruitment office's intervention, followed by the Department of Domestic Labour, and finally the competent authority. The Law stipulated that any dispute that arises between the parties to the contract, the Department of Domestic Labour has the jurisdiction to settle such dispute, and if a settlement is not reached, the dispute is to be referred to the competent court⁽⁹⁸⁾. In the event that a settlement is reached before such dispute is referred to court, it shall be discharged in a written contract. The Law also stipulated the extension of the residence permit of the domestic worker until a final decision is made on the complaint and until the worker is paid all due entitlements⁽⁹⁹⁾.

In the event that a settlement is not reached, the dispute shall be referred to the civil court for consideration before the Labour Circuit as a matter of urgency, while exempting the domestic worker from all judicial fees before all levels of litigation, and while considering the dispute expeditiously within no more than one month. The Department of Court Registrars is responsible for informing the disputing parties of the date of the session set to hear the case at least two weeks ahead of the session⁽¹⁰⁰⁾.

7. The measures that shall be applied to ensure the compliance with the Law to protect domestic workers:

The Convention emphasized the need for implementing measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work. In this regard, the Convention recognized the need to strike a balance between the rights of domestic workers to protection, through inspection procedures, and the right to privacy of family members⁽¹⁰¹⁾. As for the Law, it has stipulated inspection procedures for recruitment offices, but failed to address the inspection procedures in the workplace of domestic workers, such as private residences or the like.

(97) Article (17), Paragraph (1) of the Convention on Decent Work for Domestic Workers.

(98) Article (31) of Law No. 68/2015.

(99) Article (33) of Law No. 68/2015.

(100) Article (37) of Law No. 68/2015.

(101) Article (17), Paragraphs (2 and 3) of the Convention on Decent Work for Domestic Workers.



CHAPTER TWO

(Methodology Section)

This chapter refers to the field aspect of the study, in order to identify the views of domestic workers, employers, recruitment offices, and civil society organizations over the extent to which they are benefiting from the Domestic Workers Law No. (68/2015). A questionnaire prepared for this purpose was distributed, and the analysis of its findings provided us with an indicator of the level of benefit from the Domestic Workers Law, and their rights in general.

This part of the study encompasses a sample and a study instrument, in addition to the findings, analysis of responses, and recommendations accordingly.

1 Sample and Study Instrument

This survey is based on a descriptive analytical approach. The questionnaires were marked with honesty and consistency in the selection of the questions. The opinion of specialists was taken regarding the questions and their suitability to achieve the objectives of this study, not to mention that the questionnaire devoted to domestic workers was translated into English to facilitate the understanding of its content. Some of the questionnaires were distributed to the sample of the study through an electronic link, while also distributing a set of paper-based questionnaires, targeting four categories: "domestic workers, employers, recruitment offices, and workers of civil society organizations". (400) electronic questionnaires and (200) paper-based questionnaires were collected, through which the understanding of the stratified sample of the Law No. (68/2015) was measured, as well as the law's effectiveness and relevance, and their adherence to the provisions contained herein, in addition to seeking their personal opinion regarding the law and its contents.

The questionnaires targeted 380 domestic workers (182 males and 198 females, 173 employers and 23 recruitment offices and 25 civil society workers, taking into account gender diversity among males and females).

2 Findings of the Study

The Findings of the study will be manifested based on the views of the participants in the study (domestic workers, employers, recruitment offices, civil society organizations). The findings will be presented, then an analysis of these information will be set forth separately in terms of the participating parties connected with Law (68/2015) consistent with the objectives of the study, and finally, a set of recommendations will be put forward after analysis.



(Study One)

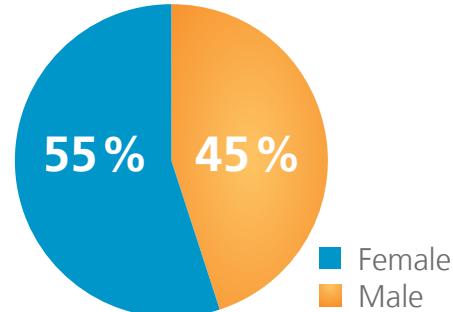
Employers

A. Description of the sample's characteristics.

The questionnaire was distributed to (173) employers having different education levels, age ranges, genders and nationalities. The demographic characteristics of this sample are described below:

• Gender Variable

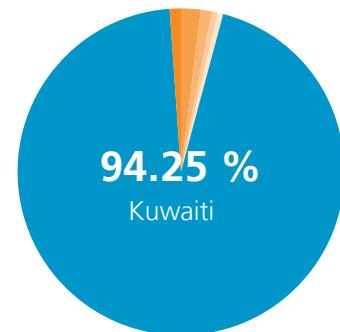
Form No. (1) shows that the males make up (45%) of the sample of the study composed of (173 individuals), while female employers make up (55%) of the total of the sample of the study, whose age ranges between (21-64 years old).



Form number (1): Distribution of employers based on gender variable

• Nationality Variable

Form No. (2) shows that most of the study sample of employers are of Kuwaiti nationality equal to (164), therefore constituting (94.25%) of the study sample, while the rest were of Egyptian nationality (2), Saudi nationality (1), Palestinian nationality (1), Jordanian nationality (2) and (3) from other nationalities.



Form number (2): Distribution of employers based on nationality.

As for the number of domestic workers working for employers, the study shows that (50%) of employers have (1) domestic worker working for them, while (40%) have (2) domestic workers, (7%) have (3) domestic workers and (2%) have (4) domestic workers, whereas (1%) of the employers did not disclose the number of domestic workers working for them, that is with regard to female domestic workers. As for male domestic workers, the study shows that the majority of employers have (1) domestic worker, and the number of employers having more than (1) domestic worker does not exceed (12). Male domestic workers are for the most part either drivers or cooks.

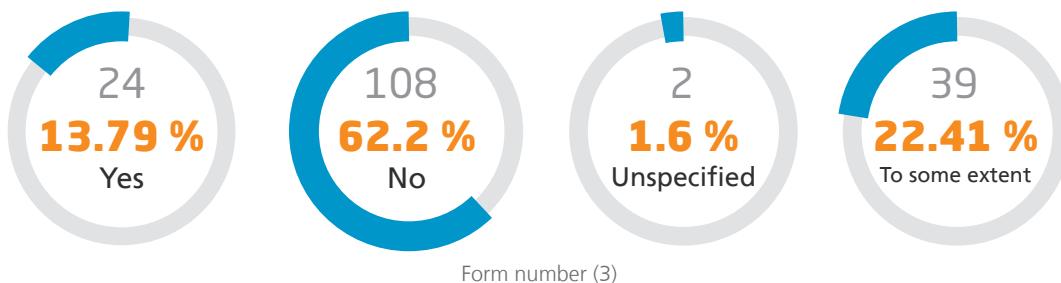
B. Responses of employers regarding Law No. (68/2015):

The questions of the study covered subjects over the extent to which employers are familiar with Law No. 68 of year 2015, as well as its provisions, applications and effectiveness, since the employer shall comply with several obligations, among which paying the agreed upon monthly wage at the end of each month in accordance with a receipt voucher, providing food, clothing, medical treatment, hospitalization, and adequate housing with decent livelihoods, as well as refraining from assigning hazardous tasks to workers that may affect their health and refraining from confiscating the personal documents of workers such as the passport, in addition to other obligations related to employers.

The Employers' responses to the subjects of the questionnaire were as follows:



1. Are you aware of the existence of law No. 68 of 2015 regarding Domestic Labour in Kuwait?



Form number (3)

Form No. (3) shows that (108 individuals), equivalent to (62.2%) of employers, are unaware of the existence of Law No. (68/2015), whereas (39 individuals), equivalent to (22.4%) of the employers stated that they are aware of the Law to some extent. Only (13.79%) of employers know the Law.

It is noted that the largest percentage of employers do not have the least knowledge of the Law that regulates their relationship with the domestic workers, despite its importance, as confirmed by employers.

2. Do you agree on giving the domestic worker a ticket back to their country at the end of the employment contract?



Form number (4)

Form No. (4) shows that (157 individuals), equivalent to (90.7%) of employers raise no objection to giving the domestic workers working for them a ticket back to their country at the end of the employment contract, whereas only (14 individuals), equivalent to (8.09%) of employers refuse to give them a ticket.

3. Do you agree on granting the domestic worker an end-of-service benefit equivalent to one month's salary for each year worked at the end of the employment contract?

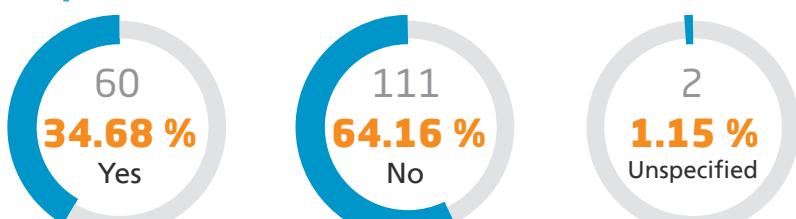


Form number (5)

Form No. (5) shows that largest segment of employers equal to (98), constituting (56.64%), refused to grant domestic workers the end-of-service benefit provided for by Law, whereas (42.19) agreed.



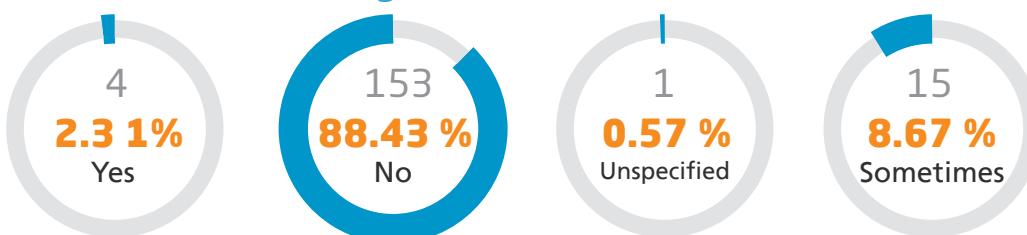
4. In the event that you pay the salary in cash, does the domestic worker sign a cash receipt?



Form number (6)

Form No. (6) shows that (64.16%) of the employers do not take a cash receipt from domestic workers, whereas (34.68%) of employers take a cash receipt from domestic workers when paying the salary in cash.

5. Do you deduct part of the domestic worker's salary when committing a mistake or violation during work?



Form number (7)

Form No. (7) shows that (153 individuals), equivalent to (88.43%) of employers, do not deduct any amount from the domestic worker's salary when committing any mistake, whereas a small percentage equal to (2.31%) did not object to the deduction in the event of a mistake, and only (8.67%) of employers deduct sometimes.

6. Do you refrain from assigning domestic workers any hazardous works that may affect their health?



Form number (8)

Form No. (8) shows that (147) employers, equivalent to (84.79%), refrain from assigning the domestic workers any hazardous works, whereas (13.87%) of the employers assign domestic workers tasks that may be hazardous and difficult.

7. Do you keep in your possession the personal documents, such as passport, of the domestic workers working for you?



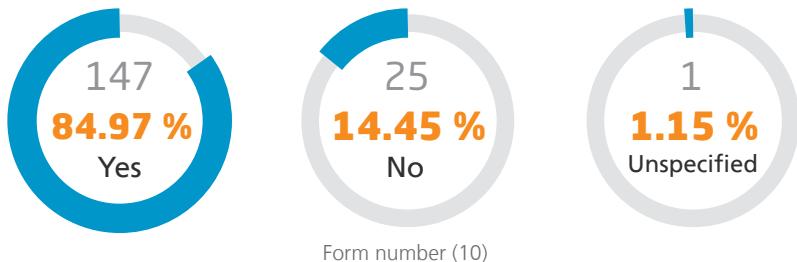
Form number (9)

Form No. (9) shows that (91.90%) keep the personal documents of the domestic workers in their possession, whereas a small number of employers (7.51%) leave these documents in the possession



of the domestic workers working for them. This reveals the non-compliance with the Law that gives the right to domestic workers to keep their personal documents, such as passport, and prohibits their confiscation by employers.

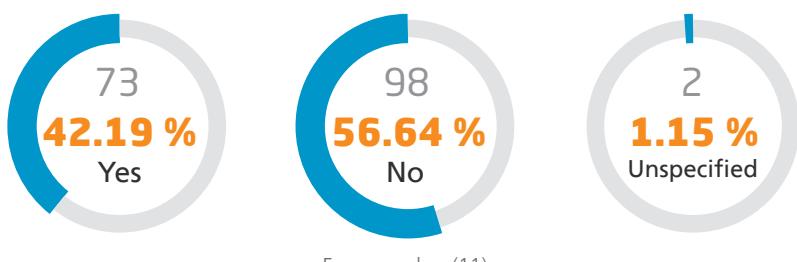
8. Does the domestic worker working for you adhere to the instructions given to them?



Form number (10)

Form No. (10) shows that (147 individuals), equivalent to (84.97%) of employers, consider that the domestic workers working for them adhere to the instructions given to them, whereas (14.45%) of employers believe that the domestic workers do not adhere to the instructions given to them.

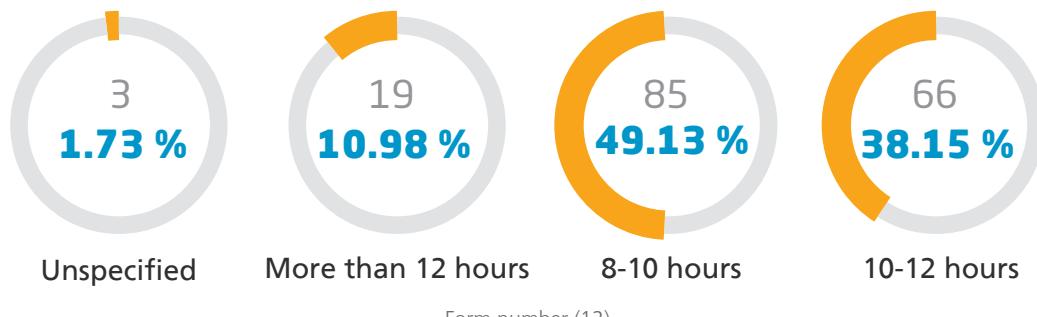
9. Is there a written contract between yourself and domestic workers?



Form number (11)

Form No. (11) shows that (56.64%) of employers do not conclude an employment contract between themselves and domestic workers, whereas only (42.19%) of them conclude an employment contract between themselves and domestic workers, and (1.15%) did not answer the question.

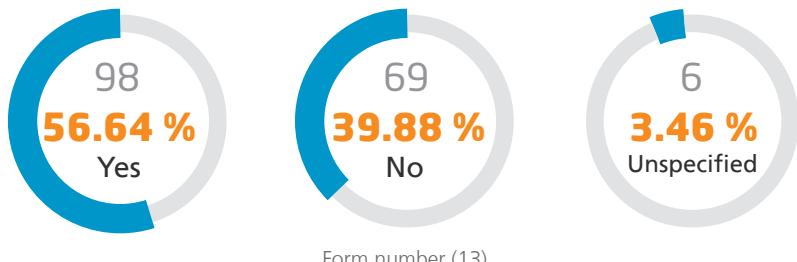
10. How many working hours is the domestic worker working for you assigned?



Form number (12)

Form No. (12) shows that (49.13%) of the employers assign the domestic workers working for them between (8-10 working hours), whereas (38.15%) reported that domestic workers work for more than (10 hours) but no more than (12 hours), and (10.98%) assign the domestic workers more than (12 working hours).

11. Do you pay additional fees to domestic workers when working additional hours?

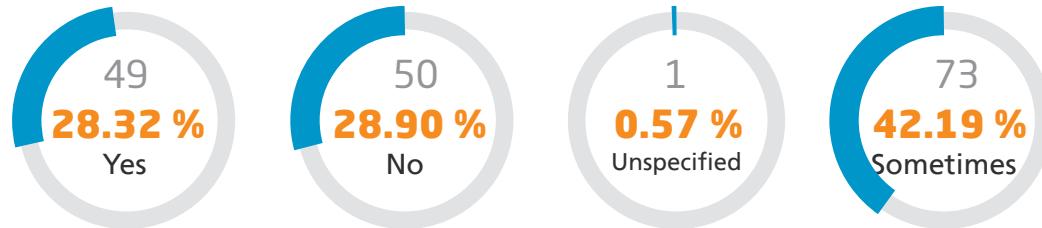


Form number (13)



Form No. (13) shows that (39.88%) of employers do not pay additional fees to domestic workers when working overtimes, whereas (56.64%) of employers pay additional fees to domestic workers when working overtime.

12. Do you grant the domestic worker working for you a weekly day rest?



Form number (14)

Form No. (14) shows a convergence of percentage between the employers who grant the domestic workers a weekly day rest and those who do not, where (28.32%) grant the domestic worker the weekly day rest, whereas (28.90%) refuse to grant them their weekly day rest. A large segment of employers, the percentage of which is equal to (42.19%), was hesitant as to this matter stating that they sometimes agreed on granting them their weekly day rest but not regularly. This indicates a lack of knowledge and commitment to Law (68/2015) that gives domestic workers the right to a weekly rest.

13. Do you allow the domestic worker to go out on the weekly rest day?

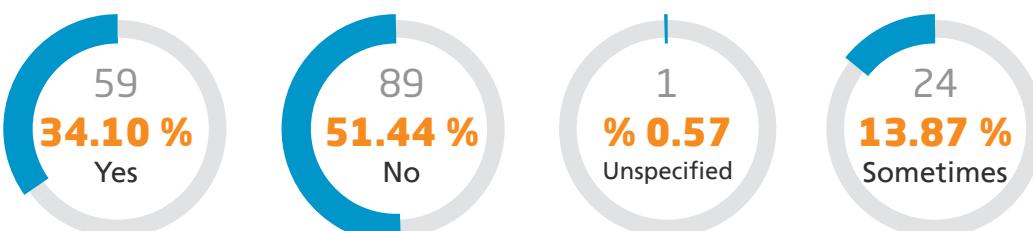


Form number (15)

Form No. (15) shows that a large percentage of employers equal to (45.66%) do not allow domestic workers to go out on their weekly day rest, whereas (26.01%) of them do not object on allowing them to go out, and (27.16%) give them permission sometimes.

This may be justified as the fear of employers from allowing domestic workers to go out and engage with undesirable people, thus leading to a situation that may pose dangers.

14. Do you grant the domestic worker a paid annual leave?



Form number (16)

Form No. (16) shows that (89 individuals), equivalent to (51.44%) of employers, they refuse to grant the domestic worker a paid annual leave as provided by the law , whereas (59 individuals) equivalent (34.10%) ,

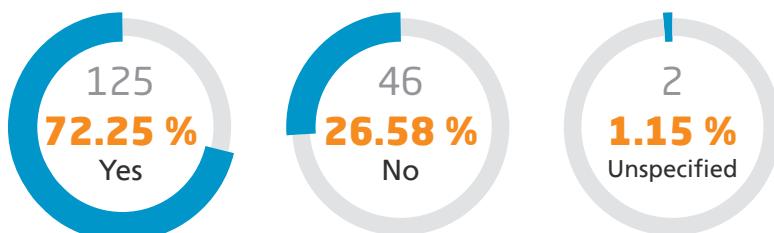
15. Do you allow the domestic worker to own and use a mobile phone?



Form number (17)

Form No. (17) shows a high percentage of employers equal to (94.79%) who do not object on allowing the domestic workers to own and use mobile phones, whereas (4.62%) of employers refused.

16. Do you trust the domestic worker working for you?

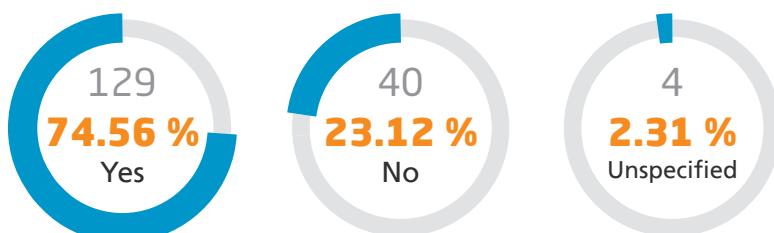


Form number (18)

Form No. (18) shows that employers well trust the domestic workers, where (72.25%) of employers trust the domestic workers and (26.58%) of them do not trust them.

This gives a slightly negative indicator of the environment, which requires follow-up and adjustment and which may be due to some bad encounters the employers have experienced with domestic workers or heard of, or because domestic workers have harmed one of the family members or have done material damage.

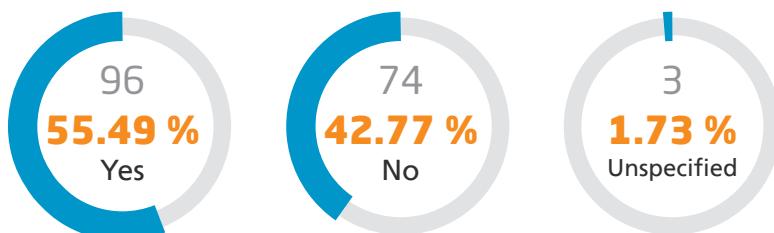
17. Do you compensate the domestic worker for any injury suffered during work?



Form number (19)

Form No. (19) shows that a total of (129) employers, equivalent to (74.56%), compensate the domestic worker for any incident or injury suffered during work, whereas (23.12%) of employers do not compensate domestic workers working for them.

18. Have you ever encountered a problem in which the domestic worker who worked for you has absconded?



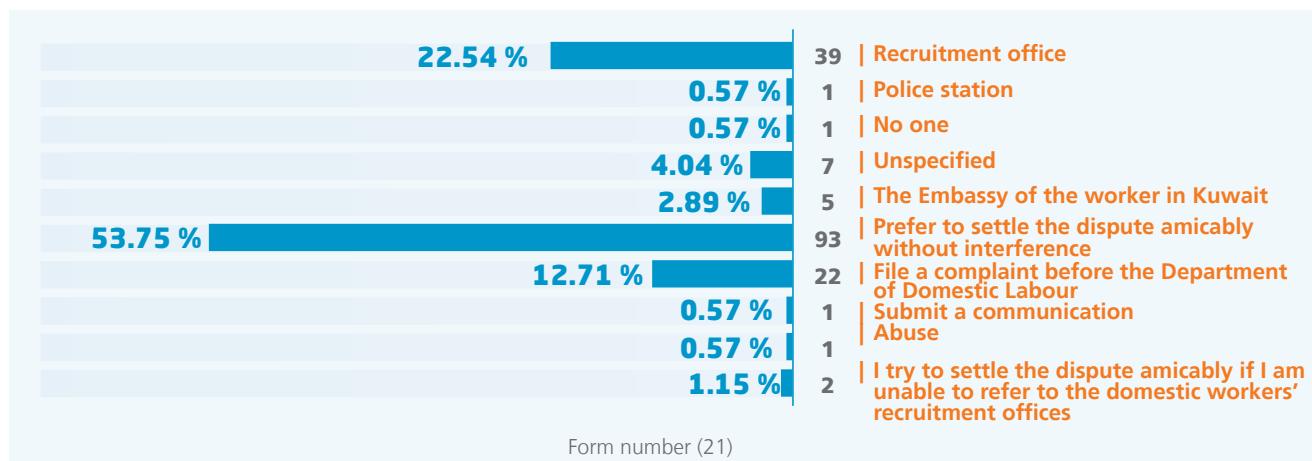
Form number (20)

Form No. (20) shows that (96 families), equivalent to (55.49%), have experienced cases in which a domestic worker absconded, and (42.77%) of the families have not encountered such case.



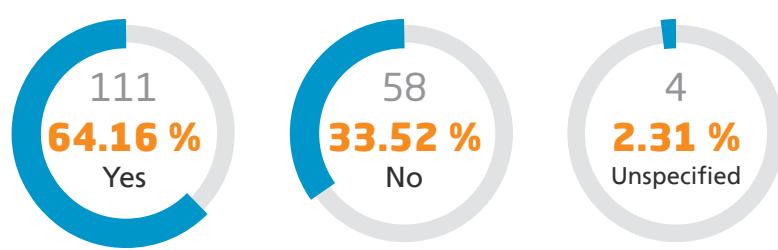
This issue deserves to be pondered because the recurring of this incident in which domestic workers abscond is a dangerous matter and the beginning of a problem that may arise if the numbers increase. This is a negative indicator of the relationship between the domestic workers and employers that leads domestic workers to abscond.

19. In the event of a dispute between yourself and the domestic worker, who do you resort to or how do you deal with it?



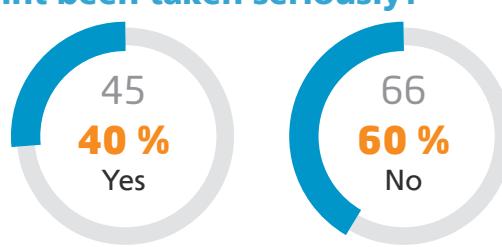
Form No. (21) shows that (53.75%) of employers choose to settle the dispute amicably without the interference of a third party. A small percentage of employers equal to (22.54%) of employers resort to recruitment offices, whereas (12.71%) resort to the Department of Domestic Labour to settle the dispute with the domestic worker.

20. Has a dispute or misunderstanding ever arose between you and the domestic worker?



Form No. (22) shows that (64.16%) of employers have engaged in disputes with domestic workers over varying periods, and only (41.04%) have had their complaints taken seriously as indicated in form No. (23), whereas (58) employers, equivalent to (33.52%), did not experience any kind of dispute.

21. Has your complaint been taken seriously?



Form No. (23) shows that (60%) of the (111) individuals who have experienced problems have not had their complaints against domestic workers taken seriously, whereas the complaints of (40%) of employers were handled and taken seriously.



C.Key findings and remarks regarding the (Employers') knowledge of the Law

No. (68/2015), and their compliance with it:

Employers' responses show some observations that should be taken into consideration and followed up by decision-makers and people in charge of the domestic workers file, especially that the law No. (68/2015) was issued three years ago, where the law imposed obligations on all parties (the employer – the worker – the recruitment office), among which the employer's obligations are considered to be the most important, and which entail many rights for domestic workers, such as the right to receive a return ticket at the end of the contract, end-of-service benefits and other rights related to working conditions such as ensuring appropriate housing, clothing, food and treatment costs, as well as not assigning any hazardous work to them that could affect their health or insult them.

It is necessary to assess the employers' knowledge of the law, its implementation, and its effectiveness and impact on all parties involved. Some of these remarks related to employers will be discussed in the form of results as follows:

1. The results show that large number of employers (62.2%) are not aware of the law no. (68/2015) despite its importance and the fact that they need it to regulate their relation with domestic workers.
2. The majority of employers who were surveyed agreed on giving the domestic worker a return ticket to their country of origin at the end of the employment contract, with a percentage of (90.75%), whereas (8%) of them rejected this idea, nonetheless it is a right provided for by law.
3. (56.64%) of employers refused to grant the domestic worker end-of-service benefits even though it is a right stipulated by the law. The legislator has endeavored through the aforementioned law to ensure equality between domestic workers and private sector workers who receive end-of-service benefits equivalent to fifteen working days for each year of the first five years, and one month wage for each following year, provided that the overall total of benefits does not exceed the wage of a year and a half for workers who are paid on a monthly basis⁽¹⁰²⁾.
4. (84.79%) of employers stated that they do not assign domestic workers who work for them hazardous activities, where Law number 68/2015 set out, among the employers' obligations, that it shall not be permitted to assign domestic workers any hazardous works that could affect their health or insult their human dignity⁽¹⁰³⁾. It was emphasized that special characteristics of home work should be taken into account, and where appropriate, conditions applicable to the same or similar type of work carried out in an enterprise, as well as promoting protection in the field of occupational safety and health through Convention No. (177)⁽¹⁰⁴⁾. The same convention stipulated that national laws and regulations on safety and health at work shall apply to home work, taking account of its special characteristics, and shall establish conditions under which certain types of work and the use of certain substances may be prohibited in home work for safety of reasons and health⁽¹⁰⁵⁾.
5. Most of the employers (91.90%) retain the travel documents of domestic workers working for them, thus violating the provisions of law. It should be noted that the provisions of Law No.

(102) Article (51) of Law No. 6 of 2010 concerning Work in the Private Sector.

(103) See Article (10) of Law No. 68/2015 regarding Domestic Labour.

(104) See Article (4) of Convention No. 177 of 1996 regarding Home Work.

(105) Article (7) of the same convention.



68/2015 prohibited employers from keeping in their possession any documents or personal identification documents for the domestic workers such as their passports, or civil cards. However, the same aforementioned law did not lay down any dissuasive penalties against employers who retain the personal documents of domestic workers, though confiscating passports is a frequent violation.

Employers usually justify this behavior by referring to the high costs of recruitment they pay, and because they believe that retaining the passports of domestic workers will prevent them from leaving the workplace. They also believe that this will protect them from any legal charge or any behavior or conduct the domestic worker might perform. However, many domestic workers leave their jobs and seek refuge in the embassies of their countries⁽¹⁰⁶⁾.

6. (56.64%) of employers declared that they did not conclude a contract with the domestic workers. It turns out that the highest percentage represents employers who reported not having made an employment contract, even though the law No. 68/2015 stipulated that domestic workers shall not be employed by employers but under employment contracts (bilateral or tripartite, as the case may be) issued by the Department of Domestic Labour in the Ministry of Interior, written in both English and Arabic languages⁽¹⁰⁷⁾.

This confirms the lack of legal effective protection for domestic workers, at the required level, since law No. 68/2015 does not include procedures that require employers to conclude written employment contracts.

This sets a great challenge for us, trying to resituate domestic work from the informal sector to the formal sector, as the written contract vitiates difficulties in proving the existence of the employment relationship and its agreed-upon terms, should a dispute arise between the parties. Given the isolation and vulnerability of domestic workers and the greater likelihood of domestic workers being unfamiliar with their legal rights, the written employment contract plays an important role in empowering domestic workers within the employment relationship⁽¹⁰⁸⁾.

7. Domestic workers respect the instructions given by employers. (84.79%) of employers confirmed that fact. It should be noted that most complaints submitted by domestic workers to the Kuwait Society for Human Rights involved delay of payment or non-payment of wages. This was confirmed by domestic workers while surveying their opinions in their questionnaires. However (89%) of employers claim that they do not delay payment of monthly wages, while (9%) admit that they do. (89% of the total of employers) claim that they do not deduct from the worker's wage if they committed a mistake or violated instructions, while (9%) of employers adopt the method of deduction from time to time, whereas (2%) reported that they regularly deduct from the wage of the domestic worker if they committed any wrongdoing or violation.
8. (38.15%) of employers declared that domestic workers work for a period of more than ten hours, and (39.88%) of employers stated that they do not remunerate domestic workers for any additional work they perform.
9. (28.90%) of employers refuse to give the domestic workers one rest day weekly, while (42.19%) of them stated that they give them a weekly leave sometimes, though it is one of their fundamental rights stipulated by law. (45.66%) of employers did not allow the domestic

(106) Report of Human Rights Watch in 2010 (Walls at every turn) - Abuse of Migrant Domestic Workers through Kuwait's Sponsorship System – Confiscating Passports paragraph – page 48.

(107) Article (18) of Law No. 68/2015 regarding Domestic Labour.

(108) Effective Protection for Domestic Workers – a guide to designing labour laws – ILO 2012 – Chapter Three – Section One (Written contracts or particulars of employment).



workers working for them to leave the house during their rest days.

10. Despite the fact that domestic workers are entitled to an annual leave, (51.44%) of employers refused that, while other employers (13.87%) agreed on giving them their leave, occasionally.
11. The percentage of employers who trusted the domestic workers working for them was high, where (72.25%) of employers reported that they trust domestic workers.
12. (74.56%) of employers declared that they compensate domestic workers working for them for any damages or injuries suffered during work. (55.49%) of employers faced the problem of domestic workers, previously working for them, absconding from the workplace.
13. (53.75%) of employers preferred to find an amicable solution without the intervention of a third party to settle the dispute between them and the domestic worker, (22.54%) referred to the help of recruitment office only, while (40%) believed that their complaints were addressed in a serious way.

However, the commitment of domestic workers does not reflect their knowledge of the law, since most of them are not aware of the provisions of the law, and we do not believe that it results from their satisfaction, under the many violations they suffer from. Therefore, we can relate that the main driver behind the domestic workers' commitment to the instructions of their employers is the fear of being abused, and that was confirmed in the questionnaire given to them (as will be mentioned in the second part of the findings analysis) about whether they feel comfortable and safe while working for their employer. Most of them declared that they did not feel comfortable or safe.



(Study Two)

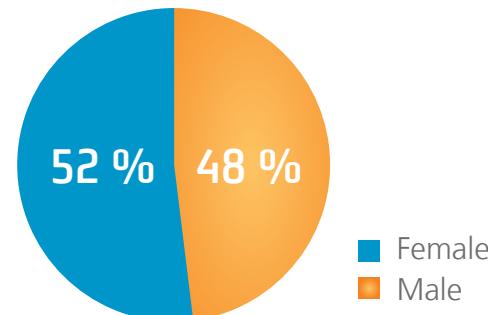
Domestic Workers

A. Description of the sample's characteristics.

The questionnaire was distributed to (380) domestic workers having different education levels, age ranges, genders and nationalities. The demographic characteristics of this sample are described below:

• Gender Variable

It is revealed from form (24) that men constitute (48%) of the study sample of domestic workers who responded to the questionnaire, while women form (52%) of the total of the study sample aged between (23 and 45 years old).

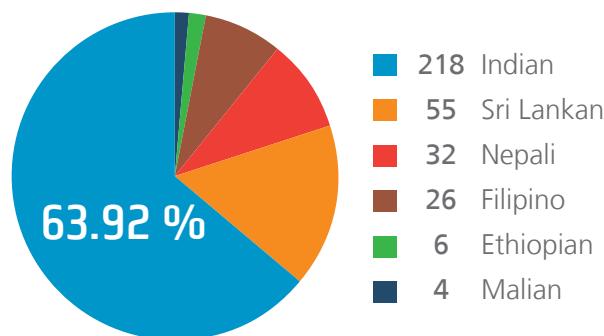


Form number (24): distributing domestic workers based on gender variable

• Nationality Variable

Form number (25) shows that the majority of the study sample of domestic workers are of Indian nationality (218 workers) with a percentage of (63.92%) of the study sample. The rest of the workers were of Sri Lankan (55), Nepali (32), Filipino (26), Ethiopian (6) and Malian (4) nationalities.

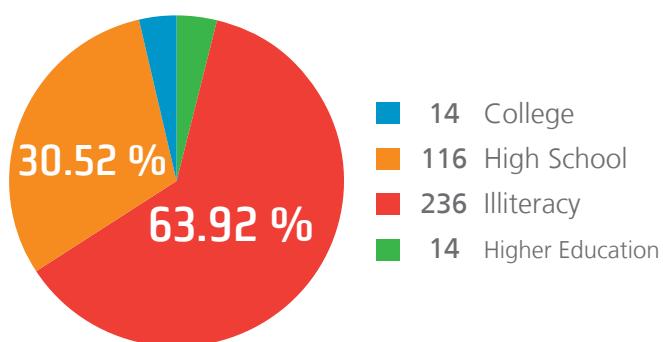
The tasks entrusted to male domestic workers varied between driving and cooking, while female domestic workers were assigned childcare, home cleaning, and cooking tasks.



Form number (25): distributing domestic workers based on nationality variable

• Education Level Variable

It is revealed from form number (26) that the majority of the study sample are illiterate equal to (218) with a percentage of (63.92%) of the sample study, while domestic workers holding high school degree are equal to (116) workers with a percentage of (30.52%). It is noticeable that degrees higher than high school are rare with a percentage of (5.56%) due to the fact that most of their work is home work, while few of them head towards raising children and child care where an educated person is more required.



Form number (26): distributing domestic workers based on education level variable

B. Domestic Workers' responses to law no. (68/2015)

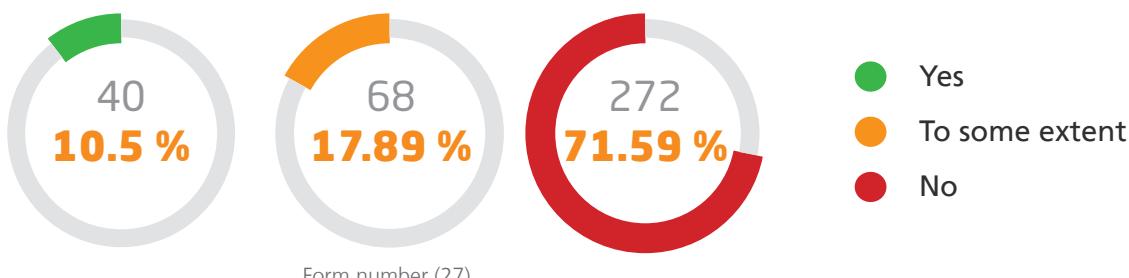
The responses of the study covered subjects related to the knowledge of domestic workers of law number 68 of 2015, its provisions, implementation, and effectiveness in terms of rights and benefits among which payment of the agreed-upon monthly wage at the end of each month by virtue of a receipt, the obligation to provide the domestic worker with food, clothing, treatment and nursing expenses, provide them with appropriate housing where conditions of a decent living are met, not



assign domestic workers any hazardous work that could harm them, gave the domestic workers the rights to have and keep their passports and papers with them, gave the domestic workers the rights to have and keep their passports and papers with them.

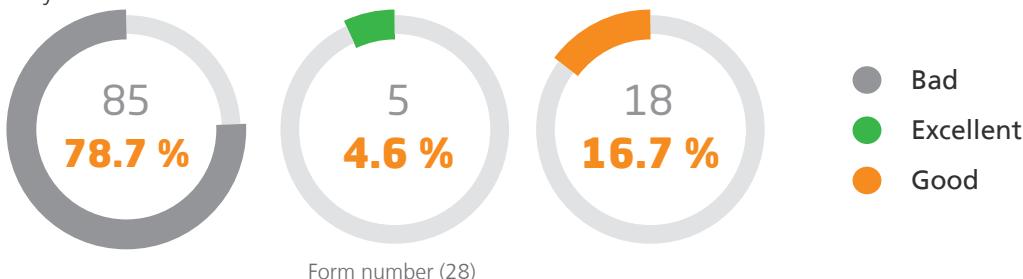
The Domestic Workers' responses to the subjects of the questionnaire were as follows:

1. Are you aware of the existence of law No. 68 of 2015 regarding Domestic Labour in Kuwait?



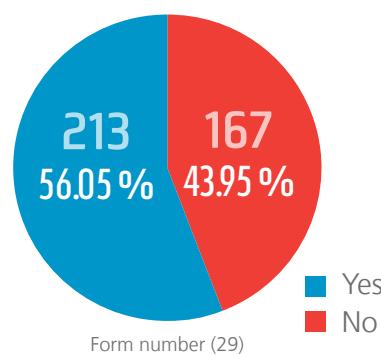
In case your answer was (yes), how do you think the law is dealing with the rights of domestic workers?

Form (27) shows that (272 individuals) equivalent to (71.59%) of the domestic workers are not aware of law no. (68/2015), while (40 individuals) of domestic workers stated that they have good knowledge of the law, and (68 individuals) answered that they have knowledge of the law to some extent, with a total of (108 individuals) having knowledge of the law even though at a basic level. However, (85 individuals among them) believe that the law didn't give them the minimum rights standards as it appears in form number (28), where the percentage of people who are aware of the law is (10.52%) of the domestic workers only.



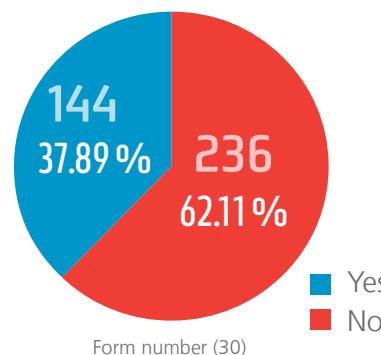
2. Do you know that you have the right to get a return ticket to your country at the end of the employment contract?

Form number (29) shows that (167 individuals) with a percentage of (43.95%) of domestic workers have no knowledge about their right to get a return ticket to their country of origin, after the end of their employment contract, as stipulated by the law; while (213 individuals) of domestic workers are aware of this right, with a percentage of (56.05%) of domestic workers only.



3. Do you know that you have the right to end-of-service benefits at the end of the employment contract?

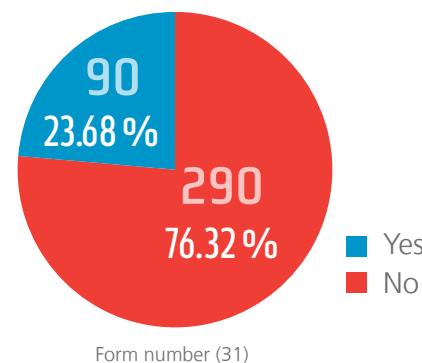
Form number (30) indicates that the largest number of domestic workers (236) with a percentage of (62.11%) of domestic workers are not aware of their rights to receive end-of-service benefits equal to one month wage for each year, as stipulated by the law, while (37.89%) of them know about this right.





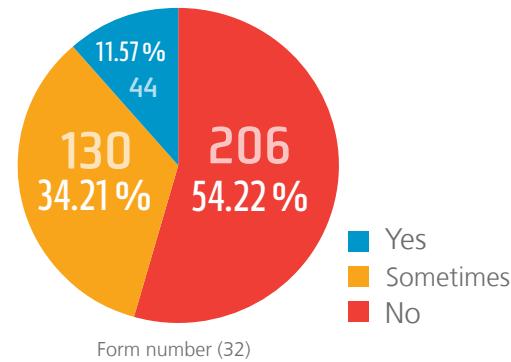
4. In the event that you are paid your monthly wage in cash, do you sign any cash receipt?

Form number (31) shows that, in terms of signing a cash receipt to acknowledge the receipt of the domestic worker of their monthly wage, (76.32%) of domestic workers do not sign cash receipt stating that they have received their monthly wage, while (23.68%) of them indicated that they sign a receipt when their salary is paid in cash.



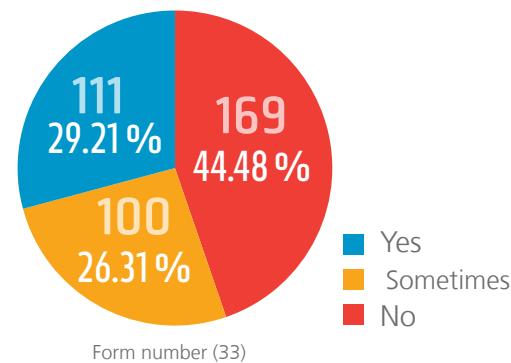
5. Does your employer deduct money from your wage sometimes?

Form number (32) shows that (44) domestic workers reported that their employers deduct money from their monthly wages, with a percentage of (11.57%) of them, (34.21%) of domestic workers stated that their employers make deductions on their monthly wages sometimes, while (206) persons claimed (54.22%) of domestic workers confirmed that no amount is deducted from their monthly wages which is a big percentage.



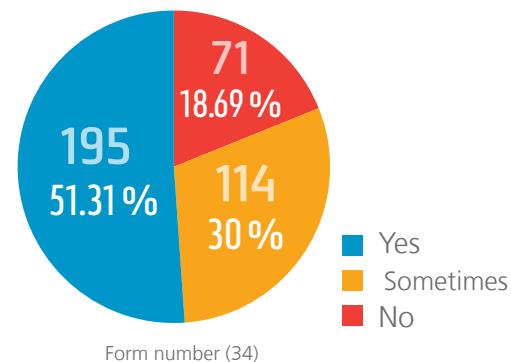
6. Are you assigned any hazardous tasks that could affect your health?

Form number (33) shows that (111) male and female domestic workers are assigned hazardous activities with a percentage of (29.21%), while (26.31%) are sometimes asked to perform dangerous works that affect their health, and (44.48%) are never asked to do hazardous works that threaten their lives.



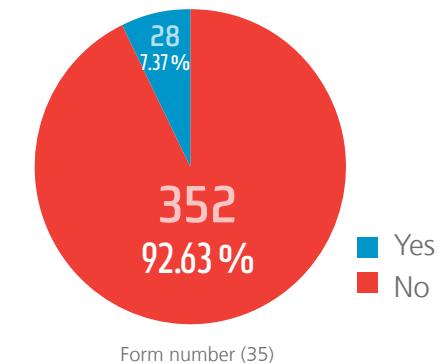
7. Is your housing appropriate and involves all requirements for an adequate living?

Form number (34) indicates that (51.31%) of domestic workers see that their housing is appropriate and involves all requirements for an adequate living, while (18.69%) believe that it is not but it takes into account the requirements for a decent living, and (30%) of them answered this question with sometimes.



8. Do you keep in your possession all your personal documents such as your passports?

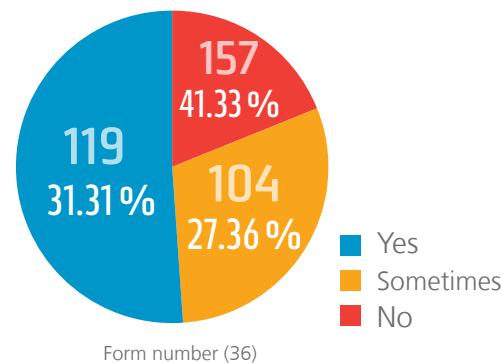
Form number (35) shows that (92.63%) of domestic workers do not keep in their possession their travel documents, while only a very small number of them (28) keep them in their possession (7.36%). Which is a sign that the provisions of law that give the domestic workers the right to keep in their possession their travel documents without being confiscated by the employer are not adhered to.





9. Are you treated in a decent way respectful of your privacy?

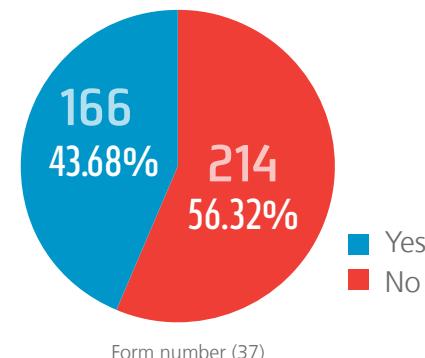
Form number (36) reveals that (157 individuals), with a percentage of (41.33%) of domestic workers, believe that their employers treat them in an inhumane way disrespectful of their privacy. (27.36%) of them stated that they are sometimes subject to inhumane treatment, whereas (31.31%) reported that their dignity and privacy are respected within their work environment.



Form number (36)

10. Is there any written contract between yourself and your employer (Kafeel)?

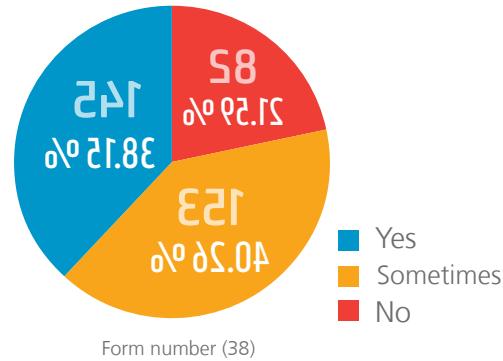
Form number (37) shows that (56.32%) of domestic workers perform their work without concluding contracts between them and their employer (Kafeel), while only (43.68%) of them are working in accordance with a contract concluded between them and their employers.



Form number (37)

11. Do you receive your monthly wage on time, without any delay?

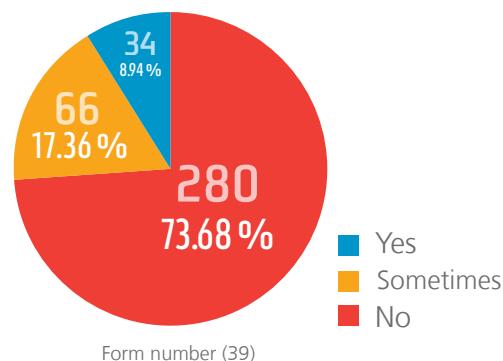
Form number (38) shows that only (38.15%) of domestic workers receive their monthly wage on time, without any delay. (40.26%) pointed out that the payment of their monthly wages is sometimes delayed, while (145 individuals), equal to a percentage of (21.59%), stated that their pays are always delayed.



Form number (38)

12. Do you get any additional pay for the extra working hours?

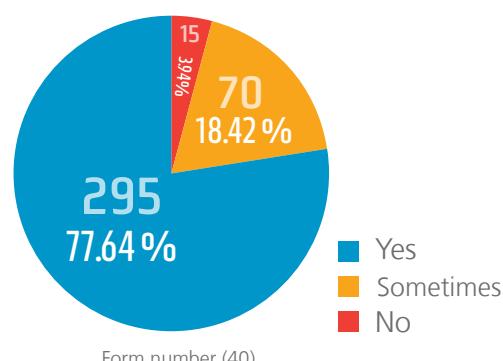
Form number (39) indicates that (73.68%) of domestic workers do not get additional pay for additional working hours, whereas only (8.94%) of domestic workers said that they are remunerated for the additional work they perform, and (17.36%) of them stated that they, sometimes, get additional pay for working additional hours.



Form number (39)

13. Do you work more than ten hours a day?

Form number (40) shows that (295) domestic workers, equivalent to (77.64%), work for more than hours a day, while only (3.94%) of them do not work for more than ten hours daily. (18.94%) of domestic workers work for more than ten hours a day, occasionally.

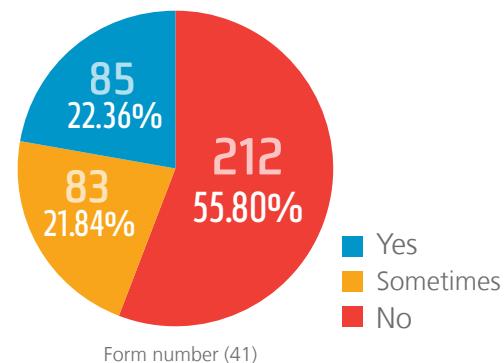


Form number (40)



14. Are you allowed to have a one rest day weekly?

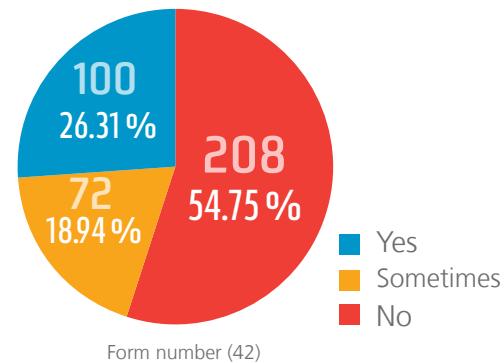
Form number (41) indicates that (55.80%) of domestic workers are not allowed to get one rest day weekly, while (21.84%) are sometimes allowed to have it, and (22.36%) confirmed that they are given a rest day weekly. This reflects the lack of knowledge of law No. (68/2015) and the weak compliance with the provisions thereof that give the domestic worker the right to a weekly rest day.



15. Do you permit the domestic worker to leave the house on their weekly rest day?

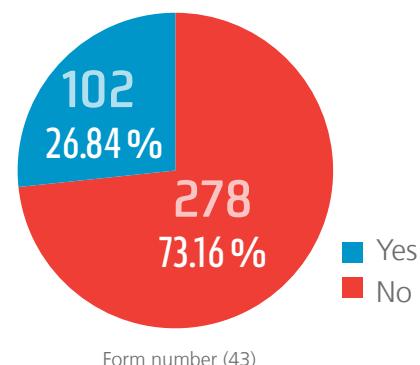
Form number (42) shows that the majority of domestic workers (54.75%) are not allowed to leave the house during their weekly rest day, while (26.31%) are allowed to. (18.94%) of them are given the permission to leave the house from time to time.

This may be justified by the fact that employers are afraid that domestic workers abscond from work or meet undesirable people, which could expose them to danger.



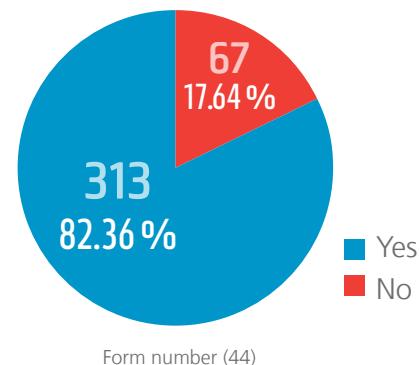
16. Do you give the domestic worker an annual paid leave?

Form number (43) indicates that (278) domestic workers, equal to (73.16%) are not given their paid annual leave stipulated by the law, by their employers, whereas (26.84%) of them are given their paid annual leave. Nevertheless, the law stipulates that domestic workers shall be entitled to a paid annual leave.



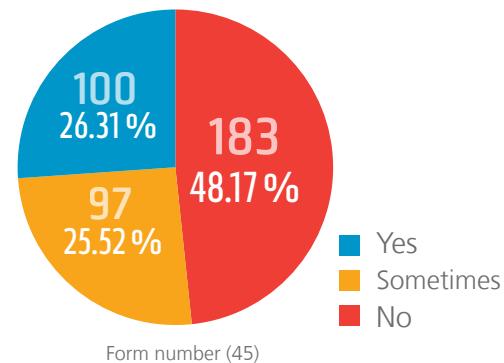
17. Do you allow the domestic worker to own or use a mobile phone?

Form number (44) shows that the employers of a large number of domestic workers (82.36%) allowed them to own and use mobile phones, while the employers of (17.64%) of domestic workers did not allow them to own and use a mobile phone.



18. Are you subject to any kind of abuse during your work?

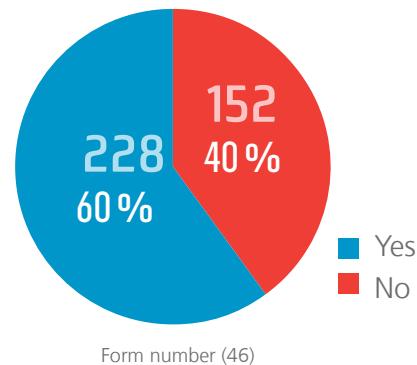
Form number (45) reveals that (26.31%) of domestic workers are subject to abuse during their performance of their work, whereas (25.52%) are sometimes subject to abuse, and (48.17%) of domestic workers are not abused by their employers during their work.





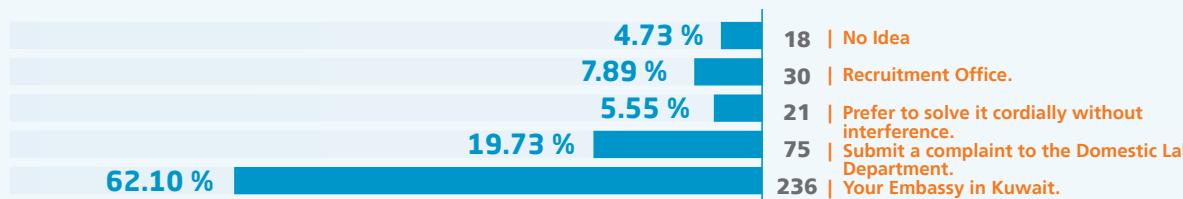
19. Are you satisfied with you work in Kuwait?

Form number (46) shows that (60%) of domestic workers are satisfied with their work in Kuwait, whereas (40%) of domestic workers are not.



Form number (46)

20. In the event of a dispute with the domestic worker, who do you refer to?

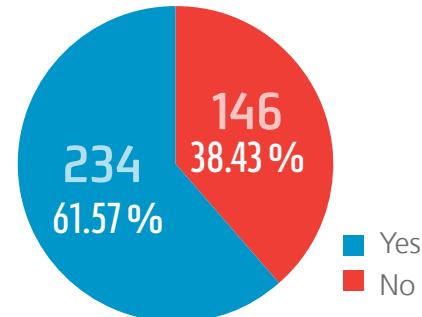


Form number (47)

According to form (47), (62.10%) of domestic workers refer to their embassies in Kuwait to solve disputes arising between them and their sponsor, while (19.73%) of them tend to submit complaints directly to the Department of Domestic Labour; (7.89%) of domestic workers refer to the recruitment offices, while a small percentage of them (5.55%) prefer solving the problem by themselves without reaching any party, and (4.73%) of them have no idea about where to go.

21. Has a dispute or misunderstanding ever arose between you and the domestic worker?

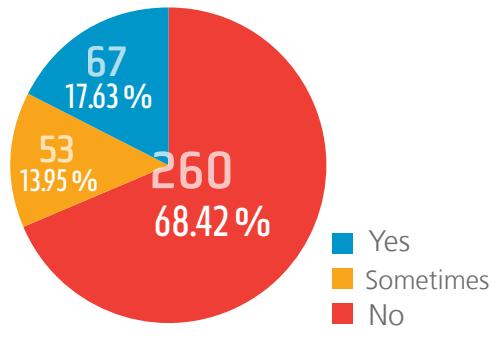
Form number (48) shows that (234) domestic workers, equivalent to (61.75%), had disputes with their employers, during different periods of time, and whose complaints were not seriously addressed, while (146) domestic workers did not face any disputes or problems with their employers, with a percentage of (38.43%).



Form number (48)

22. Has your complaint been addressed seriously?

Form number (49) reveals that the complaints of (68.42%) of domestic workers were not seriously addressed and followed up, whereas the complaints of (17.63%) of domestic workers were seriously handled and settled, as required. The responses of (13.95%) of domestic workers were indefinite.



Form number (49)



C.Key findings and remarks regarding the (Domestic Workers') knowledge of the Law No. (68/2015), and their compliance with it:

Domestic workers' responses to the questionnaire show some observations that should be taken into consideration and followed up by decision-makers and people in charge of the domestic workers file, especially that the law No. (68/2015) was issued three years ago, where the law imposed obligations on all parties (the employer – the worker – the recruitment office), among which the employer's obligations are considered to be the most important, and which entail many rights for domestic workers, such as the right to receive a return ticket at the end of the contract, end-of-service benefits and other rights related to working conditions such as ensuring appropriate housing, clothing, food and treatment costs, as well as not assigning any hazardous work to them that could affect their health or insult them. Nonetheless, after analyzing the responses of the domestic workers, we believe that the responses were exaggerated in terms of the compatibility of the work assigned to domestic workers with the contents of the employment contract (according to the employers' opinions). In their questionnaires, domestic workers confirmed the opposite of what employers mentioned, in addition to the perceived violations committed against domestic workers, including but not limited to long working long hours without rest, working for extra hours without any additional pay, delay in monthly wage payment, depriving them from their annual leave or weekly rest day, forbidding them to leave the house to spend it, and confiscation of their passports by employers, all of which confirm the incompatibility of the works assigned to domestic workers with the contents of the employment contract.

It is necessary to assess the domestic workers' knowledge of the law, its implementation, and its effectiveness. Some of these remarks related to domestic workers will be discussed in the form of results as follows:

1. The results show that large number of domestic workers (71.59%) are not aware of the law no. (68/2015) despite its importance and the fact that they need it to regulate their relation with employers. This is due to many reasons, among which the lack of legal awareness, the low level of support offered by the embassies of labour-sending countries, the low level of education of domestic workers, failure to disseminate the law, and lack of firmness in its enforcement.

Moreover, it showed that 43.95% finds the lack of the on the lack of the domestic worker's knowledge of their right to get a return ticket to their country of origin, despite the fact that it is a fundamental right stipulated by the law. (62.11%) of domestic workers stated that they are not aware of their right to receive end-of-service benefits even though it is a right provided for by the law. The legislator has endeavored through the aforementioned law to ensure equality between domestic workers and private sector workers who receive end-of-service benefits equivalent to fifteen working days for each year of the first five years, and one month wage for each following year, provided that the overall total of benefits does not exceed the wage of a year and a half for workers who are paid on a monthly basis⁽¹⁰⁹⁾.

2. (29.21%) of domestic workers stated that they are assigned hazardous activities that could affect their health, and (26.3%) declared that they are sometimes assigned such activities, despite the fact that the law set out, among the employers' obligations, that it shall not be permitted to assign domestic workers any hazardous works that could affect their health or insult their human dignity⁽¹¹⁰⁾. Therefore, special characteristics of home work should be taken into account, and where appropriate, conditions applicable to the same or similar type of work carried out in an enterprise, as well as promoting protection in the field of occupational safety

(109) Article (51) of Law No. 6 of 2010 concerning Work in the Private Sector.

(110) See Article (10) of Law No. 68/2015 regarding Domestic Labour.

(111) See Article (4) of Convention N0. 177 of 1996 regarding Home Work.



and health⁽¹¹¹⁾. The convention No. (177) stipulated that national laws and regulations on safety and health at work shall apply to home work, taking account of its special characteristics, and shall establish conditions under which certain types of work and the use of certain substances may be prohibited in home work for safety of reasons and health⁽¹¹²⁾.

3. The results show that (92.63%) of domestic workers do not keep in their possession their personal travel documents, contrary to the provisions of law. It should be noted that the provisions of Law No. 68/2015 prohibited employers from keeping in their possession any documents or personal identification documents for the domestic workers such as their passports, or civil cards. However, the same aforementioned law did not lay down any dissuasive penalties against employers who retain the personal documents of domestic workers, though confiscating passports is a frequent violation.

Employers usually justify this behavior by referring to the high costs of recruitment they pay, and because they believe that retaining the passports of domestic workers will prevent them from leaving the workplace. They also believe that this will protect them from any legal charge or any behavior or conduct the domestic worker might perform. However, many domestic workers leave their jobs and seek refuge in the embassies of their countries⁽¹¹³⁾.

4. (56.3%) of domestic workers declared that they did not conclude a contract with the employer (Kafeel). It turns out that the highest percentage represents domestic workers who reported not having made an employment contract, even though law No. 68/2015 stipulated that domestic workers shall not be employed by employers but under employment contracts (bilateral or tripartite, as the case may be) issued by the Department of Domestic Labour in the Ministry of Interior, written in both English and Arabic Languages⁽¹¹⁴⁾.

This confirms the lack of legal effective protection for domestic workers, at the required level, since law No. 68/2015 does not include procedures that require employers to conclude written employment contracts.

This sets a great challenge for us, trying to resituate domestic work from the informal sector to the formal sector, as the written contract vitiates difficulties in proving the existence of the employment relationship and its agreed-upon terms, should a dispute arise between the parties. Given the isolation and vulnerability of domestic workers and the greater likelihood of domestic workers being unfamiliar with their legal rights, the written employment contract plays an important role in empowering domestic workers within the employment relationship⁽¹¹⁵⁾.

5. Domestic workers respect the instructions given by employers. (84.79%) of employers confirmed that fact. However, (68.6%) of domestic workers reported that employers do not treat them "always" in a decent way respectful of their privacy, or "sometimes" do. (11.57%) of domestic workers stated that deductions are made on their monthly wage, while (34.2%) of them stated that deductions are made on their salaries from time to time. Only (32.15%) of domestic workers receive their monthly wages without any delay. More than half of domestic workers declared that they are subject to abuse sometimes. And it turned out that (40%) of domestic workers are not satisfied with their work in Kuwait. These data should be seriously observed with the lack of the law's effectiveness and enforcement. It should be noted as well that the majority of the complaints submitted by domestic workers to the Kuwait Society for Human Rights involved delay of payments and non-payment of wages.

(112) Article (7) of the same convention.

(113) Report of Human Rights Watch in 2010 (Walls at every turn) – Abuse of Migrant Domestic Workers through Kuwait's Sponsorship System – Confiscating Passports paragraph – page 48.

(114) Article (18) of Law No. 68/2015 regarding Domestic Labour.

(115) Effective Protection for Domestic Workers – a guide to designing labour laws – ILO 2012 – Chapter Three – Section One (Written contracts or particulars of employment).



6. The majority of domestic workers works for more than ten hours a day as stated by more than (77.64%) of domestic workers, while only (8.9%) of them confirmed that they receive extra pay for the additional work they perform.
7. Only (22.3%) of domestic workers are allowed to have a rest day weekly, and more than (73%) of them reported that they are not granted a paid annual leave even though the law stipulates that domestic workers shall be entitled to a paid annual leave.
8. (62.10%) of domestic workers refer to their embassies in Kuwait to solve disputes arising between them and their sponsors, while (19.73%) of them tend to submit complaints directly to the Department of Domestic Labour, and (7.89%) of domestic workers refer to the recruitment offices. The roles of recruitment offices and the Department of Domestic Labour are clearly absent even though the law has regulated and defined competent authorities to file complaints. The fact that domestic workers refer to their embassies denotes a lack of knowledge of law No. (68/2015) on one hand, and the lack of trust in the ability of official authorities to solve the complaint on the other hand. The questionnaire's results confirmed this statement, where only (17.96%) of domestic workers reported that their complaints were addressed in a serious way.





(Study Third) Employees of Civil Society Organizations

A. Description of the sample's characteristics.

The questionnaire was distributed to (25) people working in civil society organizations performing different activities, related to the subject of the study (the survey). Several civil society organizations took part in conducting the study, such as: Kuwait Social Association, Kuwait Society for Human Rights, Social Work Society, Kuwait Trade Union Federation, Kuwait Association for Basic Elements of Human Rights, Kuwait Society for Inventors Support, Kuwait Society of Lawyers, Women's Cultural & Social Society, and Kuwait Public Relations Association. A group of volunteers participated as well in the study to help the domestic workers, along with the Center for Disabled Persons, the International Islamic Charitable Organization, the Indian Community "Kerala Region", the Child Protection Office, and at last UN Women. The demographic characteristics of this sample are described below:

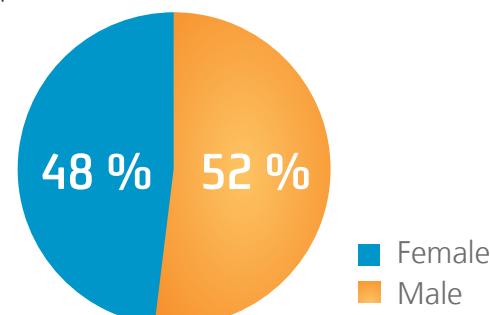
• Gender Variable

Form number (50) shows that males form (52%) of the study sample of employees of civil society organizations in Kuwait who responded to the questionnaire, while women form (48%) of the study sample.

B. Activities and works performed by Organizations

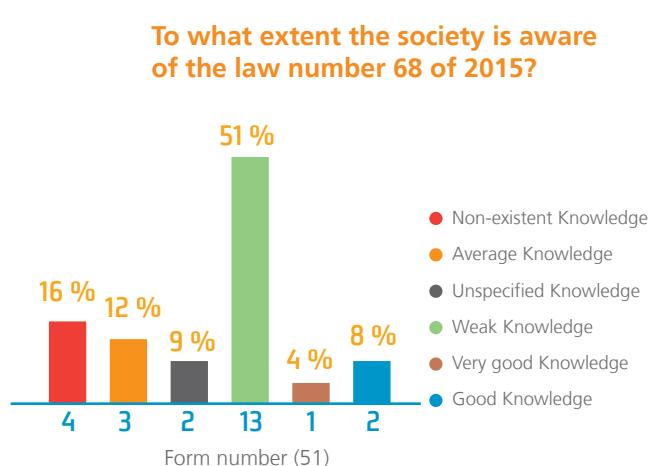
The activities of the (15) organizations were diversified, with relation to the type of services the association was established to offer, all of which aimed at providing awareness, advocacy and moral and financial support. However, the services provided by these organizations to domestic workers are limited to:

- Providing domestic workers with education regarding their rights through handbooks.
- Providing consultancy.
- Receiving complaints from domestic workers, submitting them to the competent authorities, and trying to solve them.
- Providing support and assistance to resolve issues.
- Providing legal, humanitarian and social services.



Form number (50): distributing employees of Civil Society Organizations based on gender variable

1. Are you aware of the existence of law No. 68 of 2015 regarding Domestic Labour in Kuwait? In case your answer was (yes), how do you think the law is dealing with the rights of domestic workers?





Form number (51) shows that more than half of the employees of civil society organizations believe that the level of the society's knowledge of law No. (68/2015) is weak, while (16%) of them see that the knowledge is non-existent at all, and only (3) of them think that the level of knowledge is beyond good. This indicates the persistent need for intensive awareness among members of society.

Whereas, form number (52) shows that (51%) of the employees in civil society organizations believe that they are well-informed of the law number (68/2015), and more than (20%) of them have a very weak level of knowledge. This is a risky indicator especially that these organizations are entrusted with providing legal support and consultancy, so how would the situation be if the level of their knowledge is average.

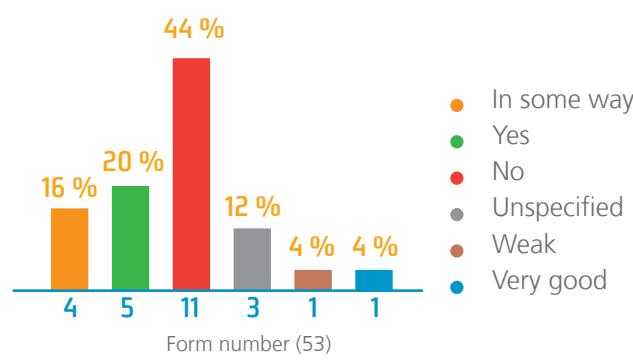
2. What does society need to activate its role in the use and enforcement of the law?

Based on the level of knowledge of the law that ranges from average to weak, within the society, and the weak level of knowledge among domestic workers, the employees presented a number of proposals to enforce the law and disseminate it within the society:

- Establishing common activities with governmental authorities and civil society to raise awareness through courses, media, publications and others.
- Practical trainings for approaching laws.
- Media awareness and courses.

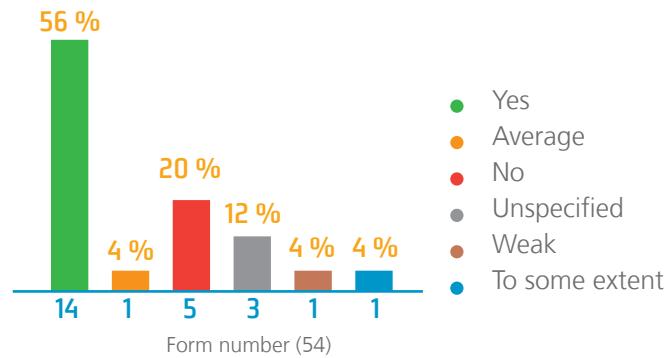
3. Do you believe that law No. 68 of 2015 is effective and influential?

Form number (53) shows that only (4%) of workers believe that the level of effectiveness is (good), while (16%) think that law is effective and influential in some way. These responses indicate the presence of deficiencies in the law, its implementation and effectiveness.



4. Are there any deficiencies in law no 68 of 2015?

Form number (54) shows that more than half of the employers who responded, with a percentage of (56%), reported that there are deficiencies in law no. (68/2015), and only (20%) of them believe that there aren't any deficiencies in the same law. these results require the organizations to activate their roles in conducting studies and surveys to activate the role of the law and improve the deficiencies therein on the basis of their work within the civil society.



When asked about suggestions they can offer to activate the law and its enforcement and to address the deficiencies therein, the employees of civil society organizations agreed on the following:

- Conducting public awareness programs and intensive media recruitment.
- Engaging civil society in law enforcement evaluation and monitoring.
- Incorporating dissuasive penalties into the law and publish them for the public through media.



- Finding more effective mechanisms.
- Identifying some paragraphs of the law, such as rest hours and working hours, and handling violations firmly.
- Reformulate or abolish the sponsorship ' kafala ' system , and establishing a special authority to deal with migrant workers in general, including domestic workers, follow up on them during work, and evaluate them.

C.Key findings regarding the knowledge of the (Employees of the Civil Society Organizations) of the Law No. (68/2015):

The responses of the employees working in civil society organizations (25 persons) reveal the following results:

1. The presence of deficiencies and weakness in the level of knowledge, implementation and effectiveness in general, among employees of civil society organizations and within the society in general, as those who are entrusted with spreading awareness and evaluating the effectiveness of law need practical training on how to deal with the law. This may be a reason for the lack of enforcement, in addition to the absence of knowledge.
2. The lack of specialized civil societies activities existence which provide their assistance to the domestic workers , such as legal aid and presentation in courts , consultations and guidenss regarding laws regulating their work contracts , their rights and obligations , raising public awareness regarding the laws regulating house workers contracts.
3. The humanitarian and social role of civil society organizations should involve the protection of aggrieved persons, in the human dimension, and eliminating injustice (if any), as well as coordinating with governmental authorities to enforce, activate, and evaluate the law, and establishing dissuasive penalties that guarantee the integrity of law among society members.



(Study Fourth)

Owners of Recruitment Offices

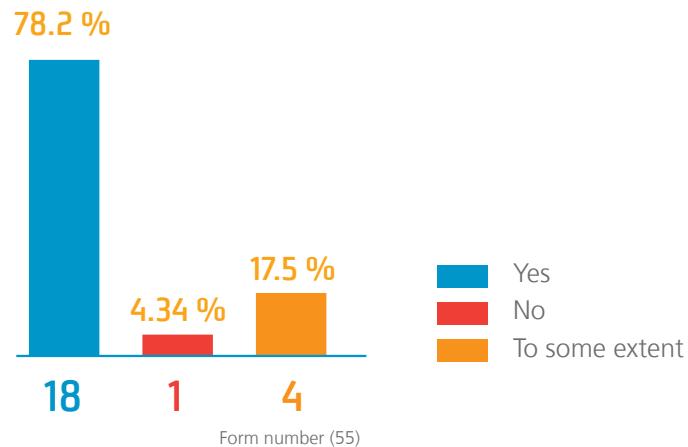
A. Description of the sample's characteristics.

The questionnaire was distributed to (23) persons owning domestic workers' recruitment offices in Kuwait, related to the subject of the study (the survey), where number of offices participated in the study, such as: Hessa Almutairi Office, As Safir Office, Al Intissar Office, Modi Al-Deehani Office, Al-Durra for Manpower Company, and other offices. These offices recruited number of domestic workers, the lowest being (40) and the highest (1,000), with (4 – 15) employees working in these offices.

B. The responses of the recruitment offices' owners to the questionnaire are listed below:

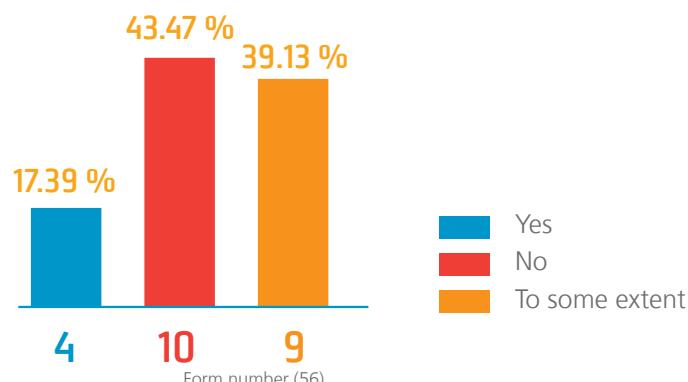
1. Are you aware of the existence of law No. 68 of 2015 regarding Domestic Labour in Kuwait?

Form number (55) shows that a high percentage of recruitment offices' owners who were questioned, are aware and have knowledge of law No. (68/2015), where (78.2%) answered with "yes", while one of them believes that they are not familiar with the law. This could be due to the need of the offices to directly deal with the law, in addition to their direct interaction with governmental authorities for licensing and follow-up, in addition to the ongoing inspections carried out by the governmental authorities, such as the office of the Department of Domestic Labour.



2. Does the Department of Domestic Labour in the Ministry of Interior implement the articles of the law in a proper way?

Form number (56) shows that only (17.3%) of recruitment offices believe that the Department of Domestic Labour in the Ministry of Interior applies the law in a proper way, while (39.13%) of them think that the law is sometimes properly applied by the Ministry of Interior through the Department of Domestic Labour. However, (43.47%) stated that the Department of Domestic worker does not enforce the law properly, which reflects the lack of harmony between the offices' owners and the Department of Domestic Labour in the Ministry of Interior.



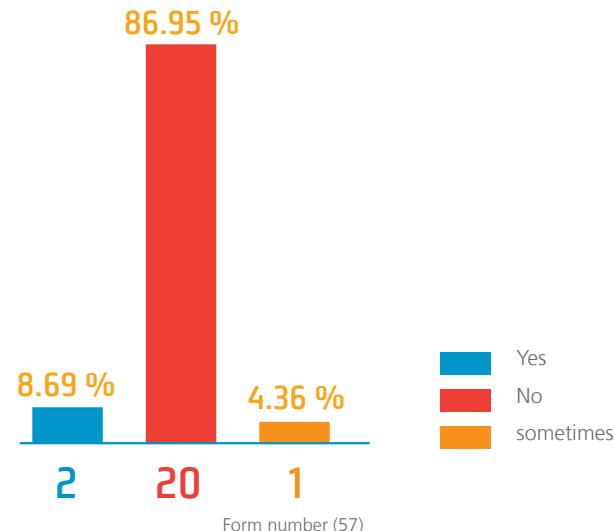
3. Did the law establish a good relation between recruitment offices, employers, the Department of Domestic Labour and the domestic workers?

The responses of the owners of recruitment offices, as shown in form number (57), reflect the negative relation between them and the Department of Domestic Labour in the Ministry of Interior, where (86.9%) of them believed that the law failed to establish a positive relation between the recruitment offices and the Department of Domestic Labour, whereas only (2) of the owners agreed that the law created a positive environment between them. The majority of those who answered the questionnaire agreed that the law did not facilitate the process of domestic workers recruitment, with (22) out of (23)



confirming this fact. When asked about the reasons, the answers were as follows:

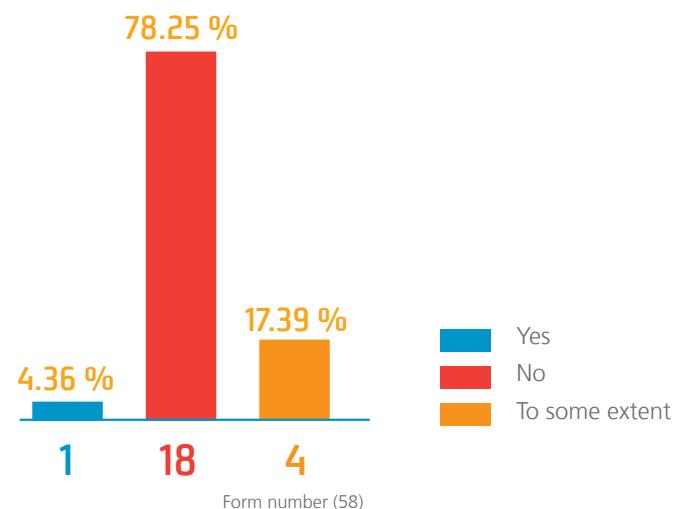
- Recruitment process has become more complicated.
- The conditions are much harder to follow under the law (68), and the Department of Domestic Labour is undertaking unfair procedures against offices.
- Most of the complaints filed by the offices reached a dead-end repeatedly which lead to unemployment.
- Reluctance of the ministry of interior to operate with Kuwait, especially after the increase of the sponsorship period from 100 days to 6 months.
- The law was too vague. The license requester should be holding a high school diploma in order to obtain the license. This law is just a reproduction of the old law with some additions thereto.
- Addition of the article stipulating that the recruitment office shall not be allowed host the domestic worker if the sponsor wishes to end the employment. The sponsor will be obliged then to refer to sites to transfer the domestic worker, in a humiliating way, depriving the domestic worker and the employer from their rights. While the old law allowed the sponsor to send back the domestic worker to the office.
- Forbidding offices to hire workers from inside Kuwait.



4. Are the conditions concerning the issuance of licenses and their renewal to pursue the business of recruiting domestic workers, in accordance with the law, appropriate?

Form number (58) shows that (4.36%) reported that the conditions concerning the issuance of licenses and their renewal to pursue the business of recruiting domestic workers, in accordance with the law, are appropriate, while (17.39%) of recruitment offices' owners stated that these conditions are sometimes appropriate, not always. However, (78.25%) of recruitment offices' owners said that the conditions concerning the issuance of licenses and their renewal to pursue the business of recruiting domestic workers, in accordance with the law, are unfair and inappropriate for several reasons listed below:

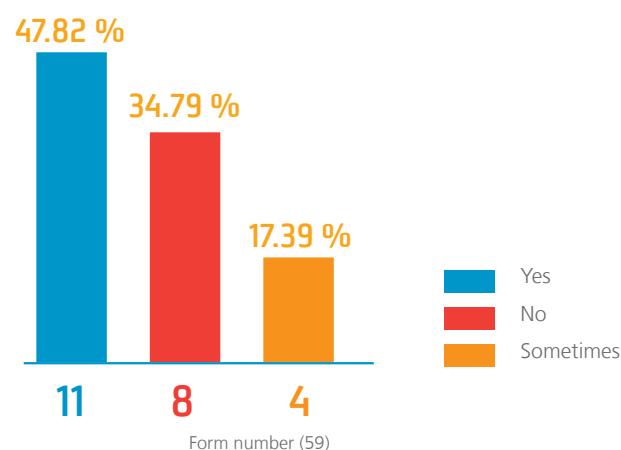
- The requirement of medical examination and criminal record even though they can be accessed on the computer system. It is a free trade non-governmental business.
- The Ministry's intervention in the rejection for private reasons, which restricts the freedom of work.
- The complicated procedures including the comprehensive examination and annual fingerprinting checks of the license holders, are inappropriate for what Kuwait aspires.
- Raising the ceiling of the required amounts, such as the requirement to pay premiums of 40 thousand dinars, and 100 thousand dinars for companies.
- The time period to renew the license is time-consuming and necessitates almost two weeks.





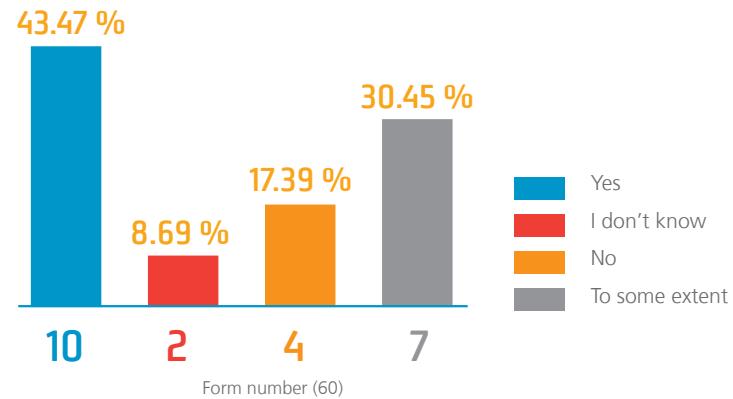
5. Is the Department of Domestic Labour deducting amounts for recruitment offices from the financial guarantee provided for, outside the law?

Form number (59) shows that almost half of the recruitment offices' owners who answered the questionnaire, reported that the Department of Domestic Labour is breaching the law by deducting amounts from the amount of the financial guarantee, outside the law, while (17.39%) of them stated that it sometimes does. Which confirms the lack of trust between the offices' owners and the Department, as the level of understanding between the two parties is almost weak and needs to be reviewed and evaluated.



6. Do some recruitment offices perform actions that violate the provisions of Law No. 68 of 2015 regarding Domestic Labour?

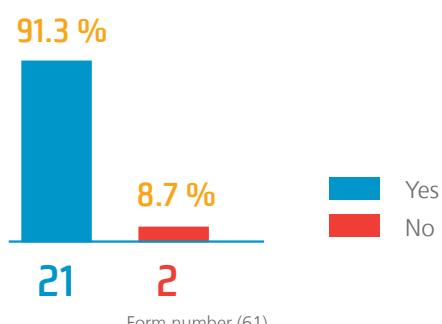
Form number (60) shows that several recruitment offices tend to violate the law no. (68/2015) for many reasons as reported by (43.47%) of them, while only (17.39%) of them refused to practice such violations. This requires law revision and involving the recruitment offices as partners in evaluating the effectiveness of law since they are among the main actors in the process of managing domestic labour. Those who violate the law listed many reasons for doing so, such as:



- Deficiencies in legislation and law causing the office to incur huge losses leading to its closure.
- Having to deal with absconding domestic workers as a solution that satisfies all parties.
- To compensate their losses when the Department of domestic Labour temporarily closes their offices.

7. Have you ever faced a problem in recruitment with the employer, the domestic worker or the Department of Domestic Labour?

Form number (61) shows that the majority of recruitment offices' owners have faced problems with the Department of Domestic Labour offices, the employers and the domestic workers themselves. (91.3%) of them have faced problems with one of these parties, which theoretically proves that the law in its current version, needs a new approach for discussion and evaluation, as the law is intended to mitigate problems arising between the concerned parties.



Among these problems, mention may be made of the following:

- Abuse of the domestic worker by the sponsor.
- Non-commitment of the sponsor to pay the salary.
- Problems with domestic workers when they are medically unfit.

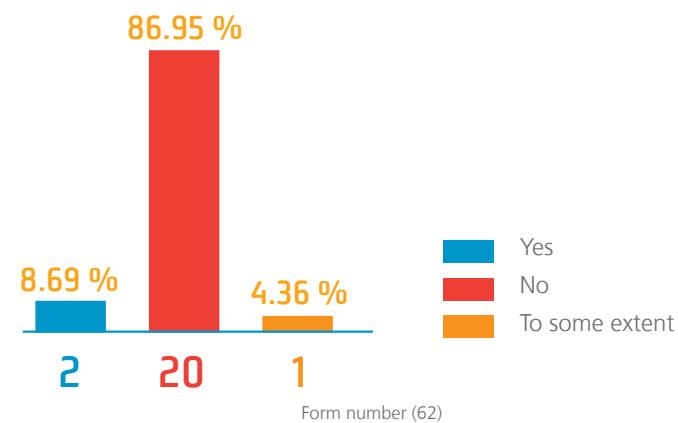


- Delay of domestic workers' arrival from their country, while the validity of the visa is for three months only.
- Failure of the sponsor to pay the due amount for recruitment.
- Delay in licenses renewal that leads to confusion within the embassy and cause disruption of contracts.
- Failure of the Department of Domestic Labour to comply with the provisions of the contracts, except for the benefit of the employer.
- Some domestic workers cannot bear the hard work of some households, whereas the sponsor forces them to. And in the event that they objected, the sponsor will take them to the Department of Domestic Labour and they will be deported and oppressed.
- The Department of Domestic Labour often takes actions in favor of the sponsor against the recruitment offices.
- The sponsor's delay in accomplishing the residence procedures of the domestic worker putting them in an illegal situation.

8. Do you think that law No. 68 of 2015 regarding Domestic Labour is more just to the recruitment offices than the previous law, or not?

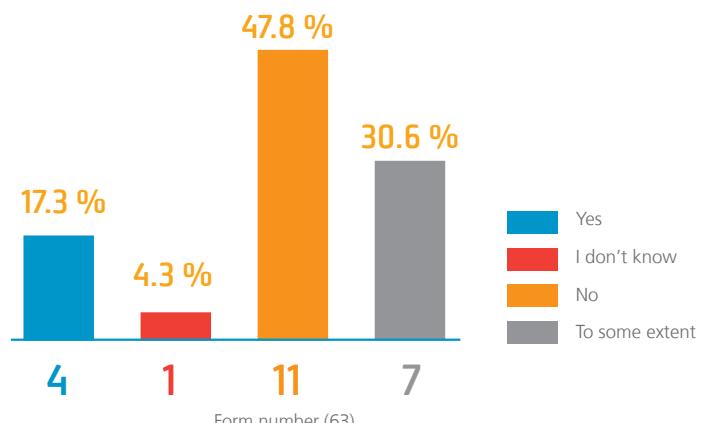
Form number (62) shows that (8.69%) of recruitment offices' owners believe that law No. (68/2015) addressed some deficiencies of the previous law, in terms of the relation between the recruitment offices, the domestic workers, and other concerned parties. Whereas, (86.95%) of recruitment offices stated that the law did not treat them fairly and did not address the gaps of the previous law, which requires the need to listen to the suggestions of recruitment offices since they are suffering more than benefiting from this law, thus the law is not achieving its objectives.

People who reported that the law with unjust to them stated many reasons among which: the law imposes obligations on the recruitment offices and does not give them rights, depriving them from the privilege to re-employ the domestic worker, and prohibited them from taking back the domestic worker since the Department of Domestic Labour threatens with suspension of the business license.



9. Does the Department of Domestic Labour work on resolving disputes that arise between the recruitment offices and the other related parties, in accordance with the law?

Form number (63) shows that (47%) of offices' owners agreed on the fact that the Department of Domestic Labour does not resolve disputes or problems arising between the recruitment offices and other related parties, in accordance with the law, while (17.3%) reported that the Department is performing its duty in resolving the disputes. The reason behind this, as stated by most of the offices' owners, is that the Department of Domestic Labour applies the law to the offices, and disregards the sponsor and the domestic workers' rights, asking the parties to refer to court, which consumes lots of time to settle the case. At the same time it does not file the citizen's complaint to the court and hold the offices in charge of the costs, without giving the offices the chance to defend themselves and receive their rights.

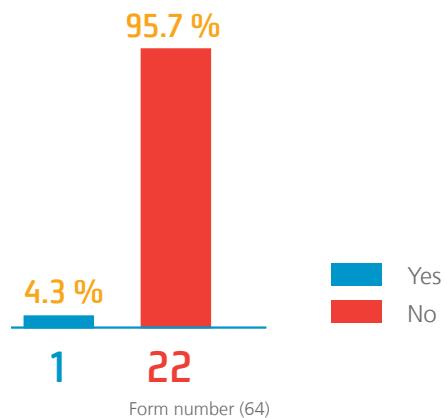




10. Are you satisfied with the law No. 68 of 2015 regarding Domestic Labour? And why?

Form number (64) summarizes the opinion of recruitment offices' owners, where the majority of them (95.7%) reported that they are not satisfied with law no. (68/2015), which evokes the need to study the reasons to bring support and satisfaction to all concerned parties. Their dissatisfaction was due to several reasons among which:

- Failure to take the opinions of owners and license holders into consideration while enacting laws that serve everyone.
- The law excluded the re-employment and limited the offices powers to recruitment only.
- It undermines the right of domestic workers to freedom of choice, causing problems between the office and the foreign office.
- It prevented the reception of domestic workers during the sponsorship, in addition to the right to employ them elsewhere, and this is unfair for the office, the domestic worker and the sponsor, which could lead to human trafficking.
- Failure of law enforcement authorities to comply with the law, and disregarding the rights of recruitment offices.
- Failure of the law to regulate the recruitment process as required, in a way that keeps up with current progresses, especially in terms of rights and duties of the sponsor and the domestic worker.
- Even though offices are not entitled, in accordance with the law, to recruit domestic workers from inside kuwait, which means transfer from one sponsor to another, sponsors are doing this through sites to offer the transfer of the domestic worker from one employer to another.





C.Key findings regarding the (recruitment offices' owners) knowledge of the Law No. (68/2015):

The responses of the recruitment offices' owners (23 persons) shows a state of dissatisfaction regarding the law, despite their knowledge of the law and the provisions thereof. Nevertheless, from their point of view, the law fails to achieve justice for employers. The offices' owners believed that law No. (68/2015) is unfair and unfavorable to them for many reasons and pointed out many components that can be summarized as follows:

Lack of harmony between the recruitment offices and the Department of Domestic Labour in the Ministry of Interior, where (43.47%) of offices' owners reported that the Department of Domestic Labour does not enforce the law properly. Add to this their desire to outsmart the law through some violations such as dealing with absconding labourers as they are not convinced of the law's usefulness.

(86.95%) of offices' owners believed that the law failed to achieve a positive relation between recruitment offices and the department of Domestic Labour, since the provisions of law (68/2015) and the Department of Domestic Labour are constantly in favor of the employers.

(78.25%) of the recruitment offices' owners believed that the conditions for issuing and renewing the license to pursue the business of recruiting domestic workers, as stipulated by the law, are unfair, complicated and time-consuming.

(47%) of the recruitment offices' owners lack trust in the effectiveness of the office of the Department of Domestic Labour to resolve disputes arising between them and other parties involved, as the office of the Department of Domestic Labour lacks human and material capacities to settle the issues of domestic labor and address them fairly.

(86.95%) of the recruitment offices reported that the law was unjust to them and did not address the gaps in the previous law.

It is noted that despite the existence of law provisions that prohibit dealing with absconding labourers, or recruiting from inside Kuwait, some of the recruitment offices are still performing these acts since they do not believe in the usefulness of the law on one hand, and the law does not meet their benefits on the other hand. Therefore, the relation between the controller (the office of the Department of Domestic Labour) and the recruitment offices is based on employer-employee policy. The recruitment offices that resemble the employee in this relation, are always at risk of closing their businesses, and this is exactly how they feel, according to their point of view.

The consistency of the responses of recruitment offices' owners reveals an obvious agreement with regards to their attitudes towards the law due to the improper enforcement of the law from one side, and its ineffectiveness from the other side.



Abstract

The post-analysis study reveals many contradictions in the responses provided by the three main parties interrelated with law No. (68/2015) regarding Domestic Labour, which confirms the need for coordination between the three parties (employers, domestic workers and recruitment offices), in addition to the Department of Domestic Labour whose views regarding the effectiveness of law were not taken into account, since they are entrusted with law enforcement, and ensuring compliance of the three parties with the law. Particular attention should be given to the fact that domestic workers and their employers are not well-informed of the applicable labour laws, and lack the ability to deal with the provisions and procedures stipulated by these laws, since the knowledge of employers of the law and their commitment to implement it is considered to be one of the main indicators of the law's effectiveness. Listed below are the most crucial points that can be noted in the relation between the surveyed parties regarding their views on law (68/2015), and their knowledge of law no. (68/2015):

1. The study showed that the law did not reach the required level of dissemination among related sectors, as the level of knowledge of employers, domestic workers, recruitment offices' workers, and employees of civil society organizations is weak and almost superficial. This can be attributed to the low level of education among the majority of domestic workers, the employers' indifference to the law, and the exploitation of the ignorance of domestic workers of the law and their fear of losing their jobs sometimes.
2. (62.2%) of employers are not aware of the enactment of law No. (68/2015) regarding Domestic Labour, however it was enforced more than three years ago. Which causes many implications, among which:
 - Failure of law No. (68/2015) regarding Domestic Labour to be effective at the required level since the knowledge of employers of the law and their commitment to implement it is considered to be one of the main indicators of the law's effectiveness and usefulness.
 - Failure to comply with the law No. (68/2015) regarding Domestic Labour, in the absence of awareness, guidance and dissemination of the law. Taking these measures is important to ensure the compliance with the law and the respect of rules and provisions stipulated by law. Therefore, law enforcement authorities should conduct guidance and awareness regarding the law and the obligations and duties therein.
3. (71.59%) of domestic workers are not aware of the enactment of law No. (68/2015) regarding Domestic Labour, however it was enforced more than three years ago.
4. The Majority of the surveyed people agreed that is essential to have a law that regulates the relation between the related parties. However, some parties still believe that the law is unfair to them, such as the domestic workers and the recruitment offices' owners who view law negatively, in a way that does not meet their expectations and in favor of the employers only.
5. It is observed that customs prevailed over law, where employers are treating domestic workers as they are used to, since most of them are not even aware of the existence of the law.
6. Contradictions between the responses of employers and those of domestic workers are so obvious. Domestic workers respect the instructions given by employers, and perform



their duties properly as stated by (84.97%) of employers. However, employers continue to treat domestic workers in a humiliating way sometimes, and assign them hard work and hazardous activities other times.

7. Despite the fact that employers are asking for a law that regulates the relation between domestic workers and recruitment offices, they continue to violate the law by confiscating the travel documents, where (91.9%) of employers retain the travel documents of domestic workers, deprive them from their additional wage, their annual leave, and weekly rest day, and forbid them as well to leave the house during their leave, along with many other violations that could not be identified because domestic workers are afraid to file complaints on one hand, or feel that it is useless on the other hand; especially that large number of them resort to their embassies even though the law facilitated the process of filing complaints through the Department of Domestic Labour.
8. (56%) of employers did not conclude an employment contract with the domestic workers working for them. The majority of employers reported that they have signed an employment contract with the recruitment offices, while others stated that the contract is written in a language that the domestic workers are unable to understand, even though the law stipulated that domestic workers shall not be employed by employers but under employment contracts (bilateral or tripartite, as the case may be) issued by the Department of Domestic Labour in the Ministry of Interior, written in both English and Arabic languages. This confirms the lack of legal effective protection for domestic workers, at the required level, since law No. 68/2015 does not include procedures that require employers to conclude written employment contracts.
9. The majority of domestic workers, equivalent to (77.64%), work for more than ten hours a day, as evidenced by the responses of domestic workers and employers. The law stipulated that the length of work hours shall not exceed 12 hours in a one-day-period, interspersed with break hours. The implementing decisions of the law confirmed the need to rest for one hour after every five working hours, which means that effective working hours shall not exceed ten hours daily.
10. Incompatibility between the recruitment offices and the Department of Domestic Labour in the Ministry of Interior, where (86.95%) of offices' owners believed that the law failed to establish a positive relation between the recruitment offices and the Department of Domestic Labour that takes the side of the employer most of the times, according to their opinions, which forces them to outsmart the law through some violations such as dealing with absconding labourers for example, because they are not convinced of the law's usefulness.
11. (78.25%) of the recruitment offices' owners believed that the conditions for issuing and renewing the license to pursue the business of recruiting domestic workers, as stipulated by the law, are unfair and complicated, especially with regards to the bank guarantee required to be deposited (40 thousand KWD for offices, and 100 thousand KWD for companies), in addition to the routine governmental actions that require lots of time to accomplish the issuance and renewal formalities.
12. (86.95%) of the recruitment offices believed that the law was unjust to them and did not address the gaps in the previous law.
13. (47%) of the recruitment offices' owners did not trust in the ability of the Department of Domestic Labour to resolve disputes arising between them and other parties involved, and believed that it failed to provide domestic workers with legal assistance and help in translation, whereas the investigators of the Department conduct their investigations in Arabic only. Based on the nationality of domestic workers, the majority of those who



file complaints do not speak Arabic well, and do not provide a detailed description of the complaint.

14. The statistics of civil society organizations show that large number of domestic workers whose rights were violated, are unable to express it because they are afraid of their employers or of losing their jobs. Domestic workers often hesitate to file complaints to the Department of Domestic Labour, especially when the complaints are related to working conditions or abuse because they fear the employer's revenge. Some employers accuse the domestic workers working for them with robbery by submitting a complaint to the Police, which institutes criminal proceedings against the domestic worker. The employer will use this as a bargaining chip, where they agree to drop the charges in return for a lesser settlement.
15. The lack of specialized civil societies activities existence which provide their assistance to the domestic workers , such as legal aid and presentation in courts , consultations and guidenss regarding laws regulating their work contracts , their rights and obligations , raising public awareness regarding the laws regulating house workers contracts .
16. The law fails to modify the way employers behave with domestic workers working for them. The law stipulated that domestic workers shall keep in their possession their travel documents, shall be entitled to a weekly rest, an annual leave, and additional pay for extra work. However, domestic workers do not get these rights most of the times, as evidenced by the responses of the employers and the domestic workers. This may be due to the absence of dissuasive penalties and inspections mechanisms through field visits to homes or meeting with the employer and the domestic worker at any predetermined location.
17. Disparity in negotiation power when settling a dispute between parties, under the supervision of the Department of Domestic Labour investigators, where most of the domestic workers stated that they refer to their embassies in case of a dispute between them and their employer. That is because they believe the restitution of their rights won't be achieved and their complaints won't be addressed fairly or seriously, as the domestic worker would be put under pressure to accept any settlement with the employer, such as not getting his full rights due to power imbalance.
18. The problem of domestic workers leaving their sponsors' houses reflects the incompatibility between the two parties, and thus the bad relation between them. This is why sponsors retain the travel document of domestic workers because they are afraid that workers would leave the house 'work place' would leave the house. This relation based on the lack of confidence is built since the beginning of work, and has a negative effect.



Recommendations

In light of the subjects covered in this study, and the survey of the opinions of the parties concerned with law No. (68/2015), from employers (sponsors) to domestic workers, in addition to the recruitment offices' owners and number of civil society organizations, the following recommendations can be drawn up:

• **Recommendations for the legislative authorities:**

1. Revoke or amend the sponsorship system that gives employers power over domestic workers and limits their freedom to move from one employer to another. Give the domestic workers the freedom to end employment relations and seek new employment opportunity after the termination of the first employment relation.
2. Consider ratifying the International Convention on The Protection of The Rights of All Migrant Workers and Members of Their Families, and ILO Convention No. (189) of 2011 on Decent Work for Domestic Workers.
3. Reconsider law No. (68/2015) regarding Domestic Labour, in terms of incorporating dissuasive penalties that prevent employers from confiscating the passports of domestic workers, and punish the offender, as significant violations were observed such as confiscating passports and depriving them from their weekly and annual leave.
4. Conduct researches, opinion surveys and studies, periodically, in order to identify the reality of domestic labour in Kuwait, since research and survey studies provide decision makers and stakeholders with all updates regarding human rights issues, in particular with regard to domestic labour.

• **Recommendations for the Department of Domestic Labour in the Ministry of Interior and the public authority of manpower:**

1. Ensure the enforcement of law No. 68/2015 through follow-up, the implementation of the provisions thereof, as well as the law's validity and effectiveness in reducing disputes and complaints, and improve the confidence between the parties concerned with the law.

As it has been noted that few of domestic workers refer to the Department of Domestic Labour and prefer to resort to their embassies when they face problems. Therefore, the Department of Domestic Labour should endeavor to rebuild the trust, activate the law and impose dissuasive penalties on whoever violates the law.

2. Adopt additional measures to improve the compliance with the law by conducting awareness campaigns aiming at changing attitudes and behaviors of employers in order to achieve decent work and clarify the rights and duties of both parties (Domestic worker and employer).
3. Activate the hotline by directly dealing with phone calls to raise the level of domestic workers' trust in the Department and its ability to solve their problems and restitute their rights if proven. Develop the hotline to deal with complaints by providing people who speak the different languages of domestic workers.
4. Enforce the fundamental rights to work stipulated by the ILO Conventions and ratified by the State of Kuwait, in particular those related to defined working hours, the right to get a weekly leave and regular payment of wages, in order to achieve decent work



conditions for domestic workers.

5. Appoint investigators with language skills and provide translators for the main languages of domestic workers (e.g.: Indian – Bengali – Sri Lankan – Amharic – Urdu – Filipino – Telugu – French and English) as a routine procedure.
6. Consider imposing a monitoring mechanism that works on contacting the employers and domestic workers and conducts periodical interviews to identify the work environment and conditions and the level of compliance with the law.
7. Establish inspection teams within the Department of Domestic Labour to conduct random field visits to homes in coordination with employers, to identify the work environment and conditions of the domestic worker.
8. Facilitate access to statistics and publish them on annual basis regarding the number and types of complaints submitted to the Department of Domestic Labour and Courts, as well as ways of settling disputes.
9. Improve the dissemination of information pertaining to the rights of domestic workers by translating the Law regarding the Domestic Labour into the most common languages of domestic workers, using social media sites to reach all sectors related to the law. Provide detail interpretation of the provisions of law, the mechanisms of complaints and restitution of rights, and distribute law handbooks in the worker's language at all centers and places frequently visited by workers.
10. Facilitate the administrative and legal procedures to expedite the process of returning the domestic workers to their countries after the end of their employment contract.
11. Develop a website for the Department of Domestic Labour in several languages, and which includes the provisions of law 68/2015, its implementing decisions, awareness leaflets and guides elaborating the rights and obligations of domestic workers and employers. Develop as well an electronic application for smart phones in many languages enabling the domestic workers to submit their complaints and suggestions.
12. Promote cooperation between the Department of Domestic Labour and civil society organizations by organizing training sessions and workshops.
13. Provide legal assistance and consultancy to workers seeking assistance as a routine procedure.
14. Require employers and recruitment offices to sign written employment contracts with domestic workers, in a language that the domestic worker understands, and ratified by the Department of Domestic Labour.
15. Provide a larger number of shelters for domestic workers, in accordance with the international standards, and inform the domestic workers of their locations.
16. Require the recruitment offices to provide their employees with training sessions on law No. 68/2015, and distribute law handbooks regarding the Domestic Labour to domestic workers and employers, in the language of the worker, to raise awareness regarding the rights and obligations of both parties.
17. Step up supervisory efforts through inspection mechanisms on recruitment offices, to hold offices who violate the provisions of the law accountable. The study revealed that many offices' owners violate the law because they are not satisfied with it.



• **Recommendations for the Ministry of Justice:**

1. Work on the settlement of domestic labour issues by establishing a fast-track mechanism to resolve the labour issues of domestic workers.
2. Enable domestic workers to appeal against malicious absence from duty reports through judicial system, where absenteeism in the current legal framework suffers from legal deficiencies, in the absence of regulatory oversight. Employers resort to this act to get back at workers and deprive them of their remunerations, therefore using this as a bargaining chip, where they agree to cancel the absence from duty report filed against the domestic worker in return for a lesser settlement.

• **Recommendations for civil society organizations:**

1. Provide employees of civil society organizations with legal training courses that enable them to understand the provisions of law and its implementation mechanisms, so they acquire the experience and knowledge to deal with cases submitted to them and are able to find adequate solutions.
2. Expand efforts to raise the society's awareness of domestic workers rights, and educate them on the ethics of dealing with domestic workers, respecting their dignity and the value of their work, by conducting awareness campaigns through media, social media sites, trainings and workshops.
3. Translate the Domestic Labour Law into all the languages spoken in the countries of domestic workers, and prepare guides that include the rights and obligations, as well as make publications on the rights and obligations available at the airport, in medical centers and recruitment offices.
4. Work on establishing partnerships with governmental authorities, and opening continuous lines of communications based on common rules, values and visions along with stated objectives, to report on law's violations, address them through available legal means, and accomplish the principle of complementarity between the two parties, in order to achieve these efforts.
5. Grant civil society organizations greater space and powers to deal with workers subject to violations of their rights, through the transition from legal awareness to direct advocacy for domestic workers' issues, and publish all achievements made regarding the protection of these rights and present them to different means of media to deliver direct message to those involved in legal violations that security authorities will be informed of their violations.
6. Form civil coalitions in order to amend some provisions of the law to be consistent with the rights stipulated therein, in particular those related to the elimination of all violations and deter them with legal provisions that include clear appropriate sanctions.
7. Train and provide domestic workers with qualifications and skills required to meet the requirements of employers, through training sessions and workshops.

• **Recommendations for labour-sending countries:**



1. Ensure the training of domestic workers and provide them with qualifications by requiring local recruitment agencies to work on practical and professional training through approved training centers.
2. Providing awareness and education to domestic workers on the Law regarding Domestic Labour in Kuwait, and their contractual rights in accordance with the standard employment contract, as well as provide them with adequate information regarding the channels of support, legal assistance and contact information of embassy officials in Kuwait.
3. Print and distribute copies of the law regarding domestic Labour in the worker's language so the workers can identify their rights and obligations stipulated by the law.

**• Recommendations for United Nations Organizations
(International Labour Organization – International Organization
for Migration – High Commissioner For Human Rights)**

1. Continue to provide the State of Kuwait and labour-sending countries with technical assistance, to the widest extent possible, by providing technical cooperation and advisory services.
2. Organize awareness campaigns to introduce domestic workers' rights and implement projects and programs aiming at educating and legally supporting domestic workers in cooperation with competent governmental authorities and civil society organizations.
3. Cooperate with the Government of Kuwait to enable it to implement its obligations under the ILO's conventions ratified by the State of Kuwait.
4. Urge the State of Kuwait to implement the accepted voluntary commitments under the universal periodic review mechanism (upr), in particular the accepted recommendations concerning the pursue of its efforts to guarantee the safety, security and dignity of migrant workers, including domestic workers, and the protection of their interests by taking the necessary institutional and legislative measures, as well as ensure their rights in accordance with international standards, prosecute those who commit violence against domestic workers, adopt specific standards for the complaints mechanisms, as well as ensure the law's enforcement and incorporate penalties therein against those who violate the law.



📞 +965 22215152 / 3 / 4

✉️ info@kuwaithr.org

FACEBOOK TWITTER YOUTUBE / kuwaithr

INSTAGRAM / kuwait.hr

www.kuwaithr.org



الجمعية الكويتية لحقوق الإنسان
KUWAIT SOCIETY FOR HUMAN RIGHTS



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra



المركز الكويتي للدراسات والبحوث
Kuwait Center for Studies and Research