

AMERICAN UNIVERSITY OF BEIRUT

UNDERSTANDING THE POLITICAL IN THE MANAGEMENT OF
MIGRANT DOMESTIC WORKERS IN LEBANON: BIOPOLITICAL
EXCLUSION AND REDUCTION TO “BARE LIFE” IN POST-CIVIL
WAR CONTEXT

by
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AN ABSTRACT OF THE THESIS OF

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Lebanon hosts more than 200,000 Migrant Domestic Workers (MDWs), a number which constitutes 5% of the Lebanese population, but falls short on managing their presence, work, and lives along the lines of the protection of human rights and the minimum standards of living upheld by international conventions such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention concerning Forced or Compulsory Labor, and the Convention concerning the Abolition of Forced Labor among others.

This study aims at exploring the power relations structuring the lives of these MDWs through the theoretical frameworks of governmentality and biopolitics developed by Michel Foucault and Giorgio Agamben. The study will rely on existing data gathered and analyzed by Lebanese civil society actors and research conducted by academics. In this thesis I argue that the problem of MDWs in Lebanon is largely the result of the system’s need to create a group of people with a defined identity that is managed within a Foucauldian/Agambian “state of exception” where laws are not applicable and where basic rights can be violated, reducing human beings to bare lives that can be exploited and oppressed with impunity. The study will also show the biopolitics that are at play in the creation of the sponsorship system¹ which gives an unprecedented control over the life of MDWs to their employers.

¹ A set of customary and regulatory rules for the management of the work of MDWs in Lebanon.

CONTENTS

ACKNOWLEDGEMENTS	v.
ABSTRACT.....	vi
Chapter	
I. INTRODUCTION.....	1
A. Thesis Statement	2
B. Approach and Method	5
C. Chapter Overview	5
II. LEGAL AND EMPIRICAL ASSESSMENT OF THE SITUATION OF MDWS IN LEBANON	8
A. Legal Conditions	8
1. The Unified Employment Contract	10
2. The Sponsorship System	14
3. The Ministerial Decision on the Regulation of the Work of Agencies	15
B. Failed Attempts at Redressing MDWs Working Conditions	17
C. Empirical Analysis on Situation of MDWs	20
D. Glaring Violations of Human Rights	25
1. Right to free movement and leave a country	26
2. Right to free choice of employment and employment mobility .	28
3. Right of equality before the law, not to be detained during trial, and to remedy	28
4. Right not to be subject to cruelty and torture	30
5. Right to be free from servitude and force labor	30
6. Right to decent living conditions	31
7. Right to rest, leisure, and vacations	32

8. Right to equal wage for equal work and minimum wage	32
9. Right not to be subject to racial discrimination	33
10. Right to get married and bear children	34
11. Right not to be subject to gender discrimination	35
12. International convention on the protection of the rights of all migrant workers and members of their families (C189)	36
E. Conclusion	37
III. DEFINING THE HUMAN THRESHOLD	39
A. Governmentality, Biopolitics and Bare Life	39
1. Governmentality	39
2. Biopolitics	44
3. Bare Life	50
B. Biopolitics and the Rights of Man	52
C. Delegation of Sovereignty	56
D. Biopower in Private	58
E. Conclusion	62
IV. SPECIFICITIES OF LEBANON CONTEXT	63
A. Confessionalism and MDWs	63
B. Racialized “Other”	64
C. MDWs as threat to Security or Homogeneity?	66
D. NGOs and Media: Change Makers?	68
E. MDWs Resistance	70
F. Conclusion	72
V. CONCLUSION	74
BIBLIOGRAPHY	77

CHAPTER I

INTRODUCTION

Every society – even the most modern – decides who its “sacred men” will be. - Giorgio Agamben

In a country of roughly 4 million citizens, on average, every 20 Lebanese citizens are served by 1 foreign Migrant Domestic Worker (MDW). The legal status and rights of the large number of MDWs in Lebanon is very loosely defined and the labor of these MDWs is regulated by an outdated sponsorship system (Kafala) which puts the MDW in an unequal relationship with the employer. As examined below, the Kafala system empowers employers with control over the daily existence and professional expectations of MDWs who have limited access to legal protection and representation. This archaic system and the state-sponsored negligence of their issues have allowed grave violations of labor and human rights of the MDWs to be established as a normal practice in Lebanon. Abuses included very low salaries, the non-payment of salary or its delay, the confinement of MDWs to the employer's house, the lack of respect to daily rest, weekly day-off and yearly holidays. Abuses also reach the point of verbal and physical abuse including rape and murder which often go unpunished. Difficult working and living conditions have even pushed many migrant workers to commit suicide or die while trying to escape.

Human Rights Watch (HRW) reported an alarming number of MDW deaths in 2010 amounting to 45, some of which were caused by suicide or which occurred while MDW's were escaping their employers' homes.² This has lead journalists to go as far as referring to a type of modern-day slavery in describing the situation of MDWs in Lebanon.³ One major cause for this problem lies at the legal level where domestic workers are exempt from the protection of the

² Human Rights Watch, *Universal Periodic Review of Lebanon*, (USA: Human Rights Watch, 2010), 3.

³ Olivia Alabaster, "Domestic workers highlight sponsorship system flaws", *The Daily Star* (2012).
<http://www.dailystar.com.lb>

Lebanese labor code.⁴ They are not simply unmentioned in the labor law, but it is clearly stated that they are exempt from the rules of the only law that sets minimum standards for all labor in Lebanon. This exemption, along with the Kafala (sponsorship) system which constitutes the only mix of written and unwritten codes for the management of the work and residence in Lebanon of MDWs gives the employer a great deal of power and control over the MDW. A legal lacuna is thus created whereby legal protection to MDWs becomes irrelevant coupled with an absence of official monitoring and follow-up on work and living conditions of these foreign workers within their employers' homes.

The “inclusive exclusion” as coined by Agamben⁵ will define the management of the “bare life” of these individuals, who are always confined to private space or other unseen/unscrutinized spaces (including underground detention centers⁶), allowing the employer to have unrestrained control over them specifically within the confines of the home.

A. Thesis Statement

This study will answer a set of questions which will help explain how a population of migrant domestic workers is subject to biopower within Lebanon leading to their exclusion from the political space into a state of exception. My main argument is that MDWs constitute an Agambian bare life that can be excluded from a political, juridical, social, and economic system through the normalization of the violation of a set of legal and political rights- a normalization that is established through the formation of a population with imagined gender, class, and racial identities whose value is reduced to a level where they are perceived as unworthy of rights. I will

⁴ Full labor code in English can be found on <http://www.ilo.org/dyn/travail/docs/710/Labour%20Code%20of%2023%20September%201946%20as%20amended.Publication%202010.pdf>

⁵ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 6.

⁶ David Snyder, *Beirut Center Tackles Complex Migrant Cases*, Catholic Relief Services. (<http://crs.org/lebanon/beirut-center-tackles-complex-migrant-cases/>)

show that within the current customary regulations Lebanese employers have power over the different aspects of the life of live-in maids. This power includes not only working conditions, but also living conditions including nutrition, mobility, hygiene, and reproduction. I will argue that because the legal system excludes MDWs and the judicial and security apparatus of the Lebanese state deals leniently with major violations of the rights of MDWs, the power of the state to exclude/include is transferred to the employer. The implication is that the state gives full control to the employer over the MDW to define parameters of liberty or its lack based on no more than the personal tendencies and will of the employer.

I will also employ the concept of biopower/biopolitics as defined by the introduction of life into politics and the relation of power. Biopower for the purpose of this study will be defined as the politicization of bare life and the establishment of “disciplines of normalization and subjectification.”⁷ I will explain that this biopower is supported by the creation of the “other” based on the formation of a gendered, racial and class identity that can be easily identified, and excluded without having access to legal protection or any other form of retribution. These workers’ bodies are thus identified within a set of binaries that are clearly established in the Lebanese written and unwritten codes: political, legal, social, and moral codes including citizen/non-citizen, domestic worker (in private space)/ worker (in public space), black worker/white worker, female worker/male worker, and employer/worker. These binaries and their combination define the threshold beyond “which life ceases to be politically relevant”⁸.

The main questions this thesis will address include: what are the exclusionary powers contributing to the development of a kind of state of exception for MDWs in Lebanon - or the

⁷ Andrew Norris, *Politics, Metaphysics, and Death: Essays on Giorgio Agamben's Homo Sacer*, (Durham: Duke University Press, c2005), 2.

⁸ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 139.

“point of imbalance between public law and political fact” [...] that is situated- like civil war, insurrection and resistance- in an “ambiguous, uncertain, borderline fringe of the legal and the political.”⁹ How are these powers manifested in multi-layered exclusions based on gender, race, and class? How is this exclusionary power delegated from the state as the “Sovereign” to the employer allowing him/her to act as the new sovereign in this unequal power relation? How is this contributing to the demotion of MDWs to a form of “bare life”– whose rights can be infringed upon without due process and without punishing those who perpetrated the acts of violations against MDWs? How does this lead MDWs to be excluded from the juridical and political life demarcating the power relations between the employer/sovereign and the MDW/bare life? Some attention will be given to the implication of the confessional and mutually exclusive political system which developed after the civil war in Lebanon in the reduction of this population to bare life. In a post-civil war Lebanon most groups are mutually “protected” by a system of balance of power after some 15 years of being in a state of exception imposed on the national level. The question here is whether this current state of exception imposed on MDWs is an extension of the previous state of exception that existed during the civil war, but one imposed on a new group that is not protected within the confessional system? It is important to look at the MDW case through the socio-political dynamics which persists among the Lebanese themselves and have produced a kind of hierarchy of rights among the Lebanese with different religious/sectarian affiliations where, throughout the modern history of Lebanon, each sect is trying to gain more power by excluding another.

⁹ Giorgio Agamben, *State of Exception*, (Chicago: University of Chicago, 2005), 1.

B. Approach and Methodology

The study will use theoretical frameworks developed on governmentality, the state of exception and biopolitics by Giorgio Agamben, and Michel Foucault. It will also be based on data gathered and analyzed by Lebanese non-governmental organizations working on the issue of MDWs including data on the Lebanese legal system, and the sponsorship system governing the work and stay of MDWs. The study will also use reports developed by international organizations such as Human Rights Watch, and UN agencies and two previous papers I have written on the subject of MDWs; one exploring the degree to which Lebanon abides by provisions of international conventions that it ratified, and the second related more directly to the topic of this thesis.

The main indicators/relations that will be explored include the relation of power between the employer and MDW created through the low interference of the state as sovereign and denial of basic rights through the creation of the “bare life”. Gender, class, and racial forms of exclusion already existing within the Lebanese system will also serve as indicators on how non-citizen, working-class, non-white women are pushed into the category of groups which have the least access to rights within the hierarchy of rights established by the Lebanese juridico-political system.

C. Chapter Overview

Following this introduction, Chapter II will present the legal conditions of MDWs in Lebanon. The fact that they have been excluded from the Labor Code and that their management is being defined by a sponsorship system puts the MDW in a vulnerable position vis-à-vis the employer. This chapter will also explore the working conditions of MDWs who are expected to be “on demand” twenty four hours a day and seven days a week for low and/or delayed wages

which fall under the legal minimum for Lebanese workers. An empirical assessment based on the studies developed by human rights organizations will also show how different official and non-official bodies often contribute to the perpetuation of the problem. While state apparatuses such as the security and judiciary should be impartial while dealing with MDW cases, they tend to show strong bias in favor of Lebanese employers. And at the end of this chapter, an overview of the major violations of 11 human rights stipulations in different conventions will be presented and is further analyzed in Chapter III.

Chapter III will include the bulk of my theoretical framework through which I try to explain how and why such a group of non-citizens, “non-white”, people of low socio-economic status can be excluded within a society considered from political, legal and social perspectives. This exclusion entails major violations of human rights which are normalized and widely accepted within Lebanese society which sometimes translate into extreme cases of the physical abuse and death of MDWs. For this chapter, I rely on the concepts of governmentality, biopolitics, and bare life developed by Michel Foucault and Giorgio Agamben. Where governmentality serves the understanding of “conducting the conduct” of employer, MDWs, official bodies, and society as a whole with regards to this group of MDW’s, biopolitics helps explain how the body of the MDW becomes the site of exercise of power which is unevenly distributed between citizens and non-citizens. I argue that this power as a form of sovereignty is delegated from the government to the employers within the confines of a private space. My conclusion is that these elements contribute to the reduction of MDWs to bare lives that fall underneath the threshold of humanity- the threshold which entitles them to be bearers of rights. In this chapter, I return to the violations of human rights, and analyze them within this same framework of biopolitics and bare life.

Finally, in Chapter IV, I explore certain specificities of Lebanese society which support and encourage these kinds of exclusions such as the confessional system which has been a political fixture in Lebanon since the Ottoman rule, “othering” on the basis of race, gender, and nationality and the constant preoccupation of society with homogeneity and security. In this chapter, I also briefly explore how and why current forms of resistance including NGOs, media, and individual MDW initiatives still fail to achieve their intended reforms.

CHAPTER II

LEGAL AND EMPIRICAL ASSESSMENT OF THE SITUATION OF MDW'S IN LEBANON

A. MDWs Legal Conditions

The Lebanese Labor Law of 1946 was the result of a long struggle by mainly communist and labor rights activists that started as early as the declaration of the Greater Lebanon in 1921 under French colonization.¹⁰ Unions and movements demanded the elaboration of a labor law which stipulated a minimum wage, working hours, coverage of work accidents and other laws regulating the work of foreign companies. These movements were brutally crushed under different pretexts of safeguarding security motivated by the ruling economic class at the time which consisted of compradors who had maintained their power during and after the French mandate and businessmen that were newly integrated into Greater Lebanon¹¹ until the passage of the labor code in 1946. Article 7 of this law explicitly exempted 4 categories of workers from its provisions, namely agricultural workers and public servants. The law stipulated with respect to these workers that special legislation should be developed as a result of objections raised by several parliamentarians during the discussions of the labor code.¹² However, the other two classes, namely domestic workers and employees in family-run establishments, remained exempted without reference to further measures/legislations to be appended¹³ and no objections

¹⁰ Lama Karamah, *Al Nakabat wal Kada' fi ma'rakat kanoun al 'amal 1946 hina bada al Kanoun Silahan fi Ayadi Al Kiwa Al 'amila*, [Unions and Judiciary in the Labor Law Battle of 1946: When the Law Seemed as a Weapon in the Hands of the Working Forces], (Beirut: Legal Agenda, 2012). <http://www.legalagenda.com/>

¹¹ Greater Lebanon or Grand Liban is the state which existed before the independence in 1943 and was established during the French mandate.

¹² Lama Karamah, *Al Nakabat wal Kada' fi ma'rakat kanoun al 'amal 1946 hina bada al Kanoun Silahan fi Ayadi Al Kiwa Al 'amila*, [Unions and Judiciary in the Labor Law Battle of 1946: When the Law Seemed as a Weapon in the Hands of the Working Forces], (Beirut: Legal Agenda, 2012). <http://www.legalagenda.com/>

¹³ Full labor code in English can be found on <http://www.ilo.org/dyn/travail/docs/710/Labour%20Code%20of%2023%20September%201946%20as%20amended.Publication%202010.pdf>

were raised at the time. The underlying assumption is that domestic work and family-run enterprises were and are still both considered private affairs where the government should not interfere. The domestic worker thus becomes subject to the will of her/his employer with no recourse to laws for protection of even the most basic rights. In the mind of both the legislators and the labor activists the domestic worker is considered as part of the family and her management is up to the heads of the household. As such, she is not considered to be an independent laborer as her domain of work is the private household which is immune to the examination of labor inspectors or public scrutiny. In fact, “[i]n most Arab states, labor laws generally do not cover female domestic workers because they are not considered employees.”¹⁴ As a consequence of this exemption, MDWs are denied labor rights granted under this law, such as the minimum wage which is set at 500,000 L.L/month (approx. USD 333), freedom of movement, social security, the right to form or join organizations and labor unions, the maximum of working hours set at 48 hours/week, weekly rests of 36 consecutive hours, a paid annual leave of 15 days, the right to freely end a contract by giving a notice within a due period, and the right to benefit from an arbitration council in case of disputes.

Even though domestic work existed since pre-war Lebanon and MDWs arrived as early as 1970, these workers had no legal coverage and it was only until 2003 that certain measures were taken to regulate specifically this work through the passage of a ministerial decision on the regulation of the work of agencies which act as intermediaries between employers and the workers/other agencies in their countries of origin (2003)¹⁵, and the introduction of a unified

¹⁴ International Labor Organization, *Domestic Workers: Little Protection for the Underpaid* (Geneva: International Labor Organization, 2005), 10, <http://www.migrationinformation.org/Feature/display.cfm?id=300>, (Accessed November 30, 2012)

¹⁵ The Decision of Ministry of Labor number 70/1 (2003).

employment contract (2009).¹⁶ That is in addition to the enforcement of a “sponsorship system” which governs all foreign workers in Lebanon and is not specific to MDWs (1964).

1. The Unified Employment Contract

The unified employment contract for MDWs was introduced in January 2009 and is published on the General Directorate of the General Security website¹⁷. To begin with, the fact that this contract falls under the prerogative of the General Security is alarming. MDWs and other foreign workers’ presence is considered a potential security threat to the state and not just as employees whose work needs to be managed and whose rights needs to be protected. With reference to a special section on the General Security website regarding due procedures for obtaining a foreign domestic worker, the applications submitted by employers to receive an MDW will not be reviewed unless they are coupled with a contract using the template developed by the General Security. Surprisingly, I was able to acquire from a public notary another contract which slightly differs from the template provided by the General Security. This may indicate that lawyers and agencies are taking the liberty of changing the text. Below, I will examine the gaps in the contract itself and the differences between the two versions of the allegedly “unified” employment contract. A review of the General Security template of the contract reveals major gaps and flaws that create openings for the abuse and exploitation of MDWs.

Although this contract defines the major obligations and terms of the relationship between the employer and the MDW, it sets working conditions that are in violation of those stipulated in the Lebanese Labor law (for the local workforce) and the international conventions on labor rights. Under the obligations of this contract, the employer should provide adequate

¹⁶ Unified Employment Contract: <http://www.general-security.gov.lb/housemaid-%281%29.aspx>

¹⁷ Ibid.

working conditions including providing food and clothes (Article 7). In the contract extracted from the public notary, a second sentence is added to provide a decent living which respects the MDW's dignity and her right in privacy- this sentence responds more to the problems that face the MDWs where in some cases they live in very small rooms, with no windows or in the kitchen with no privacy. The safety and the health of the employed are also respected in the Code of Obligations and Contracts which also governs this unified contract. In its Article 647 (1), the employer must ensure that all the conditions of safety and health are established in the places of work of the employed.¹⁸

The working hours are set at 12 per day (equal to 72 hours per week) which exceeds the 48 weekly working hours as stipulated by the labor law (Article 10). It also guarantees the migrant worker with 8 consecutive hours of rest at night and 24 hours weekly (Article 11)—in the notary public contract an additional clause is added to guarantee 6 paid days off per year compared to 36 hours of weekly rest and 15 days off per year for other workers in Lebanon (Articles 31, 36 and 39 in the Labor Law). However, the same Article 11 states that the conditions for the 24-hour rest should be agreed between the two parties- this opens the door for the employer to suggest that the worker should stay at home and not leave the house for example. In addition, any kind of a job description or terms of reference guiding the scope of work of the MDW is missing from the contract. Thus the MDW is expected to perform all the tasks that her employer asks of her including cleaning, cooking, looking after children and the elders, running errands, and even walking the dog.

With respect to remuneration, Article 5 stipulates that the wage should be paid at the end of each month without any delay “in the hand of the second party”¹⁹ (second party being the

¹⁸ Lebanese Code of Obligations and Contracts.

¹⁹ Unified Employment Contract: <http://www.general-security.gov.lb/housemaid-%281%29.aspx>

worker) with a signed receipt or a bank transfer. In the notary public's version, the sentence "without unexcused delay" is added and "in the hand of the second party" is removed. Some employers try to convince the workers that they are saving their money until later and provide different excuses to explain the delays. The minimum wage is not defined as in the Labor Law (USD 333) but the wages are stated in the contract and usually vary between USD 150 and 300 depending on the nationality of the worker. Clear discrimination can be detected here where people providing the same type of work receive different wages and all of them below the minimum wage set in Lebanon. Moreover, there are no clauses on compensation for extra hours worked or any mechanism to protect these rights.

Providing more room for the employer to maneuver, the contract allows the worker to break the contract only in three extreme cases (Article 14): 1- in case the employer did not pay the salary for 3 consecutive months, 2- if the employer or one of the residents of the household hurt, beat, sexually abuse or rape the worker, by providing medical reports, 3- if the employer retained the worker in a different capacity than what was originally agreed upon and without the consent of the worker. The MDW is thus not allowed to break the contract for any other reason, for example if she found a better paying job, if she was unsatisfied at her job or if she just wished to quit due to familial commitments. Finally, the contract of the General Security lacked two major clauses that the contract extracted from the public notary included. The first stipulates that the worker should not be working in any other place outside the household of the employer. In many cases witnessed personally, workers are taken with the family to other residences (for a family dinner or gathering) and they are forced to work there as well. But this clause can also prevent the MDW from autonomously finding a new employer to work for and this limits her work mobility options. The second stipulates that this contract was made in three copies one of

which should remain with the worker which is a good initiative but undermined by the fact that the contract is written in Arabic alone- a language that can't be read by most MDWs.

The discrepancy between the two versions of the contract is interesting. At one end, it makes one question the level of enforcement of this supposedly unified contract. In its Periodic Universal Review of Lebanon, Human Rights Watch (HRW) hailed the introduction of this unified contract stating that it “clarifies certain terms and conditions of employment for domestic workers, such as the need for a 24-hour rest period each week, but added that [the Ministry of Labor] has failed to enforce it.”²⁰ Since the contract is not protected by laws, there are no clear mechanisms of enforcing it and thus its implementation is left to the good faith of the parties involved. The public notary version seems more responsive to reality and the needs of the MDWs for example in the introduction of the prohibition to work in different households, the stipulation of the days off and sick leaves. However, these provisions are not unified and not regulated by the Ministry of Labor or the General Security and thus are a result of individual initiatives. This creates more inequality among the different workers in an already unequal relationship with their employers and with the standards of work provided for other Lebanese and foreign workers. What is more alarming is the sponsorship system which is implicitly embedded in Article 9 of the unified contract whereby the employer is committed to get the visa and the residence for the worker. This process is further elaborated below with regards to the General Security procedures which make the employer a sponsor for the worker during their stay in Lebanon.

²⁰ Human Rights Watch, *Universal Periodic Review of Lebanon*, (USA: Human Rights Watch, 2010), 3.

2. The Sponsorship System

As per the decree on the regulation of the work of foreigners in Lebanon (1964), all foreigners are supposed to apply for a pre-approval and a working visa from the Ministry of Labor. This can be done directly by the employee or by a legal representative in Lebanon. In the case of migrant domestic workers, this rule also applies but there are more conditions that regulate it and make it more controversial. In the process of receiving residency and employment visas, MDWs do not apply by themselves but rather require a sponsor who becomes responsible for the legal status of the worker during her whole stay in Lebanon and exercises considerable control over “her freedom of movement and her employment mobility. In virtually all cases, domestic workers’ sponsors are also their employers.”²¹ All foreign workers, including MDWs, should receive a pre-work authorization from the Ministry of Labor which governs the subsequent entry and receipt of work permits and residence authorization. “Sponsors are expected to assume financial and legal responsibility for migrant domestic workers while they are present in the country. This includes renewing employment and residence permits of the worker, providing insurance, reporting to immigration authorities if the worker absconds, and ensuring that the worker returns to her country of origin by paying for her plane ticket after the termination of her employment contract.”²² They also deposit an amount of USD 1,000 at the central bank for the same purpose specifically so that the Ministry of Labor can cover the return ticket in case the worker “runs away” or is detained. Given the above, MDWs are supposed to keep working for their sponsor/employer during their entire stay in the country. The transfer of sponsorship may not occur without the consent and/or “release” at the public notary of the employer/sponsor and this should be reported to the General Security- this only can happen twice

²¹ Kathleen, Hamill, *Policy Paper on Reforming the “Sponsorship System” for Migrant Domestic Workers: Towards and Alternative Governance Scheme in Lebanon*, Beirut: KAFA, 2012, 11.

²² *Ibid.*, 11.

a year.²³ In practice, when the migrant domestic workers arrive to the airport, for a long time, they were not allowed to leave unless in the presence of the sponsor, a practice which may have started to change. It has been reported by many that the General Security officers usually keep the identification papers of the MDWs until the sponsor/employer arrives and advise the latter to keep these papers with them so that the worker doesn't "run away" which could imply legal penalties for the sponsor.²⁴

It seems that both written and customary rules and regulations entrust a lot of power in the hands of the employer vis-à-vis the MDW, putting the latter in a position of vulnerability and creating the condition for their exploitation and abuse. In this sense, the laws and rules which regulate this labor do not protect the basic rights of the worker, and put her in a position of vulnerability and at the mercy of the employer with minimum ability for legal redress.

"Employers may take advantage of domestic workers simply because they can get away with it and because of workers' position of vulnerability."²⁵ The ministerial decree of 2003 on the regulation of the work of agencies is more explicit in its attempt to redress the legal gaps which allows for abuse. However, in practice, the government has generally failed to enforce it on the 500 agencies licensed by the ministry of labor.²⁶

3. The Ministerial Decision on the Regulation of the Work of Agencies

In 2003, a ministerial decision was taken to regulate the work of agencies which recruit domestic workers from foreign countries. This decision was clearly scrupulous of and attentive

²³ General Security Regulations on Migrant Domestic Workers, <http://www.general-security.gov.lb>.

²⁴ Cited in KAFA (Enough) Violence and Exploitation, *Policy Paper on Reforming the "Sponsorship System" for Migrant Domestic Workers: Towards and Alternative Governance Scheme in Lebanon*, (Beirut: KAFA, 2012), 13.

²⁵ Kathleen Hamill, *Policy Paper on Reforming the "Sponsorship System" for Migrant Domestic Workers: Towards and Alternative Governance Scheme in Lebanon*, (Beirut: KAFA, 2012), 16.

²⁶ *Ibid.*, 19.

to the legal gaps that allows for exploitation. Article 13 for example stipulates that each sponsor should provide the MDW with food, medicine and a place to rest and should refrain from abusing her or hitting her under the risk of legal pursuit.²⁷ Article 14 obliges the agent to call the sponsor and the workers periodically to make sure that no abuses are being perpetrated by either party and to report to the Ministry of Labor in case they have. However, the ministerial decision is silent on what happens if they don't follow-up and who is the official body monitoring the implementation. Interestingly, this decision always mentions the sponsor but not the employer which are implicitly the same in most cases. This indicates a clear endorsement of the sponsorship system. Seen from the view of senior International Labor Organization staff based in Beirut, "[w]ith the 'kafala' system, you are creating a total dependency of the worker on the employer for her food, sleeping, health, everything. Total dependency creates total vulnerability and opens the door wide to exploitation."²⁸ Agencies have played a major role in "domesticating" MDWs; they are the source of such employment and constitute the beginning of a chain of abuse through the ways they bring these workers from abroad, at times through deceit. MDW scholar Ray Jureidini mentions that these agencies suffer from widespread corruption and have employed different techniques to bring workers to Lebanon including tricking the workers into false agreements which sometime lead the workers into becoming sex laborers.²⁹ Jureidini states that many of these agencies act with "authoritarian and violent behavior" which includes the application of "corrective punishment" against "disobedient" workers "if the employers are unable or unwilling to do it themselves"³⁰. He also reminds of the "financial exploitation of

²⁷ The Decision Ministry of Labor number 70/1 (2003).

²⁸ Kathleen Hamill, *Policy Paper on Reforming the "Sponsorship System" for Migrant Domestic Workers: Towards and Alternative Governance Scheme in Lebanon*, (Beirut: KAFA, 2012), 16.

²⁹ Ray Jureidini, "Lebanon's Ways are Sponsoring Suicide", *The Daily Star*, April 10, 2012.

³⁰ Ibid.

domestic workers by the agents, who take the first three months of their salaries, [a]s scandalous and should be stopped, because it amounts to human trafficking.”³¹

Even ten years after the issuance of the ministerial decree on the regulation of their work, agencies are still busing and using violence against the MDWs. Instead of monitoring the work conditions and supporting these employees, the agencies are more concerned with the well-being of the employer. When and if they call the household to check on anything, it is to check whether the employer is “satisfied” with the work of the MDW or they need a replacement. As such, these agencies are turning a blind eye to severe working conditions and violations of rights that are taking place in the household as we will see in the next section.

B. Failed Attempts at Redressing MDWs Working Conditions

In the 1970s, Lebanon started receiving the first waves of MDWs from the Philippines and Sri Lanka. This movement of labor to Lebanon escalated especially after the Lebanese civil war (1975-1990) from different countries including Ethiopia, Bangladesh, Nepal and Malaysia to respond to an increased demand for domestic help among Lebanese families. This was due to several social and economic factors. First, MDWs from Asian and African countries constitute cheap labor, they are perceived as being more submissive and better trusted than Syrian, Palestinian and Kurdish women- who provided this work prior to the civil war. “From the 1980s on, Arab migrants were gradually replaced by Asian labor in those fields of employment that do not require Arabic language proficiency, as Asian labor was cheaper, seen less of a political risk, and easier to control [...]”³² Second, hiring a domestic worker is perceived in Lebanon as an

³¹ Kathleen Hamill, *Policy Paper on Reforming the “Sponsorship System” for Migrant Domestic Workers: Towards and Alternative Governance Scheme in Lebanon*, (Beirut: KAFA, 2012), 16.

³² Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 152.

elevation of the employer's social status.³³ The official count of migrant domestic workers in Lebanon as presented by the Ministry of Labor is 114,933 in 2009 but embassies and international organizations estimate the actual number at 200,000.³⁴ This discrepancy is explained to be due to the fact that a lot of migrant domestic workers do not have work permits and thus are not covered by the official census.

Despite their huge number, MDWs are still regulated by the outdated sponsorship system which puts the MDW in an unequal relationship with the employer. On the one hand, we have young women who are looking for opportunities for a better future and on the other employers who are seeking help at the cheapest cost. What relates them is a process, a set of practices and loose regulations that are in favor of the second and disregards/allows for the violation of many basic rights of the first. These sets of customary and regulatory rules are rarely updated and in essence do not address the major challenges that face such a system especially when more and more awareness around human rights is being raised on the issue. As a matter of practicality, it is burdensome for both the employer and the MDW to enter into this relationship where the employer invests a large sum of money to sponsor a domestic worker making him/her always anxious about losing this "investment" and thus develops a sense of ownership over the worker. This is coupled with a fear of strangers or the "other" which is also a social feature in Lebanon fueled in part by sectarianism which I will develop later in this paper.

During the last few years, non-governmental organizations and journalists/media have been aggressively raising their voices on the issue of migrant workers and several

³³ Human Rights Watch, *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers*, (USA: Human Rights Watch, 2010), 12.

³⁴ *Ibid.*, 13.

demonstrations were held to call for the abolition of the sponsorship system³⁵. Several ads on television also ridiculed the way employers treat their domestic workers and many articles have depicted a type of modern-day slavery in the regulation and treatment of MDWs. It is more and more obvious that the system cannot be sustained as it is, especially when considering the grave abuses that the MDWs face such as low salaries, the non-payment of salary or its delay, their confinement to the employer's house, the lack of respect to daily rest, weekly day-off, and yearly holidays. Abuses also reach the point of verbal and physical abuse including rape and murder. As mentioned earlier, the rate of migrant workers who have committed suicide is also alarming and further supports the demand for serious reform. In 2008, Human Rights Watch (HRW) reported more than 45 MDW deaths which were caused by suicide or which occurred while they were trying to escape.³⁶ Although, there seems to be an increased opposition to the sponsorship system, a change in the situation is yet to come.

Lebanon is known for its hard resistance to reform; most of its laws are not up to date and an overall slow process of modernization both at the social and economic levels is causing a huge gap between citizens' aspirations and government performance. This is in no way different in the case of MDWs, despite the fact that there have been attempts to better regulate the work of the MDWs especially after their number grew significantly. A small legal breakthrough was achieved by the introduction of the standard employment contract in January 2009, which introduced some obligations on the side of the employer and granted some rights to the domestic worker. This contract however was ill-enforced as I was able to get different copies from different sources all under the name of the unified employment contract. The Ministry of Labor

³⁵ India Stoughton, "Lebanon's domestic workers demand equal rights," *Waging non violence*, (2012), <http://wagingnonviolence.org/2012/05/lebanons-migrant-domestic-workers-demand-equal-rights/>, (accessed 1 December 2012).

³⁶ Human Rights Watch, *Universal Periodic Review of Lebanon*, (USA: Human Rights Watch, 2010), 3.

also established a hotline in 2010 to receive complaints from MDWs on the violations of their contract terms. This hotline, however, was not publicized well. In 2011, another initiative was made by Labor Minister Boutros Harb who submitted a draft law to regulate the work of MDWs. This draft law, however, if passed, would further institutionalize the discrimination against MDWs as it sets out rights and benefits that are inferior to those stipulated in the Labor Law and further legalizes the sponsorship system.³⁷ Finally, in 2012, a lot of hope was set on the initiative of former Labor Minister, Charbel Nahhas, a staunch defender of human and labor rights, who had ambitious plans to abolish the sponsorship system and introduce laws and regulations that would redress the relationship between the employer and MDW based on a draft law prepared by the Lebanese non-governmental organization KAFA (Enough Violence and Exploitation). He also had plans to go further into abolishing the exemption of in-home maids from the provisions of Lebanese Labor Law. Unfortunately, he resigned under political pressure prior to the passage of the law. So far, official attempts to redress the issue have been either individual-based including judges who ruled in favor of MDWs in courts or were unable to meet international standards of labor rights and human rights.

C. Implications of the Legal Gap on Practices by Employers and Juridical and Security Apparatuses

The conditions of MDWs in Lebanon has been the subject of interest to many non-governmental organizations working in Lebanon including KAFA (Enough Violence and Exploitation) and Human Rights Watch in addition to United Nations organizations and missions on human rights. These include the work of Ray Jureidini, Sawsan Abdulrahim, and Kathleen

³⁷ Roula Abi Mershed and Ghada Jabbour, "Lebanon ,Country of Domestic Servitude, Once Again Under the Spotlight", *Legal Agenda* no.6 (2012), <http://legal-agenda.com/article.php?id=190&lang=ar>, (Accessed November 30, 2012)

Hamill, among others. Ray Jureidini provides a psychological and social analysis of the factors that lead female employers to abuse MDWs. He argues that in the private sphere the projection of psychological issues on others is more noticeable as it is not under public scrutiny and it is where Lebanese employers “take out” the frustration resulting from the patriarchal system on MDWs.³⁸ Jureidini dives into an analysis of psychological implications of childhood, gender identities, obsessive compulsive disorders, untreated pathological disorders, dependency, stress alleviation, and the practice of distinction between employer and the maid, in addition to the gender pressure in the patriarchal society. In one of his articles for the *Daily Star*, Jureidini goes on to accuse Lebanon of sponsoring MDW suicide. This article specifically covers the suicide of Alem Dechassa who had been abused by the agent who brought her to Lebanon in 2012. Her death and similar deaths of MDWs “have been poorly investigated by the Lebanese authorities”.³⁹ Jureidini wonders how long the government will continue to dismiss MDW issues and disregard them under the pretext of having “more important matters of state with which to deal”.⁴⁰ This reinforces the assumption that MDWs lie at the bottom of the hierarchy of rights.⁴¹ He adds that even though scholars and activists have been working on the issue for 10 years, there is still no significant change to date. During the 2006 Israeli war on Lebanon, the problem of MDWs in comparison to other migrant workers in Lebanon was apparent. Jureidini writes that the little access to public information and social services that MDWs have is key to understanding their plight. As the Israeli raids targeted many civilian apartments and buildings where MDWs resided, many employers left their houses. Some MDWs were taken to their respective embassies for safety while others were kept at home. In some cases, many employers

³⁸ Ray Jureidini, *An Exploratory Study of Psychoanalytic and Social Factors in the Abuse of Migrant Domestic Workers by Female Employers in Lebanon*, (Beirut: KAFA, 2010), 30.

³⁹ Ray Jureidini, “Lebanon’s Ways are Sponsoring Suicide”, *The Daily Star*, April 10, 2012.

⁴⁰ Ibid.

⁴¹ Ibid.

fled to Syria leaving the maid at home in Lebanon.⁴² The crisis further uncovered the inability of the embassies to protect their workers in Lebanon and on the contrary, they were urging them to stay.⁴³ Although some MDWs preferred to stay as well, it is important to keep in mind their countries' consideration of how they "benefit from the billions of remittances each year".⁴⁴ With this apparent inability or unwillingness to react, the European Union commissioned the International Organization for Migration (IOM) to evacuate 10,000 migrants from "third world countries", knowing that at the time more than 160,000 MDWs were residing in Lebanon⁴⁵ and some controversies spread on misuse of these funds by IOM workers.⁴⁶

With regard to cases of alleged MDW suicide, these are further disregarded as police reports are written without proper investigation. Thus any MDW falling from a balcony is a suicide case even though in many instances these MDWs were trying to flee abusive employers or forced confinement. Senior Researcher at HRW, Nadim Houry, describes "this classification as highly suspect".⁴⁷ HRW report adds that many flaws mark the investigations by police especially where "the police do not always investigate whether the employer mistreated the employee, and when they do, they limit themselves to general questions and accept the employer's testimony without cross-checking their statements with information from neighbors or the family of the domestic worker. Second, in cases where the domestic worker survives a fall, police often interview her without the presence of a translator and generally ignore the motives that led her to escape."⁴⁸

⁴² Khalid Koser and Susan Martin, *The Migration-Displacement Nexus: Concepts, Cases and Responses*, (New York: Berghahn Books, 2010), 16.

⁴³ Ibid.

⁴⁴ Ibid., 18

⁴⁵ Ibid., 11

⁴⁶ Ibid., 15

⁴⁷ Human Rights Watch, "Lebanon: Migrant domestic workers dying every week", *Lebanon Wire*, August 26, 2008.

⁴⁸ Ibid.

In a study conducted by HRW, between January 1, 2007 and August 15, 2008, 95 MDWs died in Lebanon out of which 40 were reported by police or embassy as suicide and 24 falling from a high floor.⁴⁹ With so many question marks around the authenticity of the police reports and the investigation around these deaths one cannot but think that these reports are covering the motivation behind these suicides which may indict the employers. In the cases of MDWs “falling from high floors” one can recall the different times when MDWs can be seen washing windows from the outer sides while standing on very thin edges which clearly violates safety measures that should be established in the workplace. This of course is disregarded and the MDW family does not receive any compensation. Also, presenting most death cases as suicide can be easily dismissed and disregarded by society since suicide is culturally shunned and this further contributes to the development of the poor image of MDWs as people who lack religious and moral ethics and who are unworthy of rights. As such it becomes, in the mind of many Lebanese, necessary to restrain their freedoms because they lack sound judgment. The image of MDWs is further degraded by presenting many of the suicide cases as driven by mental illnesses from which MDW’s suffer, and this overshadows the crimes committed by the employers themselves. In addition, other types of death reported such as suffocation by carbon monoxide which amounted to 5 instances, also raises concern around the working conditions of the MDWs.

Another study contracted by KAFA developed by Abdulrahim reiterates the concern of the amount of control employers may have in the private sphere under the sponsorship system. Abdulrahim explores “how normative attitudes and accepted practices related to hiring and managing domestic workers also contribute to reinforce the power and control of employers.”⁵⁰

⁴⁹ Human Rights Watch, *Annex: Deaths of Migrant Domestic Workers in Lebanon*, <http://www.hrw.org/legacy/pub/2008/women/Lebanon.MDW.Annex.082608.pdf>.

⁵⁰ Sawsan Abdulrahim, *Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers Towards Migrant Domestic Workers*, (Beirut: KAFA, 2010), 11.

Abdulrahim highlights racial preferences among employers towards the color of the worker that they want to hire. She explains how abuse of rights such as right to day off (and day out) is justified so as to protect family values or not put the MDW under the threat of contracting AIDS, or being raped or murdered.⁵¹ She also explores how the system of both government and employment agencies protects the employer vis-à-vis the MDW where fairness is no longer an option. The result of these two studies explains how and why the employer has the ability to mistreat the MDWs, how abusive practices against them have become normalized, and to a lesser extent how the system contributes to the perpetuation of these conditions.

The third study by KAFA developed by Hamill goes deeper into the Lebanese sponsorship system and the role it plays in maintaining the “slave-like” conditions of MDWs. Hamill finds that the regulatory and customary sponsorship system is at the heart of the plight of MDWs. She states that the exclusion of MDWs from the labor code and the management of their conditions through the Kafala system “makes migrant domestic workers vulnerable to exploitation and compromises their rights; in effect the system reinforces the dependency, the master/servant dynamic, and the power imbalance between Lebanese employers and migrant domestic workers. The system also severely compromises the employment mobility of workers.”⁵² Her work on systematic exclusion is complemented by a report⁵³ by Human Rights Watch which uncovers how the judicial system also fails to protect MDWs. The report finds that obstacles to attaining justice are related to the lack of information of MDWs possess about their rights, their inability to leave the house of the employer at will to go to the authorities, the

⁵¹ Sawсан Abdulrahim, *Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers Towards Migrant Domestic Workers*, (Beirut: KAFA, 2010), 17.

⁵² Kathleen Hamill, *Policy Paper on Reforming the “Sponsorship System” for Migrant Domestic Workers: Towards and Alternative Governance Scheme in Lebanon*, (Beirut: KAFA, 2012), 5.

⁵³ Human Rights Watch. *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers*. USA: Human Rights Watch, 2010. Available: <http://www.hrw.org>.

attitudes of security forces towards their claims which are often underestimated or met with threats of detention, their inability to work or find a safe space during the trial, the cost of legal fees and the high risk of counter-charges of theft.⁵⁴ Most importantly, the report finds that the judicial courts are slow (slower than the usual) in dealing with cases of MDWs when they are the plaintiffs and that in “many instances where the police and the prosecutors often ignored, or dealt extremely leniently, with MDWs’ allegations of abuse.”⁵⁵ That is in addition to abuses during interrogations where practices such as pre-trial arrests, lack of access to lawyers, and language barriers are common.

These studies form the bulk of the empirical data that provide solid examples on the abuses and the deficiencies of the system with regards to the protection of MDWs. However, they do not provide a sufficient understanding of why such a situation would linger and why it is in place to begin with. My work will thus complement these by developing a theoretical approach to this issue as stated earlier by employing the concepts of governmentality and biopolitics as we will see in the next chapter.

D. Glaring Violations of a Series of Human Rights

Employers and the government of Lebanon have been accused of violations of human rights as stipulated by different conventions. We will analyze in the next chapter the relationship between biopolitics and human rights, but here I would like to restate and deepen my consideration of the violations which have been systematically covered, sponsored, or at best ignored by the Lebanese society as a whole.

⁵⁴ Kathleen Hamill, *Policy Paper on Reforming the “Sponsorship System” for Migrant Domestic Workers: Towards and Alternative Governance Scheme in Lebanon*, (Beirut: KAFA, 2012), 31.

⁵⁵ *Ibid.*, 33

1. Right to free movement and leave a country

This right was stipulated in different conventions ratified by Lebanon such as the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966) and the Convention on the Elimination of All Forms of Discrimination against Women (1979) and which enshrines the rights of every person to free movement and the right to leave the country. Despite several reports on employers confining their domestic workers to their homes, the unified contract is silent about the need to give the domestic worker the right to leave the house at her will especially in her free time. In one ILO report, Jureidini asserts that “rare is the live-in worker who can go outside, visit friends or stroll unaccompanied”.⁵⁶ In most cases, the employer fears that the domestic worker gets involved in relationships with a man or with another employer who might “take her away”. “This seclusion from the outside world invariably enables employers to exert full control over the lives of the domestic workers they hire.”⁵⁷

Moreover, the sponsorship system and immigration rules which give full responsibility of the legal presence of the MDW to the employer/sponsor does not allow the worker to be independent in terms of staying in the country after the end of the contract to find another employer (grace period after visa cancellation). In addition, the General Security officers at the airport have the tendency to give the MDWs passports to the sponsor/employer and suggest that they keep them which further restricts the maids’ freedom to move and to leave the country. In many cases, where maids decide to “run away” from their bad conditions, they do so without

⁵⁶ International Labor Organization, *Report IV: Decent Work for Domestic Workers*, (Geneva: International Labor Organization, 2010), 70.

⁵⁷ Sawzan Abdulrahim, *Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers Towards Migrant Domestic Workers*, (Beirut: KAFA, 2010), 11.

their passports and thus they become detained. The UN Special Rapporteur on Contemporary forms of Slavery found that “once the migrant domestic worker leaves the household, she is in violation of an administrative regulation connected to her residency permit. Migrant domestic workers found without their passports or who have overstayed their visas are arrested and detained in a General Security detention centre for migrants and refugees.”⁵⁸

In a study conducted by KAFA, the researcher found that around 88% of those who responded to their survey agreed that the employer has the right to keep the domestic worker’s passport in order to prevent her from escaping.”⁵⁹ They also stated that in a study conducted with the employers, their participants often “equated granting the right to go out with terrifying threats such as catching AIDS, getting raped, or even being killed.”⁶⁰ This overstatement of the threats outside the household is in part a result of the conflict between the responsibility of the employer to protect themselves as being the legal guardians of the worker and as having “invested” a sum of money to “bring her” on one hand and the rights of the worker on the other. It is also a clear indication on how the whole conduct of employers towards MDWs is normalized and is widely accepted within the society. The direct consequence is also the violation of the right to peaceful assembly and association enshrined by the Declaration and such conventions on racial discrimination, economic, social, civil and political rights.

⁵⁸ UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: 2012), 10.

⁵⁹ Sawsan Abdulrahim, *Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers Towards Migrant Domestic Workers*, (Beirut: KAFA, 2010), 14.

⁶⁰ *Ibid.*, 17.

2. Right to free choice of employment and employment mobility

This right is also internationally protected by the 1948 Universal Human Rights Declaration which is enshrined in the Lebanese constitution⁶¹, the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966) and the Convention on the Elimination of All Forms of Discrimination against Women (1979) ratified by Lebanon. The sponsorship system and mainly the immigration rules infringes on this right. The worker can't leave her work unless with the consent of the sponsor or else she will lose her legal status. In fact, "sponsors continue to release employees to other sponsors as a way of avoiding an incremental tax rate which means that a sponsor who has one employee pays 250,000LL; with a second, the charge is 500,000LL, and a third, 1,000,000LL and so on, thus making it a prohibitively expensive business."⁶² In addition, the unified contract allows the worker to end the contract only in three extreme cases and thus further contributing to reducing their ability to move from one job to another searching for better salaries or employment conditions.

3. Right for equality before the law, not to be detained during trial, and to remedy

This right is also stipulated by many human rights conventions, especially the International Covenant on Civil and Political Rights (1966) which adds the right of the accused to have the proceedings in the language he/she understands and not to be detained while waiting the trial. One International Labor Organization (ILO) report shows that the "domestic worker sector is rife with complaints of nonpayment of wages, excessive working hours, forced

⁶¹ Lebanese Constitution (1926), preamble article (b)

⁶² International Labor Organization, *Gender and Migration in Arab States: The Case of Domestic Workers*, (Beirut: ILO, 2004), 76.

confinement, and even physical and sexual abuse”⁶³ However, it seems that the judicial system is always in favor of the employer vis-à-vis the employee where in many instances, the cases brought to the court by the workers were treated lightly; whereas, those brought by the employer were mostly judged to their favor. “Human Rights Watch interviewed many MDWs, as well as embassy officials, who complained that courts often favor the employer and convict workers purely based on the employer’s testimony.”⁶⁴ A more blunt violation to the right of the workers is that all proceedings are in Arabic which is sometimes hard for the worker to understand especially in its classical form.

Since the sponsorship system ties the legal status of the MDW to her sponsor/employer, she loses this status whenever she decides to leave even when based on one of the legitimate excuses stipulated in the contract. As a consequence, even if the worker is the victim, she is detained, both because she lost her legal status and in most cases the employer accuses her of stealing money. In a study by HRW “[a]t least 76 percent of the accused MDWs (64 out of the 84 cases) were detained before trial, even when accused of stealing small amounts, often less than \$1,500. Most MDWs who were eventually found not guilty had been detained during trial for an average of three months before being released, although at least four had spent more than eight months in jail before a court found them not guilty.”⁶⁵ This normalized conduct by the judicial system emphasizes the non-citizen/citizen threshold where non-citizens (MDWs in this case) have less access to legal redress and, where they do have access, they are always treated as the criminals rather than the victims.

⁶³ Human Rights Watch, *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers*, (USA: Human Rights Watch, 2010), 1.

⁶⁴ *Ibid.*, 5.

⁶⁵ Human Rights Watch, *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers*, (USA: Human Rights Watch, 2010), 5

4. Right not to be subject to cruelty and torture

This right is especially protected by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) which provides for an impartial investigation and is ratified by Lebanon. In one of their reports, the HRW found that in cases submitted by MDWs relating to physical abuse, the “police and prosecutors often ignored allegations of physical violence, including slapping, punching, or pushing, and will only pursue and prosecute extreme forms of beating that are documented with extensive medical reports. In addition, many MDWs who filed complaints against employers for ill-treatment ended up facing countercharges of theft that take up much of the police investigation’s effort.”⁶⁶ Although, the unified contract allows the MDW to terminate the contract in cases of abuse, in practice Lebanon fails to protect the right to go to court for impartial investigation and remedy. A practice which maintains the hierarchy of human value where the citizens’ claims such as being victims of theft are considered by the judiciary as a more serious claim than for a MDW to be beaten or harassed.

5. Right to be free from servitude and forced labor

This right is protected by several conventions, mainly the 1926 Slavery Convention to which Lebanon is a state party but has not signed the Protocol amending the Slavery Convention or the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.⁶⁷ This convention stipulates that all states should act as not to allow any form of labor turning into slavery or something similar. The ILO has put together a set of conditions under which a worker is considered to be subject to forced labor including:

“restrictions on movement and/or confinement to the workplace or to a limited area; retention of

⁶⁶ Ibid., 37.

⁶⁷ UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: UNGA, 2012), 5.

passport and identity papers so that the worker cannot leave or prove her identity and status; withholding of wages or refusal of payment; debt bondage/bonded labor; threat of physical or sexual violence; threat of denunciation to the authorities.”⁶⁸ Lebanon clearly allows enforced MDW labor and thus permits violation of this major right. The regulations have been so far either silent about these issues or the legal authorities have been biased in dealing with evidentiary cases. All the conditions above were previously discussed except for debt bondage. In the report of the UN Special Rapporteur (2012), some instances were identified where “a migrant domestic worker will pay a recruitment agency to organize her recruitment, visa and travel arrangements. She or her family has to take out considerable loans to pay the agency, meaning that she is under pressure to pay off the loan and is vulnerable to exploitation.”⁶⁹ “In addition, the worker (or her family) may have taken out a loan to pay for her trip, which is often extremely costly, meaning that she will endure many abuses in order to recover the outlay. From the outset, the employment relationship becomes one of financial debt recovery rather than a working relationship.”⁷⁰ Again, these practices are normalized- the perpetuation of these violations is not punished whatsoever.

6. Right to decent living conditions

The right to adequate living standards, freedom from hunger, and not to be deprived from the means of subsistence are explicitly protected by the International Convention on Economic, Social and Cultural Rights (1966). In the unified contract this right was protected and mentioned

⁶⁸ Cited in KAFA (Enough) Violence and Exploitation, *Domestic Workers in Lebanon: A Legal Analysis*, (Beirut: KAFA), 14.

⁶⁹ UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: 2012), 73-74.

⁷⁰ UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: 2012), 37.

in Article 7 but in practice frequent violation has been identified and reported, ranging from deprivation of food or adequate nutrition, and lodging in spaces that do not respect the privacy of the worker or allow them to rest away from the family. In a study conducted by HRW, they found that on December 1, 2009 out of 154 Filipina MDWs at their embassy 24 left their employers' houses because of long working hours and 8 because of "inadequate food or sleeping quarters."⁷¹ In the unified contract retrieved from a public notary, a sentence was added to Article 7 which stipulates a decent lodging that respects dignity and privacy; however, since this is not standard, the Special Rapporteur found that "workers can be lodged in a room without windows, such as the kitchen or living room, or even in a corridor or closet. These spaces, which are used for social interaction, make it difficult for them to rest adequately because they must either wait until the other members of the household are resting or have their sleep interrupted, which is an infringement of the right to privacy and adequate rest. Sleeping in open space also makes them more vulnerable to physical and sexual abuse."⁷²

7. Right to rest, leisure, and vacations

In the unified contract the right to rest which is protected by the Declaration and other conventions is stipulated in the unified contract. However, in the contract the conditions under which the worker can benefit from it should be agreed upon by the employer. The same condition goes for the vacations which are not stipulated in the General Security version of the contract but that of the public notary. In a study conducted by KAFA, the researcher found that among the focus group that she studied, the employers had the tendency to consider the day-off

⁷¹ Human Rights Watch, *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers*, (USA: Human Rights Watch, 2010), 23.

⁷² UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: 2012), 46.

as “a question of employer preference or responsibility” instead of protecting it as a right.”⁷³

What is even more dangerous is the long working hours defined by the contract (12 hours/day in General Security version and 10 hours/day in the public notary’s version), an ILO survey quoted Jureidini & Moukarbel (2001) who found that 70 surveyed Sri Lankan workers had “an average of 16-17 hours of work per day. In addition, it was noted that many are considered to be “on-call” for 24 hours per day.”⁷⁴

8. Right to equal wage for equal work and minimum wage

The Lebanese employers have preferences of certain migrant domestic workers based on different criteria for example obedience, intelligence, energy, and others. Each of these criteria maybe attached to a racial group and thus reflected in the different wages that the MDWs receive for an equal amount of work that they perform. KAFA states that “[t]he hierarchy of domestic workers is not merely in the minds of employers but translates to a hierarchy in salaries. Employers indicated that there is now an increasing preference for hiring domestic workers from Nepal and Bangladesh (because they are compliant and earn lower wages).”⁷⁵ In practice, those with a fair-colored skin such as the Filipinas can take the highest salary vis-à-vis those with darker skins such as the Sri Lankans. Moreover, since MDWs are exempted from Labor Law and are not entitled to a minimum wage, they usually receive a wage set by the agency and employer without her explicit consent. “MDWs generally sign a contract with the agency in their country of origin, outlining salary, duration of employment, numbers of days off, and other terms.

⁷³ Sawсан Abdulrahim, *Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers Towards Migrant Domestic Workers*, (Beirut: KAFA, 2010), 13.

⁷⁴ International Labor Organization, *Report IV: Decent Work for Domestic Workers*, (Geneva: International Labor Organization, 2010), 69

⁷⁵ Sawсан Abdulrahim, *Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers Towards Migrant Domestic Workers*, (Beirut: KAFA, 2010), 15.

However, this first contract is not recognized in Lebanon, where MDWs sign a second contract, almost always written in Arabic, upon arrival. This usually has more stringent terms, and often compels the MDW to work at a lower monthly salary than originally promised by the agency at home.”⁷⁶

9. Right not to be subject to racial discrimination

In addition to discrimination in remuneration between the MDWs from different racial backgrounds, the Lebanese have socially segregated the MDWs based on their race. The Special Rapporteur to Lebanon indicated that “racial discrimination had publicly manifested itself in the form of segregated beaches and swimming pools, at which migrant domestic workers were not permitted to enter the water. If waiting to be served in shops, they would often be served last.”⁷⁷ This practice is in clear violation of the “right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks”⁷⁸ protected by the international convention on racial discrimination.

10. Right to get married and bear children

This right is bluntly violated in respect with MDWs, the general understanding is that these women should not meet men, get married or pregnant while working as MDWs in Lebanon. This right is conceived in the international conventions on economic, social, and cultural rights, the civil and political rights, and the convention on discrimination against women.

⁷⁶ Human Rights Watch, *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers*, (USA: Human Rights Watch, 2010), 16.

⁷⁷ UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: 2012), 66.

⁷⁸ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965.

The Special Rapporteur was also told that any pregnant MDW can actually lose her job if she gets pregnant.⁷⁹ That's probably one of the most flagrant examples of biopolitical control over the life and body of the MDW, where giving the freedom to MDW as such is considered an abnormal practice. It is worthy to note a recent case here that was publicized after a mixed couple (Lebanese man and Ethiopian woman) had a child around a year ago and the relevant authorities are delaying the registration of the child.⁸⁰ Although the woman is not a domestic worker, this incidence exposes an unaccepted practice (as per Lebanese standards) of a Lebanese man marrying an Ethiopian woman and is systematically shunned and obstructed.

11. Right not to be subject to Gender Discrimination

Finally, most of the MDWs are females and the type of work that they do is already gendered in the sense that society perceives that it is the responsibility of women (Lebanese or foreigner) to clean, cook and do the domestic chores. The Special Rapporteur identified that this gender stereotyping is projected into the professional sphere, that of the migrant worker, where these female workers are expected to be ready 24-hours a day to perform domestic tasks and for no remuneration (or low remuneration) and their work is not recognized since it is not perceived as real work whose performer has rights protected under Lebanese Labor Law.⁸¹ Moreover, other migrant workers such as those working for Sukleen (garbage collection company), who are mostly men- enjoy more rights especially in their enjoyment of freedom of movement.

⁷⁹ UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: 2012), 126.

⁸⁰ Racha Al Amin, *Tefl Zeid Hamda Maktoum Al Kaid bisabab Fawda "Kharijiya"*, [Zeid Hamdan's Child is not Registered due to "External" Chaos], NOW Media, March 23, 2014. <https://now.mmedia.me>

⁸¹ UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: 2012), 68.

12. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (C 189)

Based on the above, it would not be surprising to know that Lebanon has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) which entered into force in 2003. Lebanon is already in violation of so many legally binding international conventions with respect to its relation with MDWs, and it did not add to its record a new international burden which will make its compliance even more precarious. Despite the fact that many of these conventions do not really have teeth in the sense that the establishment of an international norm on the rights of MDWs still has a long way to gain traction at national levels, Lebanon is projecting a very bad moral image of itself in both its legislation and practices. This convention affirms the need for special protection to the right of migrant workers and restates some of the basic human rights while asserting that they should be protected by state parties. Its articles restate the right not to be subject to cruelty, to forced/compulsory labor, to interference on privacy, or to unlawful attack against honor. The state should protect migrant workers against violence and threats, and should not arbitrarily arrest or detain them. In case they were arrested, migrant workers should be informed of the reason in a language they understand. Also, this convention rearticulates the right to equality with nationals before tribunals. It provides the right of association, to join trade unions and to enjoy social security. More importantly, Article 20 of this convention states that “[n]o migrant worker or member of his or her family shall be deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfill an obligation arising out of a work contract unless fulfillment of that obligation constitutes a condition for such authorization or permit” and Article 21 requires state parties to consider “unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy

identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits.” This convention further equated the treatment of migrant workers to those of nationals on a set of issues including remuneration, condition of work, and termination of employment in law and practice. It is also the responsibility of the states to disseminate information about the rights protected by this convention.

E. Conclusion

We have seen in this chapter that MDWs live and work in difficult conditions marked by low/non-payment/delay of salary, confinement to the workplace, lack of respect for daily rest, weekly day-off, and yearly holidays and abuses reaching the point of verbal and physical abuse including rape and murder. Their exemption from the Lebanese Labor Code, and the legal frameworks that have been developed to manage their work and presence have all served to put the MDW in a position of dependency and vulnerability. Attempts at redressing the problem were introduced such as unified employment contracts, ministerial decree on work of agencies, and a hotline for MDWs, have all proved insufficient as they have been selectively implemented and poorly enforced.

As a consequence, the life and work of the MDW became a private affair of the employer with low to absent involvement from the government. It has turned the MDW into an investment that the employer would like to preserve and into an employee to be domesticated and kept under control. Employers, agencies, security forces, and judicial bodies have taken a unified approach in disregarding the problem. It is by now clear that there exists a kind of normalized structure within Lebanese society in which MDWs lie at the bottom of the hierarchy of rights and their rights can be collectively/individually and officially/unofficially abused and dismissed as

unimportant. As such, I will try below to explain how the normalization of abuse, justification of exclusion and “conduct of conduct” are possible by employing theoretical frameworks developed by Foucault and Agamben.

CHAPTER III DEFINING THE HUMAN THRESHOLD

A. Governmentality, Biopolitics, and Bare Life

The problem of MDWs in Lebanon was never theorized within a framework of political philosophy and theory as such. The contribution of this thesis is thus the attempt to explain this social, political, and legal plight, explored by many researchers and human rights activists, from a theoretical perspective to understand the power relations that are in place in the reduction of the MDW to “bare life”. I believe that through the concepts of governmentality and biopolitics one can understand the powers at play along gender, class, and racial lines that create the “Other” that is the MDW and the threshold of exclusion within the Lebanese society.

1. Governmentality

In his 1977-78 Lectures at the College De France entitled *Security, Territory, Population*, Foucault defines governmentality using three concepts, in his words:

First, by “governmentality” I understand the ensemble formed by institutions, procedures, analyses and reflections, calculations, and tactics that allow the exercise of this very specific, albeit very complex, power that has the population as its target, political economy as its major form of knowledge, and apparatuses of security as its essential technical instrument. Second, by “governmentality” I understand the tendency, the line of force, that for a long time, and throughout the West, has constantly led towards the pre-eminence over all other types of power- sovereignty, discipline, and so on- of the type of power that we can call “government” and which has led to the development of a series of specific governmental apparatuses (*appareils*) on the one hand, [and, on the other] to the development of a series of knowledges (*savoirs*). Finally, by “governmentality” I think we should understand the process, or rather, the result of the process by

which the state of justice of the Middle Ages became the administrative state in the fifteenth and sixteenth centuries and was gradually “governmentalized.”⁸²

He adds that this is a set of tactics applied by the government “that allow the continual definition of what should or should not fall within the state’s domain, what is public and what private, what is not within the state’s competence, and so on.”⁸³ For our case, and as we have seen earlier, the domain of management of MDWs is set as a private affair with a clear exclusion from Lebanese Labor code which indicates that they are not considered as independent workers with rights and duties. The practices of the judicial and security apparatuses which are biased towards the MDWs have been tolerated if not sponsored by society and officials. The neglect with which these *appareils* deal with cases brought forward by MDW builds a relationship of distrust between the two parties which makes the MDWs reluctant to approach any government bodies for solutions to their problems. As such the problem remains within the confines of the private sphere where the unequal balance of power reigns.

Governmentality or the understanding of what Foucault calls “the art of government” is a set of strategies and tactics employed to shape individual and collective conduct. The art of government came as a replacement of the older paradigm of looking at rule and power through a lens of sovereignty over the principality (or the territory) as was the case for Machiavelli while individuals were subject to laws that they are supposed to abide by. Instead, the art of government targets the “complex of men and things”.⁸⁴ What is of concern for Foucault was the “effective and productive disposition of things”; “it is not about imposing the law on people but of arranging things so as to produce an end appropriate to and convenient for each of the things

⁸² Michel Foucault, *Security, territory, population : lectures at the College de France, 1977-78*, (Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, 2007), 108

⁸³ *Ibid.*, 109

⁸⁴ Jonathan Xavier Inda, *Anthropologies of modernity: Foucault, governmentality, and life politics*, (Malden Mass.: Blackwell Publishing Ltd., 2005), 3-4.

governed.”⁸⁵ That’s why in my opinion governance becomes less about the application of law and more about the disposition and distribution of power. As such, legal lacunas can serve the right disposition of things and management of relations of people to the benefit of the powerful majority and at the expense of a minority whose rights can be violated and denied with no major resistance despite the seriousness of the violation. Foucault also goes further in detail to explain that is not only “men and things” that are governed here but also “men in their relations, their links, their imbrications with those other things which are wealth, resources, means of subsistence, the territory with specific qualities, climate, irrigation, fertility, etc.; men in their relation to that other kind of things, customs, habits, ways of acting and thinking, etc [...]”.⁸⁶ In Lebanon, the “ways of acting and thinking” with regards to MDWs is racialized as we have seen earlier and as such can create a strong base for exclusion. Having a set of prejudice and stereotypes, governmentality works specifically on these to normalize exclusion and abuses of MDWs. It comes at no surprise here that many Lebanese still recall an old racist proverb encouraging people of buy sticks when purchasing slaves, suggesting that the latter need to be punished and domesticated.

In the case of MDWs it seems as if the state is interfering and not interfering at the same time; introducing strategies of push and pull with the employers so as to keep controlling both parties while at the same time ensuring the perceived welfare of the latter. The “right disposition of things” entails the state provision of cheap labor while imposing certain conditions identified by the sponsorship system that give power to the employer vis-à-vis the worker. This unequal relationship is not limited to the legal/judicial aspect of this problem but also the socio-political aspect where workers are perceived as inferior and as groups that should be monitored regularly

⁸⁵ Ibid., 4

⁸⁶ Graham Burchell et al., *The Foucault effect: studies in governmentality: with two lectures by and an interview with Michel Foucault*, (Illinois: University of Chicago Press, 1991), 93.

by their employers/sponsors so as to prevent them from committing illegal/immoral acts. MDWs conduct is shaped by the employer while both the latter's conduct and that of the agencies and officials is shaped within the legal lacuna and the absence of local or international protection mechanisms.

Governmentality has three main elements, which are relevant to our discussion as explored below:

- 1- Conduct of conduct: for Foucault, this element defines government tactics aiming at influencing the conduct of individuals and groups which can be “more or less considered and calculated” and targeting different groups - “whether these be workers, children, communities, families or the sick – through acting upon their hopes, desires, or milieu.”⁸⁷ As such, the legal and social structures that govern the relationship between MDW and employer are calculated in a way so as to project this relationship as directly answering the hopes of both parties. Employers need cheap labor to be able to get out of the house and the MDW finds a source of revenue which might not be easy to generate in the country of origin. When both parties accept this relationship as beneficial, it overshadows the power relations which lies underneath and helps normalize the conduct of both even if this conduct is in violation of the rights of the weaker party. There is an implicit acceptance of this power relation which sets and conducts the conduct of both parties and contributes to the normalization of such conduct.
- 2- Statism reduced: this governmentality is not limited to the acts conducted by the state itself but involves the work of many non-state actors that have some sort of power over individuals and groups and are capable of shaping their conduct. It “is not merely a

⁸⁷ Jonathan Xavier Inda, *Anthropologies of modernity : Foucault, governmentality, and life politics*, (Malden Mass.: Blackwell Publishing Ltd., 2005), 6.

matter of *the* government and its institutions but involves a multitude of heterogenous entities: from politicians, philanthropists, and state bureaucrats to academics, clerics, and medics”.⁸⁸ Once a normalized conduct is set and is perpetuated across generations without significant resistance/acts that can question this conduct, the role of the state can be reduced as the role of other actors in the country in maintaining the status quo is established. Employers, agencies, and other civil society actors, as we will see later, contribute to maintaining the same structure of power- each within his/her capacity- where MDWs can be used to satisfy their needs, and desires.

- 3- Move from individual to population: the main target of governmentality is not the individual per se but the larger population by “acting upon the particulars of human conduct so as to enhance the security, longevity, health, prosperity, and happiness of populations”.⁸⁹

This theory applies usefully to the situation of MDWs in Lebanon, despite the fact that the overall objective of ensuring happiness and welfare for all- the third element of governmentality- has not been achieved, not only for MDWs but also for many Lebanese themselves. It is interesting however to see how the conduct of both the employers and employees (MDWs) is normalized, naturalized and shaped to project that this is the best arrangement for both of these two groups- employers get cheap labor allowing them to take jobs outside (especially females) and female MDWs coming from poor countries escape their bad economic situations and find employment opportunities. The Kafala system makes this relationship appear mutually beneficial to both parties. However, and as mentioned earlier, underneath this balance, there lie great abuses- that mainly affect the MDW.

⁸⁸ Jonathan Xavier Inda, *Anthropologies of modernity: Foucault, governmentality, and life politics*, (Malden Mass.: Blackwell Publishing Ltd., 2005), 6.

⁸⁹ Ibid.

The governments of the MDW countries of origin have also taken part in propagating this normalization especially during the 2006 Israeli war on Lebanon. On 25th July, 2006, while evacuations were well underway, the Sri Lankan Labour Relations Minister, Athauda Seneviratne made a public statement that the government was not encouraging Sri Lankans to leave Lebanon and they were concerned that their families were placing pressure on them to return home: “I don’t think a large number of people want to come back. They are used to (conflict). The problem is that people here telephone them and ask them to return. If these people don’t call, they will not return... I want to make sure that we send another 400,000 workers to the Middle East this year.”⁹⁰ The life or death of the MDW is thus treated lightly. As she is left at home in a period of war, she is equated with the objects that are left behind. Of course the less “valuable” objects as people, when fleeing, usually take money and precious belongings. Perceived as an object, she has no rights, and employers do not feel the duty to protect this person’s life or allow them to protect their own by allowing them to go back to their countries of origins. This behavior further reflects the case of MDWs through the lens of the concept of bare life as we will see later.

2. Biopolitics

Following his works on governmentality, Foucault established the concept of biopolitics in the 1970s which he defined as the “growing inclusion of man’s natural life in the mechanisms and calculations of power.”⁹¹ Foucault focused mainly on the “subjectivization” of the self in the

⁹⁰ Khalid Koser and Susan Martin, *The Migration-Displacement Nexus: Concepts, Cases and Responses*, (New York: Berghahn Books, 2010), 16-17.

⁹¹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 119.

modern world but these were limited according to Agamben to “the *grand enfermement*”⁹² in hospitals and prisons” but not to the concentration camps which were for him the main site of the exercise of biopolitics.⁹³ Antonio Negri among other philosophers, developed this concept further as a sign to the entrance of “life” into the sphere of power. This form of power is not disciplinary but rather preventive in the sense that it controls populations “to maximize their productivity as opposed to, say, punishing them after the fact as with sovereign power”.⁹⁴ This new form of management of life can interfere in the different aspects of life itself. Giorgio Agamben and Roberto Esposito have made clear the process of “the inscription of life in modern political regimes, and the very political recognition of life as ‘human life’ takes place as an ambivalent split or division”⁹⁵. Agamben explains the politicization of life in terms of the “inclusive exclusion” of “bare life” or “mere life” that is deprived of the recognition of both its human and social status. Describing the development of biopolitics, he says that “it is almost as if, starting from a certain point, every decisive political event were double-sided: the spaces, the liberties, and the rights won by individuals in their conflicts with central powers always simultaneously prepared a tacit but increasing inscription of individuals’ lives within the state order, thus offering a new and more dreadful foundation for the very sovereign power from which they wanted to liberate themselves.”⁹⁶

In his historico-juridical exploration of the rise of biopolitics, Agamben explains that democracy in early Europe put natural life at the center of the decision of the sovereign.

⁹² Translates to large confinement

⁹³ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 119.

⁹⁴ Antonio Negri, “The Labor of Multitudes and the Fabric of Biopolitics,” Trans. Sara Mayo, Peter Graefe and Mark Coté. Ed. Mark Coté. *Mediations* 23.2 (Spring 2008) 8-25, (12).

⁹⁵ Gabriel Giorgi and Karen Pinkus, “Zones of Exception: Biopolitical Territories in the Neoliberal Era,” *Diacritics* 36.2 (Summer 2006) 99-108, (3).

⁹⁶ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 121.

Referring to a modern court orders, he argues that at the center of politics lies the bare life or *Zoe* or the anonymous life that is as such taken into the sovereign ban “the body of being taken...,” and not the *bio* “or the qualified life of the citizen.”⁹⁷ “This “merely biological” life is the threshold of human life, at the same time exterior and interior, included as that which needs to be constantly separated, expelled, so that the “form of life,” or bios, can be recognized as “human” and be protected by the legal and the social order. In this ambivalent and violent threshold between bios and zoe, writes Agamben, “the humanity of living man is decided”.⁹⁸ Bare life or the body of the *homo sacer* for Agamben, is “modern democracy’s strength and, at the same time, its inner contradiction: modern democracy does not abolish sacred life but rather shatters it and disseminates it into every individual body, making it into what is at stake in political conflict.”⁹⁹ What becomes negotiated as such is the transition from *zoe* to *bio* as a requirement for individuals to acquire rights and become citizens; holders of rights. Agamben explains that this *bio* versus *zoe* distinction requires the existence and constant redefinition of a threshold. He states that “[o]ne of the essential characteristics of modern biopolitics (which will continue to increase in our century) is its constant need to redefine the threshold in life that distinguishes and separates what is inside from what is outside.”¹⁰⁰

The closest scholarly link between biopolitics and migrant workers that I could lay my hands on was made by Ahmed Kanna on the situation of migrant labor in the Gulf. Kanna tries to redefine Arab uprisings in order to shed more light on “linkages between citizen uprisings and non-citizens uprisings, the latter often agitating for rights, such as economic remuneration,

⁹⁷ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 124.

⁹⁸ Gabriel Giorgi and Karen Pinkus, “Zones of Exception: Biopolitical Territories in the Neoliberal Era,” *Diacritics* 36.2 (Summer 2006) 99-108, (3).

⁹⁹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 124.

¹⁰⁰ *Ibid.*, 131.

decent working conditions, and dignity that are not necessarily tied to citizenship status or recognition.”¹⁰¹ Kanna argues that foreign workers in the Gulf are turned into bare life for the duration of their stay and submit to the power of citizens and more privileged foreigners. Kanna explains the importance of localization and space in the creation of imagined identities and geographies which support the sense of nationalism among citizens.¹⁰² His work would be of interest to the current thesis despite the fact that the situation of MDWs is different in terms of their confinement to the private space in Lebanon rather than camps as is the case in the Gulf and the nature of the employer: the household versus companies and the dynamics among these and their government. It is also worthy to consider here that there exist differences between the Lebanese and Gulf political and social fabrics. In the Gulf the political situation is more stable and does not face constant struggle over power as is the case in Lebanon.

In Lebanon MDWs’ lives are heavily controlled. As previously discussed, their actual residence is defined by a sponsorship system which stipulates that the employer is the “sponsor” of the migrant worker and is responsible for her stay and work in Lebanon. This system gives the employer full control over the worker’s body including hygiene, health, food, movement, employment mobility, in addition to her legal status. Upon their arrival at the airport, MDWs were, until recently, not allowed to leave unless in the presence of their sponsor who is “advised” by the security officers to confiscate and keep the MDWs passports at all time so as to prevent them from “running away”. Although, this is not stipulated by the law or the contracts that regulate this work, it is a widely common practice and obviously protected or at least intentionally disregarded by the state. This among other violations constitutes indicators of the

¹⁰¹ Ahmed Kanna, “A Politics of Non-recognition? Biopolitics of Arab Gulf Worker Protests in the Year of Uprisings,” *Interface* 4.1, (May 2012) 146-164, (147).

¹⁰² *Ibid.*, 161

exclusion of MDWs from acquiring even basic rights and their reduction to “bare lives” pre-occupied with satisfying the minimum requirements of their biological life.

A clear case of Agamben’s threshold based on which exclusion takes place is apparent due to MDW’s exclusion from the Labor code. MDWs thus fall short on benefiting from the minimum wage, days of leisure, joining unions, social security, and more importantly the right to freely end the contract. It is worth restating here that the working conditions of these migrant workers cannot be examined by labor inspectors for they fall under the realm of the private-where the sovereign is the head of the household. This exclusion from the labor power is thus established in the juridical order but has an implication on the increase in control over the body of the MDW without having any regulatory framework to prevent abuses. This body is thus reduced to a “bare life” and not a genuine holder of rights- a clear rupture between the political life and the biological life is as such established.

Kanna explains that “[i]n the world in which we live—one where nation-states are the “natural” carriers and guarantors of individual rights—the relationship between citizen and nation-state is normalized. Claims by non-citizens on nation-states are not.”¹⁰³ In this sense, this puts the rights of non-citizens namely the MDWs at stake and their violation is not perceived as problematic where many Lebanese people are heard saying: “the state should give us our rights first” as a response to campaigns calling for better treatment of the MDWs. A hierarchy of rights is thus established and the violation of the rights of the ‘less-valuable’ human beings becomes a normal practice. It is important here to understand the definition of this threshold below which an individual becomes more of a bare life than a bearer of rights.

¹⁰³ Ahmed Kanna, “A Politics of Non-recognition? Biopolitics of Arab Gulf Worker Protests in the Year of Uprisings,” *Interface* 4.1, (May 2012) 146-164, 9.

Agamben states that “[o]ne of the essential characteristics of modern biopolitics (which will continue to increase in our century) is its constant need to redefine the threshold in life that distinguishes and separates what is inside from what is outside.”¹⁰⁴ Referring to refugees as stateless persons and to judicial measures in Europe for mass denaturalization, he says that “[t]hese two phenomena -- which are, after all, absolutely correlative-show that the birth-nation link, on which the declaration of 1789 had founded national sovereignty, had already lost its mechanical force and power of self-regulation by the time of the First World War. On the one hand, the nation-states become greatly concerned with natural life, discriminating within it between a so-to-speak authentic life and a life lacking every political value.”¹⁰⁵ The political value of MDWs in Lebanon is set lower than any human standard and definitely lower than other foreign workers. The non-chalance with which the life of these workers is put to danger through the control of its different aspects including their food and cultural traditions and the disregard towards physical and psychological abuse (which have lead to death in some cases), shows the reduced value of the foreign worker (the outside/non-citizen) vis-à-vis the Lebanese employer (the inside/citizen). In this sense, and as a result of the hierarchy of bodies and rights associated to them, those at the end of the social ladder namely the MDWs - who have attributes of social groups that also lie at the end of the spectrum of exclusion (females, non-white, and low-paid labor) – become the least important politically and as a consequence humanly and thus can be abused by their employers without any feeling of guilt and without any punishment- turning them into bare lives.

¹⁰⁴ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, Giulio Einaudi editore (1995), 64.

¹⁰⁵ *Ibid.*, 65

3. *Bare Life*

Agamben describes *homo sacer* as the body which can be eliminated without punishment.¹⁰⁶ For Agamben, “in the ‘politicization’ of bare life” in which “the humanity of living man is decided,” the threshold between the human and the inhuman must be crossed, and the two are distinguished.¹⁰⁷ As discussed above, the Lebanese judicial system seems to always favor the employer vis-à-vis the employee. Many cases that were brought to the court by the MDWs were treated lightly; whereas, those brought by the employer were in most instances judged to their favor. The judicial and legal framework based on which Agamben’s theory is built can serve to explain how the state of exception is developed for our case: “the sovereign decision of exception is the originary juridico-political structure on the basis of which what is included in the juridical order and what is excluded from it acquire their meaning.”¹⁰⁸ Agamben concludes from this that “what emerges in the limit figure is the radical crisis of every possibility of clearly distinguishing between membership and inclusion, between what is outside and what is inside, between exception and rule.”¹⁰⁹ “Here the logic of borders is used to deny that borders can be confidently identified by anyone other than the sovereign, who does not identify borders so much as establish them by fiat.”¹¹⁰

Agamben also goes as far as accusing modern states of heavily employing biopolitics until they turn it into thanatopolitics or politics related to decisions on death rather than life where the sovereign “enters into an ever more intimate symbiosis not only with the jurist but also

¹⁰⁶ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, Giulio Einaudi editore (1995), 68.

¹⁰⁷ Andrew Norris, *Politics, Metaphysics, and Death: Essays on Giorgio Agamben's Homo Sacer*, (Durham: Duke University Press, c2005), 267.

¹⁰⁸ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 19.

¹⁰⁹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 24.

¹¹⁰ Andrew Norris, *Politics, Metaphysics, and Death: Essays on Giorgio Agamben's Homo Sacer*, (Durham: Duke University Press, c2005), 269

with the doctor, the scientists, the expert, and the priest.”¹¹¹ This does not only hold true for MDWs in Lebanon where their death is not investigated properly as we mentioned earlier and their death is quickly dismissed as suicide, even by coroners, a sort of death which is rejected as a practice both religiously and socially in Lebanon.

It is important to note that this appropriation of *homo sacer* as a concept and its application on the MDWs has its limitations for various reasons. For Agamben, the term which originate in Roman Law, was developed at the level of the concentration camp and the Jewish massacres during the rule of the Nazi regime as a new paradigm. Although, the Lebanese system is not a national socialist regime nor does it confine MDWs to camps, a lot of comparable elements can be pointed out. Agamben himself considers biopolitics to be one of the tools for democracy that leads to contradictions. As such he was aware that this extends beyond the authoritarian regime. Moreover, the private household can be a site of power that is strong similar to the one in the camps. Moreover, MDWs have some sort of legal representation in the court – which Agamben’s *Homo Sacer* doesn’t - despite the fact that this representation can be tinged by many gaps which result in keeping the MDW in weak positions vis-à-vis the employer. Of course, to say that all MDWs constitute *homo sacer* would be too extreme yet, as empirical data shows, 1 MDW per week is dying (sometimes in mysterious circumstances) and no proper investigations are being conducted and no one is being punished. What is comparable is the extent to which a system tried to keep certain groups which belong to different religious, ethnic, racial, and gender backgrounds excluded to the benefit of others. I truly believe that even if serious investigations took place and employers were proved to be the perpetrators of the crimes, there would be no legal action against these criminals. One indicator can be found in the case of

¹¹¹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 122.

domestic violence where 1 Lebanese woman per month is being beaten to death by her husband (who on the hierarchy of women in Lebanon should be at an advantage with comparison to MDWs!) while no judicial action is taken to punish these murderers in the absence of a domestic violence law.¹¹² It is to note here that a new law was passed by the parliament recently but it lacks necessary clauses on marital rape¹¹³ and “fails to specifically enshrine the protection of women”¹¹⁴ as such women will fall through the cracks and murderers will remain to go unpunished in many cases. The implications of the reduction of MDWs to bare life leads to major violations of many of the basic rights of such vulnerable groups; a set of rights, though clearly enshrined in conventions, which paradigmatically sustain the distinction between *zoe* and *bio*. As such these conventions undermine the same rights they attempt to protect as we will see in the next section.

B. Biopolitics and the Rights of Man

Agamben argues that the declaration of human rights introduced *Zoe* into the state and re-defined who the holders of rights are. “In the system of the nation-state, the so-called sacred and inalienable rights of man show themselves to lack every protection and reality at the moment in which they can no longer take the form of rights belonging to citizens of a state.”¹¹⁵ This was the case specifically for refugees but also for migrants as such. The main problematic aspect is that rights of man become different than rights of citizens. While both are subject to politicization,

¹¹² Zainab Hawi, “Christelle Abu Shakra: Domestic Violence Victim Dies under Suspicious Circumstances”, *Al Akhbar Newspaper*, February 18, 2014. <http://english.al-akhbar.com/node/18685>

¹¹³ Wassim Mroueh, “Parliament Passes Domestic Violence Law Amid Controversy”, *The Daily Star*, April 01, 2014. <http://www.dailystar.com.lb/News/Lebanon-News/2014/Apr-01/251912-parliament-convenes-amid-protests.ashx#axzz2xkFhUc1t>

¹¹⁴ Lebanon passes law against domestic violence, *Associated France Press*, April 1, 2014, <http://news.yahoo.com/lebanon-passes-law-against-domestic-violence-180739224.html>

¹¹⁵ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 126.

the latter are more or less defined and respected at the level of the state while the first can face major violations with no clear mechanisms or strong apparatus to defend them. After the end of the Second World War, many declarations aiming at setting and preserving human rights proliferated. “Yet, it is time to stop regarding declarations of rights as proclamations of eternal, meta-juridical values binding the legislator (in fact, without much success) to respect eternal ethical principles, and to begin to consider them according to their real historical function in the modern nation-state.”¹¹⁶ Agamben argues, referring to the French Declaration of the Rights of Man and Citizen of 1789, that these declarations postulated inalienable rights which are related specifically to the natural life or bare life which became “the source and bearer of rights” and attributed sovereignty to the nation.¹¹⁷

The inclusion of the *zoe*/bare life in the political especially with the regards to the definition of rights necessitates a redefinition of threshold which leads to the creation of new categories of people who do not enjoy these rights (non-citizens). Agamben writes, “[o]nce *zoe* is politicized by declarations of rights, the distinctions and the thresholds that make it possible to isolate a sacred life must be newly defined. And when natural life is wholly included in the *polis* – and this much has, by now, already happened – these thresholds pass, as we will see, beyond the dark boundaries separating life from death in order to identify a new living man, a new sacred man.”¹¹⁸ As such, intentionally or not, the definition of man (at birth) to be the bearer of rights by declarations of human rights, has allowed for the biopolitical distribution of rights. Here the new threshold, which is now necessary to re-exclude/isolate the bare life, is between man and citizen where the latter’s rights are more respected. The non-citizen/citizen dichotomy

¹¹⁶ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 127.

¹¹⁷ *Ibid.*, 128.

¹¹⁸ *Ibid.*, 131.

is thus put into question: who has what rights? The fiction of inalienable rights thus breaks at the edge of the nation-state and people need to prove themselves worthy of citizenship and rights, while these can remain challenged by the system.

As such Agamben explains with regards to refugees that on one hand

nation-states become greatly concerned with natural life, discriminating within it between so-to-speak authentic and a life lacking political value. (Nazi racism and eugenics are only comprehensible if they are brought back to this context.) On the other hand, the very rights of man that once made sense as the presupposition of the rights of the citizen are now progressively separated from and used outside the context of citizenship, for the sake of the supposed representation and protection of a bare life that is more and more driven to the margins of the nation-states, ultimately to be re-codified into a new national identity. The contradictory character of these processes is certainly one of the reasons for the failure of the attempts of the various committees and organizations by which states, the League of Nations, and, later the United Nations confronted the problem of refugees and the protection of human rights [...].¹¹⁹

Today, there is a clear separation between humanitarian and political in the work of humanitarian agencies and UN bodies which reproduces this division between bare life and the citizen and as such re-codifies who is entitled (or not) to these rights. Agamben claims that these organizations “can only grasp human life in the figure of bare and sacred life and therefore, despite themselves, maintain a secret solidarity with the very powers they ought to fight.”¹²⁰

One can see this in the approach of NGOs and humanitarian agencies towards the people they try to defend, especially in their mandates and their change theories. Overall, “[t]he work of NGOs with MDWs in Lebanon can be grouped under four grand theories of change: (1) NGO programs and services aim to affect change at the level of the person of the

¹¹⁹ Ibid., 133.

¹²⁰ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 133.

MDW; (2) they work to alleviate the adverse living and working conditions of MDWs; (3) they seek to transform the social and economic structures that are unfavorable to MDWs; and finally, (4) they undertake to alter the collective and critical consciousness of MDWs and the Lebanese public.”¹²¹ These NGO’s major focus is to provide immediate assistance (legal, medical, and other) and sometimes provide capacity building activities such as English or Arabic courses in order for them to integrate in their environment. They also try to spread awareness on the rights of MDWs targeting mainly the employer and less the government. However, “[a]ttending to the immediate needs of MDWs, through service provision or referrals, does not incapacitate the social and economic structures (racism, poverty, and gender related vulnerabilities) that are enabling these needs to emerge in the first place. Prevention requires building the capacity of government institutions to better manage labour migration, and advocating in favor of policies that support the rights of MDW’s as laid out in C 189.”¹²² This recommendation laid out in one of the ILO reports reinstates the need to focus more on the rights enshrined in declarations. Although this may be needed, this will put us back in the same dilemma of the rights laid out for “man” and those for citizens. One can only think of the different conventions signed by Lebanon but which are not put into effect especially in an absence of a strong sovereign supra-national body that can influence or impose the redefinition of the threshold of inclusion/exclusion as we have seen in Chapter II. In addition, those skill-building activities are limited to MDWs living in Beirut and greater Beirut¹²³ thus reinforcing the Lebanese hierarchy of citizenship of Beirut residents versus residents of other regions in Lebanon where Beirut, being the center, is the target for the

¹²¹ Marie-Jose Tayah, *Working with Migrant Domestic Workers in Lebanon (1980-2012): A Mapping of NGO Services*, Beirut: International Labor Organization, 2012, 17.

¹²² *Ibid.*, 17

¹²³ *Ibid.*, 56

major developmental projects and the other areas are simply neglected. This regional structure is further maintained by the confessional system which also demarcates boundaries and hierarchies of rights of citizens belonging to different sectarian backgrounds as discussed in the next chapter.

C. Delegation of Sovereignty

It is important to answer the question of how sovereignty is “transferred” from the level of the state and its institutions to a private institution i.e. the household- from the state to the citizen vis-à-vis the non-citizen. First, we need to think of power not as a centralized or monolithic whole but rather as fluid that runs between groups and bodies: “Power is not something that is divided between those who have it and hold it exclusively, and those who do not have it and are subject to it.[...] Power is exercised through networks, and individuals do not simply circulate in those networks; they are in a position to both submit to and exercise this power.”¹²⁴ The middle-class and well-off families and their well-being necessitate this sort of arrangement of MDW management, and this necessity reflects as a power to which the government has to succumb and to accept for the perpetuation of this arrangement. The networks at play are both those of families and those of employment agencies, both of which, as citizens, have the power to influence the government’s approach to the management and control of MDWs. This also alludes to the power that MDWs have in this relationship, but this will be discussed later.

This delegation of power is established through two main aspects. First, the MDWs are confined within a private space under the “protection” of the employer: thus in a space that is

¹²⁴ Mauro Bertani et al. *"Society must be defended" : lectures at the College de France, 1975-76*, (New York: Picador, c2003), 16

traditionally controlled by the sovereign of the household – usually the father or in some case the mother as household chores are historically part of her duties. The private space becomes the new domain for the sovereign to take away subjectivity of the worker and turn them into “bare life”. As many of the MDWs are considered to be morally inferior and promiscuous, families tend to hire women of faith (ones who wear hijab or regularly go to church) and thus they are not only hiring them for their labor productivity but also for their subjectivity. This is also apparent when these MDWs are obliged to raise the children in the household in addition to cooking and cleaning. But then many employers regret it as they see their children learn foreign languages (not French or English which are highly perceived) but those of Swahili, Nepali, Sinhala, etc... In this case, they try to socialize or “lebanonize” the subjectivity of the worker.

The second aspect of the delegation of control from state to citizen could thus be described using Agamben’s explanation: “[t]he Roman social order was defined at its limits by both the sovereign and homo sacer, complementary figures which constituted the structure of exception through which a juridical order (*Ordnung*) and thus sovereignty could be established (Agamben 1998:15, 18 – 20). The sovereign claimed an exceptional right to make at will any of his subjects a homo sacer, while all subjects of the sovereign could themselves behave as sovereigns in relation to the homines sacri at the lowest rungs of the social order.”¹²⁵ In this sense, and as a result of the hierarchy of bodies and rights associated to them, those at the end of the social ladder namely the MDWs - who have attributes of social groups that also lie at the end of the spectrum of exclusion (females, non-white, and low-paid labor) – become the least subject to power of different social groups who can be men, citizens, white, and of upper-classes.

¹²⁵ Cited in Ahmed Kanna, “A Politics of Non-recognition? Biopolitics of Arab Gulf Worker Protests in the Year of Uprisings,” *Interface* 4.1, (May 2012) 146-164, (14).

D. Biopower in Private

Biopower as per Foucault “assumes the right to life over a whole population”¹²⁶ but also as governmentality decides what is within and outside of this realm; thus MDWs are excluded and included at the same time in a combination of tactics of control. The fact that they reside in the house allows for continuous surveillance- one of the tools for Foucault which shapes the individual that is being watched and pre-defines their acts. “Domestics’ access to public space is often a contested issue because employers see this as endangering their control over them.”¹²⁷ The individual discipline here becomes a tool for the overall control of the population of MDWs and for the definition of the behavior of the employers. The triangle of exclusionary laws, discipline through different tactics both employers and workers, and the different tactics of the government to normalize this situation seem to explain why the problem remains and lingers.

Governmentality as per Foucault has allowed for the government to survive, he says “it is possible to suppose that if the state is what it is today, this is precisely thanks to this Governmentality, which is at once internal and external to the state, since it is the tactics of government which makes possible the continual definition and redefinition of what is within the competence of the state and what is not, the public versus the private, and so on; thus the state can only be understood in its survival and its limits on the basis of the general tactics of Governmentality.”¹²⁸ What is interesting here is the “sacralization” of the private space or the household that is not trespassed by the government specifically to inspect the working conditions for MDWs. Like all other spaces, the private space is fluid and does not exist in void. It is

¹²⁶ Stephen Morton and Stephen Bygrave, *Foucault in an Age of Terror: Essays on Biopolitics and the Defence of Society*, (England: Palgrave Macmillan, 2008), 4

¹²⁷ Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 156.

¹²⁸ Graham Burchell et al., *The Foucault effect: studies in governmentality: with two lectures by and an interview with Michel Foucault*, (Illinois: University of Chicago Press, 1991), 103

affected by the set of relationships inside and outside of it. Foucault identifies two types of spaces, utopias and heterotopias. While utopias are unreal spaces which are “society perfected or the reverse of societies”, heterotopias constitute all the real places that can be found within the culture and where different cultures are “at the same time, represented, contested, and reversed, sorts of places that are outside all places, although they are actually localizable.”¹²⁹

It is interesting to note here that historically, domestic work evolved from slavery during the era of the Ottoman Empire which later developed into a form of adoption of poor girls from rural areas with the intent to “civilize” them while they work for free until they arrange for their marriage.¹³⁰ “In his essay “Different spaces”, Foucault (1984) notes that the twentieth century is marked by the paradox of simultaneous and juxtaposed places interwoven in a network of relations, established by elements of discontinuity and opposition as well as lines of demarcation of “inside” and “outside”.¹³¹ The household thus becomes the heterotopia which juxtaposes the relationships of Lebanese/non-Lebanese, white/black, middle or upper class/low working class, men/women. The private household as a heterotopia carries the promise of a non-capitalist time experience, at the same time as it is embedded in extensive and intensive capitalist accumulation. For MDWs, this space is both for work, rest, and leisure. But all of these three are subject to the norms and values of the household and thus the subjectivity of the MDW is suppressed at all times. “One can enter this place regularly only with permission and after a certain number of gestures have been performed. In the case of the domestic and care worker this principle is deactivated to a certain point, as her service is needed.” These heterotopias are not of illusion but compensation, they serve to mimic or reverse what is outside. As a consequence, by exempting

¹²⁹ Ibid., 178.

¹³⁰ Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 163

¹³¹ Encarnación Gutiérrez Rodríguez, “Reading Affect—On the Heterotopian Spaces of Care and Domestic Work in Private Households”, *Forum: Qualitative Social Research*, Vol. 8, no. 2 (May, 2007).

the MDWs from the labor law and by exempting the private from public scrutiny, there is an implicit acceptance by the government of the abuses perpetuated by employers; abuses which are legalized through passivity.

The confinement to the private space reduces the presence of the MDWs in the public sphere which is “an arena for the formation and enactment of social identities.”¹³² Fraser suggests that subordinated groups, namely women, are better off creating their alternative spaces in what she called “subaltern counter-publics” which constitute “parallel discursive arenas where members of subordinated social groups invent and circulate counter-discourses to formulate oppositional interpretations of their identities, interests and needs.”¹³³ However, these counter-discourses are far from being inclusive due to the inequalities and hierarchies among women from migrant and national backgrounds.

The type of work performed by MDWs is by-default gendered: cooking, cleaning, and taking care of the household has been historically the responsibility of women in the house, both mothers and daughters. They were expected to be ready 24-hours per day to perform any tasks that seeks the well-being of the household and the males within it. A direct implication of that is building the expectation around MDWs to be present 24/7 at home and always ready to perform chores asked of them- they have little or no weekly rest and some of them are expected to work until everyone at home has gone to sleep. This stereotyping also builds expectations towards the remuneration (or lack of it) in return for such work especially in the absence of a law that recognizes the value of such work. In comparison, male foreign workers such as the Sukleen employees who are mostly men, enjoy more rights and freedoms than the female MDWs. What also contributes to the aggravation of this problem is that domestic workers in Lebanon were

¹³² Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 157

¹³³ Ibid.

allegedly treated as daughters. Jureidini explains, referring to the history of Arab domestic workers, that “[i]t would seem that the younger the girl, the more acceptable was greater control over the child, including restrictions on her freedom to leave the house, just as in the case of young daughters of the family.”¹³⁴

Historically, many young women of Arab origin were brought by their parents to wealthier families to work as domestic workers in return for a yearly wage or no wage, and these young girls used to be taken care of by the patrons. This however entailed that the employer had to raise the worker on certain traditions and morals. These old practices can be seen reproduced with the non-Arab MDWs whose employers usually try to socialize them in a way that is more familiar to their own culture. As such, middle-class Lebanese women did not create a counter-discourse to reject the patriarchal system and the gendered distribution of family chores but simply delegated these to other females with whom they have an unequal relationship. Lebanese women as such reproduce the patriarchal system despite the fact that the presence of the MDWs allowed them to enter into the public sphere in the first place. “The employment of domestics has in fact made it possible for middle-class women to become the epitome of domesticity “without becoming dirty”. Migrant domestic workers, in contrast, have been criticized for not living up to the norms of motherhood and domesticity by leaving their children in the care of others.”¹³⁵ Marianne Friese refers to this as the new gender arrangement where domestic work is redistributed along social and ethnic lines among women so as to keep these tasks in the hands of women.¹³⁶ As such, there is no redistribution between the genders which “conforms to the logic of conventional patterns of

¹³⁴ Ray Jureidini, “In the Shadows of Family Life: Toward a History of Domestic Service in Lebanon,” *Journal of Middle East Women’s Studies* 5 (3), (Fall 2009), 74-101 (14).

¹³⁵ Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 157

¹³⁶ Helma Lutz, *The New Maids: Transnational Women and the Care Economy*, (New York: Zed Books, 2011), 10

identity and these need never be scrutinized” instead of destabilizing the gender duality.¹³⁷

What remains to be answered here is whether the existence of MDWs is only a gender, racial and class issue or extends to constitute a threat to the security and homogeneity of Lebanese society.

E. Conclusion

In this chapter, I have employed the theory of governmentality to explain how the conduct of MDWs, agencies, and employers, both collectively and individual, is shaped within the legal lacuna and the state’s lenient behavior towards violation of the rights of MDWs to the extent of its normalization and wide acceptance within society. This theory also explained how certain domains remain as private issues with little or no government intervention especially within the delegation of sovereignty from the government to the citizens- which give the latter power over non-citizens, namely MDWs.

This distribution of power between citizen and non-citizen is made possible through a biopolitical attribution where a clear distinction between *Zoe* (bare life) and *Bio* (citizen) becomes institutionalized not only on the national level but also at the international level through human rights (HR) declarations. We have seen that the introduction of *Zoe* as holders of rights through HR conventions have been pushed to the redefinition of a new threshold of exclusion of that same *Zoe* through the enshrining rights at the level of the citizen rather than the human. When this threshold is set, several groups and individuals fall short on acquiring value, respect, and access to rights.

¹³⁷ Ibid., 28

CHAPTER IV

SPECIFICITIES OF THE LEBANESE CONTEXT

A. Confessionalism and MDWs

The perpetuation of the problem is not only limited to the weakness of international human rights conventions and the systematic exclusionary processes of the Lebanese government and society. It extends to an overall weak general knowledge among the population on the meaning of “rights”; a population that has been experiencing, within the confessional system, a sort of quota for rights which can be given and taken away on the basis of religious affiliations. This makes it more problematic to think of protecting rights of people of different colors or nationalities. The confessional system has been so normalized and is shaping the conduct of the majority in Lebanon if we consider how most still accept this unfair distribution of rights. The general conduct of the population including the way they approach elections - which are shaped so as to reproduce the same power structure, even 15 years after the civil war which ended in an agreement stating the need to abolish this system!- reinforces this distribution of rights and their alienability. Of course, I don't want to be generalizing here as there are many individuals and groups that were trying to think outside of this system of rights, but these were a minority and their acts were reflected in the marches for the abolition of the sectarian system. These actions were soon dismissed as the system reacted quickly to re-normalize the situation and remind all that only a confessional system will preserve peace and thus the welfare of the people.

The dichotomy which exists in Lebanon along the lines of religious affiliation have created a sort of intolerance towards the ‘different’ or the ‘other’ and a kind of mutual exclusion between the different parties. Agamben argues that “the original political relation is the ban” in

which a mode of life is actively and continuously excluded or shut out (*ex-claudere*) from the polis.”¹³⁸ The creation of the ‘other’ both in imagination and through physical segregation was at its height during the Lebanese civil war where clear land demarcations and moral, political, and cultural traits separated “us” and “them”. Agamben states that civil war can be compared to the state of exception. He adds that “the willing creation of perpetual emergency seems to have become one of the essential tasks of contemporary states, including so-called democratic ones” and these -like civil wars- are used to eliminate enemies and “categories of citizens who for some reason cannot be integrated into the political system.”¹³⁹ The Lebanese civil war however has not yet ended, then, when looked at from the point of view of the different armed and unarmed conflicts that erupt every now and then among groups with different sectarian affiliations.

MDWs started to come in increased numbers after the civil war to a divided country where “foreigners” were also distrusted by both sides as they were involved in supporting one of the warring parties. The Palestinians and the Syrians for example who constituted a large portion of the domestic workforce prior to the civil war became unworthy of trust.¹⁴⁰ The ‘other’ in Lebanon is constantly being created and redefined as to be excluded or included and his/her rights preserved or violated and it becomes easier when this other has clearly identified bodily features that sustain the exclusion.

B. Racialized “Other”

With an amounting fear of “others”, MDWs bodies dispose of discernible traits which allow them to be easily classified as a group to be cautious about and be kept under surveillance and control. “Ethnicity, according to Stuart Hall (1992), is not considered an attribute of

¹³⁸ Andrew Norris, *Politics, Metaphysics, and Death: Essays on Giorgio Agamben's Homo Sacer*, (Durham: Duke University Press, c2005), 262

¹³⁹ *Ibid.*, 285

¹⁴⁰ Ray Jureidini, *In the Shadows of Family Life: Towards a History of Domestic Service in Lebanon*, *Journal of Middle East Women's Studies*, Vol 5, n. 3 (Fall 2009),

minorities that marks the group of ‘others’ but as a central category in social positioning.”¹⁴¹ MDWs are considered inferior for their color and ethnic background; this kind of discrimination has taken different forms. The Special Rapporteur to Lebanon reported that “racial discrimination had publicly manifested itself in the form of segregated beaches and swimming pools, at which migrant domestic workers were not permitted to enter the water. If waiting to be served in shops, they would often be served last.”¹⁴² In addition, “[n]ationality is a major marker of stratification among migrant domestic workers.”¹⁴³ In fact there are also hierarchies among MDWs based on the level of darkness of their skin. The darker the skin of the maid the lower the salary and the lesser value she will have although the same tasks are performed by all. The construction of the ‘other’ on ethnic/racial lines thus becomes an ongoing process to produce the MDWs through action and interaction. KAFA reports that “[t]he hierarchy of domestic workers is not merely in the minds of employers but translates to a hierarchy in salaries. Employers indicated that there is now an increasing preference for hiring domestic workers from Nepal and Bangladesh (because they are compliant and earn lower wages).”¹⁴⁴ In practice, those with a fair-colored skin such as the Filipinas can take the highest salary vis-à-vis those with darker skins such as the Sri Lankans. “Yet the arguments employers provide for or against particular categories of domestic workers are far from stable. They are often stereotypical and change over time, partly because they are developed in contrast to domestics from other nationalities.”¹⁴⁵ Romero explains that the racialization of domestic work is merely a continuation of the “sexist

¹⁴¹ Helma Lutz, *The New Maids: Transnational Women and the Care Economy*, (New York: Zed Books, 2011), 29

¹⁴² UNGA, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, (New York: 2012), 66.

¹⁴³ Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 153

¹⁴⁴ Sawsan Abdulrahim, *Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers Towards Migrant Domestic Workers*, (Beirut: KAFA, 2010), 15.

¹⁴⁵ Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 153

division of labor by [women employers] passing on the most devalued work in their lives to another woman—generally a woman of color.”¹⁴⁶ It is interesting to note here that the Arabic term for migrant domestic worker has become *sirilankiyeh* (or Sri Lankan female) which comes to be used to describe a job and not a nationality even for domestic workers from other nationalities. But here we should not think of a triple oppression of gender, ethnicity, and class and not as an accumulation of oppression but as Nancy Fraser puts it: “rather, individuals are nodes of convergence for multiple, cross-cutting axes of subordination. Frequently disadvantaged along some axes and simultaneously advantaged along others, they wage struggle for recognition in a modern regime.”¹⁴⁷ But in the case of MDWs, for the majority of them, the relation of power is clearly defined in a relation of master and servant as we will see below.

C. MDW’s as Threat to Security or Homogeneity?

In Lebanon, the Internal Security Forces (ISF) who are in charge of managing the MDWs exert a sort of power and abuse that serves to “discipline and punish” them in order to define/normalize the system within which they operate. ISF personnel display verbal violence in public to humiliate and downgrade not only the MDWs but also anyone from the same nationalities as those of the MDWs. In a personal incident at the airport, a friend of mine was visiting Lebanon from the Philippines and lost his bag. I accompanied him to the airport to pick it up and I personally witnessed the way one of the airport security personnel treated him. He carelessly showed him the way to reclaim his bag using Arabic (a language that my friend clearly doesn’t understand) and showed aggressiveness towards him for not understanding where to go! This public display of humiliation puts people in different hierarchies and constructs their roles:

¹⁴⁶ Cited in Ray Jureidini, “In the Shadows of Family Life: Toward a History of Domestic Service in Lebanon,” *Journal of Middle East Women’s Studies* 5 (3), (Fall 2009), 74-101(3).

¹⁴⁷ Helma Lutz, *The New Maids: Transnational Women and the Care Economy*, (New York: Zed Books, 2011), 30

security personnel control people, and Pilipino guy can be pushed around and annoyed for not understanding the native language and for the fact that he is perceived as a worker. I believe that this display of power and biasness expressed by the ISF personnel and judges for example can scare off other MDWs and set the parameters of what they can and cannot do; where their rights are suspended. Once this is recurrent, it becomes normalized. If this scare tactic did not work and one of the MDWs protested and went to the court she is in many cases accused of being the criminal. Thus the image of the “deviant” and the “dangerous” to the society is created and also normalized to become a scapegoat for right abusers.

To consider the racial aspect, I rely on Foucault’s theorization of “state racism” which supplants the “war” between the different races to a sort of internal war. “State racism is born ‘at the point when the theme of racial purity replaces that of race struggle’. Such racism supports the belief that the more degenerates and ‘deviants’ are eliminated, the stronger will be the lives of those who remain within the (multiple) body politic.”¹⁴⁸ This means that the “enemy” is constructed and eradicated to preserve the population against threats. For Foucault, “the maintenance of a strong population (in terms of quantity and quality) is presented as a kind of continuation of war by other means, such warfare being legitimated primarily in terms of ‘biological struggle’ over the ‘survival of the fittest species’ rather than in terms of response to a military threat.”¹⁴⁹

Following a thorough exploration of the reeducation of MDWs as bare lives along the lines of gender, class, race and other structures that are specific to the Lebanese society such as

¹⁴⁸ Stephen Morton and Stephen Bygrave, *Foucault in an Age of Terror: Essays on Biopolitics and the Defence of Society*, (England: Palgrave Macmillan, 2008), 108.

¹⁴⁹ Stephen Morton and Stephen Bygrave, *Foucault in an Age of Terror: Essays on Biopolitics and the Defence of Society*, (England: Palgrave Macmillan, 2008), 109

sectarianism, we move in the last two sections to evaluate the forms of resistance that are currently being employed to redress the situation of MDWs.

D. NGOs and Media: Change-Makers?

As we have seen in Chapter III, humanitarian organizations do not have the proper approach to solve the problem as it is based on the same structures that serve to perpetuate the problem. In addition, statistics, one of the disciplinary tactics of power as per Foucault, means additional funds for the NGOs. MDW are turned into numbers and the increase in number of abuses leads to more funding from donor organizations. In contrast to the NGOs who benefit from statistics to control/use the MDWs even if for a potentially good cause, the government avoids using statistics with regards to population count that could lead to problems. One can think that the only official census in Lebanon dates back to 1932 when the numbers of community members with different sectarian affiliations was somehow at equilibrium. Any new census which will reflect the new numbers -especially the increase in the numbers of Muslims and Shias in particular- will damage the current distribution of powers which is already challenged every 10-15 years to the benefit of one of the 3 “major sects” in Lebanon. For MDWs then it is not surprising that official count of their numbers is not accurate and the latest official statistic on their remittance dates back to 2007. Statistics here and numbers become a passive approach to manage the problem of MDWs- a policy of avoidance to look at the problem from a different aspect.

Moreover, the government has to define the parameters within which the employers abuse the MDWs. It is thus not a question of a complete freedom to act criminally, but the point to which this criminality of the employer is tolerated. According to Foucault, “[t]he general

question basically will be how to keep a type of criminality, theft for instance, within socially and economically acceptable limits and around an average that will be considered as optimal for a given social functioning.”¹⁵⁰ This explains why the government including its security and judicial institutions accept the crimes committed by employers towards MDWs and why at some points when the debate is stirred by civil society regarding these abuses, you can find what we may consider breakthroughs towards reform. An example of these so-called breakthroughs would be the hotline created by ISF to report abuses which was a calculated reaction of those in power. A hotline is established under pressure from civil society but many MDWs don’t know about and is only linked to one particular type of abuse which is disallowing MDWs to enter swimming pools. The calculation of cost from a governmental perspective was high, the abuse is outside the private sphere and in the public and more importantly it is linked tightly to the area of tourism which is a cornerstone of the Lebanese economy- a compromise had to be made as such to the demands of civil society actors.

Moreover, the general sense that you can get from most of the research and knowledge developed in Lebanon mostly by non-governmental organizations present MDWs as victims, as passive actors with no subjectivity. Although they assert their presence and aim at redressing their issues, they are treated as “objects of debate rather than as participants in that debate.”¹⁵¹ They focus more on abuses rather than on the agency of the MDWs- MDWs come to reproduce the same discourse developed by the NGOs. In a TV show gathering MDWs with employers, one MDW activist was technically repeating the same “rational arguments” presented by the NGOs; arguments which the MDWs themselves did not take part in creating but rather

¹⁵⁰ Michel Senellart et al. *Security, territory, population : lectures at the College de France, 1977-78*, (Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, 2007), 5.

¹⁵¹ Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 166

researchers and consultants hired to act as sources of power and knowledge based on which the raison d'être of these organizations is developed. "The reports these groups produce often include specific cases of abused migrant domestic workers, the most shocking ones finding their way to the Internet, onto television screens and into newspapers worldwide. As a result migrant domestic workers are first and foremost portrayed as victims, duped by agents and exploited and mistreated by employers."¹⁵² Also, Lebanese media displays a schizophrenic view of the MDWs. LBC TV for example, aired a televised campaign trying to question the bad behavior of certain employers but at the same time it also featured in one of its comedy shows a look-a-like of a famous Lebanese singer, Maya Diab, who frequently undergoes tanning sessions until her skin becomes very dark and thus she was mistaken to be a maid by people! Another show on a leading Lebanese television station, Murr TV, reproduced the same dominant images of MDW as dirty, sexual, and a moral threat to the values of the Lebanese family.¹⁵³ This shows inconsistency, the abuse of a hot topic (slavery of maids) for viewership and the reproduction of the same racist approach which associates MDW's with abject moral and physiological characteristics a priori. But if civil society is not effective, are MDWs able to redress their situation themselves?

E. MDW's Resistance

Abusing MDWs in the private sphere has so far been accepted but there are diversions marked by individual breakthroughs. Many migrant workers have been able to flee their employers' houses and find independent work outside this realm. Others were able to negotiate

¹⁵² Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 166

¹⁵³ Uproar against Lebanon's Murr TV (MTV) comedy show denigrating migrant domestic workers, *Migrant Rights Website*, February 1, 2012. <http://www.migrant-rights.org/2012/02/uproar-against-lebanons-murr-tv-mtv-comedy-show-denigrating-migrant-domestic-workers/>

terms with the employers and improve their work conditions. Studies and figures about such cases are still missing which further supports the claim that current research and NGO studies are still considering MDWs as mere victims and are focusing less on the agency of the MDW. While many look with optimism at these breakthroughs, these practices help set up parallel systems for a few MDWs but the overall problem of MDWs remains unresolved. As developed throughout this paper, this is not an individual problem and thus individual successes do not represent a path which at some point will challenge the system as a whole and lead to additional compromises. Individual breakthroughs will not force the state to institute and apply strong rules to protect MDWs once and for all unless the social, political, and economic calculation turns to their favor. Collective action is thus needed but is still widely undermined by the employers' ability to install limited freedom on the movement of the MDWs in order not to lose control over them. One of the major objectives of this tactic is to decrease the possibility of the MDW meeting other workers in the public space and learning about their rights and the pay scales. Employers thus control the movement and the interactions of their MDWs in order to limit the amount of knowledge of their plight which will break the cycle of normality of the abuse. Many MDWs have been successful in creating support networks "that ultimately encouraged and enabled them either to ask for more pay and other benefits or to leave their jobs altogether. One of the major forms of resistance for MDWs is their presence in public (for those who have the liberty to do so) and the creation of their own "subaltern counterpublics". It is important to note that the ways MDWs create these spaces and assert their presence is through means of verbal and non-verbal communication, using the body and exaggerating exactly the bodily traits based on which they are excluded; wearing their traditional clothes, going to shops that sell only ethnic products, etc... In Beirut, MDWs were able to create "ethnic neighborhoods" in areas where some ethnic

commercial stores have opened targeting the different MDW communities.¹⁵⁴ Churches as well have played a major role as space asserting the presence of the MDWs and their ability to mobilize and raise awareness among other MDWs on their rights. However, both these and the market remain “structured along lines of nationality and to a lesser extent, religion.”¹⁵⁵

Suicide which has reached alarming rates can also be considered as the MDW’s reclamation of her own body. But what if these suicides were not necessarily suicides but driven by behavior and conditions set up by the employer? What if these were acceptable as these constitute “the annihilation of life unworthy of being lived”?¹⁵⁶ Agamben explains that “the sovereignty of the living man over his own life has its immediate counterpart in the determination of a threshold beyond which life ceases to have any juridical value and can, therefore, be killed without the commission of a homicide.”¹⁵⁷ “It is as if every valorization and every “politicization” of life (which, after all, is implicit in the sovereignty of the individual over his own existence) necessarily implies a new decision concerning the threshold beyond which life ceases to be politically relevant, becomes only “sacred life,” and can as such be eliminated without punishment.”¹⁵⁸

F. Conclusion

In this chapter, we have explored some of the factors that are specific to the Lebanese context which help create and perpetuate the exclusion of MDWs. We have seen that confessionalism which is a mechanism for mutual exclusion among Lebanese of different

¹⁵⁴ Seteny Shami et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*, (New York: Social Science Research Council, 2009), 159

¹⁵⁵ *Ibid.*, 158

¹⁵⁶ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (California: Stanford University Press, 1998), 135-136.

¹⁵⁷ *Ibid.*, 139.

¹⁵⁸ *Ibid.*

sectarian affiliations is constantly redefined to suggest which of the sects is “more Lebanese” that the other in a way which creates a hierarchy of citizenship. The consequence of this is a constant questioning of the loyalty and citizenship of individuals and groups of this and that various sects and the attempt to dismiss the others’ values as wrong and unacceptable. This permanent redefinition of inclusion/exclusion among the different sectarian groups thus leads to a sort of hierarchy of citizenship and of rights which further contributes to putting the “Sirilankiyeh” at the bottom of the ladder of rights. This is especially true in light of the fact that these workers have clearly identifiable racial traits and can be “othered” based on bodily features and not beliefs as in the case of sects. The “deviant” and the threat to homogeneity and consequently security are marked through these bodies.

Although the Lebanese context has served to create and perpetuate the problem, many genuine attempts by NGOs, media outlets and individuals have been undertaken to bring about substantial change and reform. However, these have not been as successful as intended. NGOs have taken the wrong approach as previously discussed and have not been able to influence government policy. The media by contrast is marked by hypocrisy in terms of the contradictions which prevail between the values they try to promote on the one hand and the services they try to sell on the other. Finally, individual MDW breakthroughs can be significant and are on the rise. While it is true that these successes give them some margin of freedom to re-appropriate their humanity, they nevertheless put themselves at a greater risk of falling back into the same trap that they are trying to escape.

CHAPTER V CONCLUSION

I will conclude by restating the quote used at the start of this paper, “every society– even the most modern – decides who its “sacred men” will be.”¹⁵⁹ Throughout this paper, I did not try to only describe the bad situation that MDWs in Lebanon live in or how the political system and its different apparatuses including judicial and police forces contribute to the maintenance of such a situation. My attempt was also intended to go beyond the gender, race and class understanding of the issue of MDWs exploitation and humiliation and into the normalization and perpetuation of such conduct. What I tried to understand is how systems create “black boxes” which become hard to open and if opened- as in the case of MDWs- no major changes in their conditions could be achieved even after 10 years of attempts by civil society. The way I understand this problem is that a combination of social, legal, but mainly political forces are at play to create these black holes through which vulnerable people can be sucked out and excluded. This exclusion and the counter debate which results does not create a need for the system to address these issues or allow MDWs to enjoy their rights. MDWs have to be confined to a space away from the public though other options are feasible, but this would reduce the control of the employers and the system is not ready to make these concessions or to retake that power after delegating it to the household. The latter thus maintain control over all aspects of the MDWs bare life (eating, sleeping, showering, resting, entering into relationships, even dying). MDWs can be sacrificed and the whole approach of the state to this issue reinforces this exception by tolerating and propagating images of inferiority through media based on different ethnic and religious markers. The legal lacuna also allows for this exception but also withdraws

¹⁵⁹ Ibid.

all the power from the MDW to fight back in systematic ways within the legal framework. Understanding the biopolitical aspect of this power and control shifts the debate in a different direction. The problem is not limited to the legal exemption and the sponsorship system, and requires consideration of the system's need to exclude and to normalize this exclusion through the creation of an image of certain people as unworthy of rights and "unworthy of life".

This paper sets the stage for an in-depth exploration of the Lebanese political system which is actually built on such hierarchies of rights that create a hierarchy of worth and value of the life of certain individuals or groups. Referring to the sectarian system is only one of the aspects which set the threshold of exclusion and inclusion. At the top of the political hierarchy in Lebanon, for example, lie three main posts: the president, the prime minister, and the speaker of the parliament which are assigned to 3 different sects (the major sects!). All Lebanese individuals belonging to the other 15 sects and the atheists are by default excluded. And this exclusion has been normalized to the extent that those excluded don't question this distribution anymore but rather defend it. As a consequence, this exclusion/inclusion trickles down to the lowest grades in the public administration in which another layer of exclusions based on gender, and class also exists. This brings into question not only debate of rights of citizens versus non-citizens as in the case of MDWs but also to a severe problem of defining citizenship within the Lebanese context.

This paper may not be exclusively about MDWs per se but about a rotten system which condones oppression and abuse of certain groups who have traits which are not aligned with normalized physical/moral traits of the ruling culture and its dominant agents. MDWs can present a case of biopolitical management of a population that has been reduced to bare lives. However, the findings of this work can be easily projected onto other subaltern groups such as

the disabled, drug users, homosexuals, women and also refugees who fall into the cracks and can be stripped of their rights and be reduced to bare lives whose bodies are controlled. To say that my thesis will give a solution or a bright conclusion of a better future would be misleading. But I truly believe that any production of knowledge that counters ruling common sense and the majority view is an attempt to do something: to raise questions and to somehow undertake political agitation/disruption of dominant knowledge and practices with the hope of leading to a change of the status-quo.

My recommendation for future research would be to put special focus on the parallel systems that individual MDWs are creating to get around the sponsorship system as a form of resistance which sheds more light on the agency of MDW. Overall, a process of de-normalization of the current legal and social systems that exclude MDW should be developed and applied. This needs both top-down and bottom-up interventions aiming at changing the legal status of MDWs in Lebanon on one hand and changing mindsets on widely accepted violations of human rights on the other. This change is only possible, if this is accompanied by strong initiatives also aiming at deconstructing dominant discourses which perpetuate the racial, gender, class, sectarian, and other forms of discriminations which exist in Lebanon and opening the stage to alternative discourses brought by excluded populations.

BIBLIOGRAPHY

- Abdulrahim, Sawsan. *Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers Towards Migrant Domestic Workers*. (Beirut: KAFA, 2010).
- Abi Mershed, Roula and Ghada Jabbour. "Lebanon ,Country of Domestic Servitude, Once Again Under the Spotlight." *Legal Agenda* no.6 (2012). <http://legal-agenda.com/article.php?id=190&lang=ar>. (Accessed November 30, 2012)
- Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. California: Stanford University Press, 1998.
- Agamben, Giorgio. *State of Exception*. Chicago: The University of Chicago Press, 2005.
- Alabaster, Olivia. "Domestic workers highlight sponsorship system flaws". *The Daily Star* (2012). <http://www.dailystar.com.lb>.
- ¹Racha Al Amin, *Tefl Zeid Hamda Maktoum Al Kaid bisabab Fawda "Kharijiya"*, [Zeid Hamdan's Child is not Registered due to "External" Chaos], NOW Media, March 23, 2014. <https://now.mmedia.me>
- Bertani, Mauro et al. *"Society must be defended": lectures at the College de France, 1975-76*. New York: Picador, c2003.
- Burchell, Graham et al. *The Foucault effect: studies in governmentality with two lectures by and an interview with Michel Foucault*. Illinois: University of Chicago Press, 1991.
- Dolaman, Waverly. "Migrant Labor & the Moral Imperative: Filipino Workers in Qatar and the United Arab Emirates in the 21st Century." Georgetown University, 2010. <http://search.proquest.com/docview/822166276?accountid=8555>.
- Foucault, Michel. *Security, territory, population : lectures at the College de France, 1977-78*. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, 2007.
- Foucault, Michel. *Society Must be Defended*. New York: Picador, 1997.

Gee, John. "Gradual Steps Forward for Migrant Workers in the Middle East." *The Washington Report on Middle East Affairs* 27, no. 9 (2008): 40-41.

<http://search.proquest.com/docview/218796858?accountid=8555>.

Georg Wilhelm Friedrich Hegel, *The Phenomenology of the Mind: Slef-Consciousness*,

www.marxists.org/reference/archive/hegel/works/ph/phb.htm#N_1_

Giorgi, Gabriel and Karen Pinkus. "Zones of Exception: Biopolitical Territories in the Neoliberal Era." *Diacritics* 36.2 (Summer 2006) 99-108, (3).

Hamill, Kathleen. *Trafficking of Migrant Domestic Workers in Lebanon: A Legal Analysis*.

Beirut: KAFA, 2011.

Hamill, Kathleen. *Policy Paper on Reforming the "Sponsorship System" for Migrant Domestic*

Workers: Towards and Alternative Governance Scheme in Lebanon. Beirut: KAFA, 2012.

Hawi, Zainab. "Christelle Abu Shakra: Domestic Violence Victim Dies under Suspicious

Circumstances". *Al Akhbar Newspaper*. February 18, 2014.

Human Rights Watch, *Annex: Deaths of Migrant Domestic Workers in Lebanon*,

<http://www.hrw.org/legacy/pub/2008/women/Lebanon.MDW.Annex.082608.pdf>.

Human Rights Watch. "Lebanon: Migrant domestic workers dying every week". *Lebanon Wire*.

August 26, 2008.

Human Rights Watch. *Universal Periodic Review of Lebanon*. USA: Human Rights Watch,

2010.

Human Rights Watch. *Without Protection: How the Lebanese Justice System Fails Migrant*

Domestic Workers. USA: Human Rights Watch, 2010. Available: <http://www.hrw.org>.

"Human Rights Watch Group Launches Committee in Lebanon." *BBC Monitoring Middle East*, Dec 09, 2010. <http://search.proquest.com/docview/816533528?accountid=8555>.

Inda, Jonathan Xavier. *Anthropologies of modernity: Foucault, governmentality, and life politics*. Malden Mass.: Blackwell Publishing Ltd., 2005.

International Labor Organization. *Convention concerning the Abolition of Forced Labour*. 25 June 1957. Available: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312250. [Nov. 18, 2012]

International Labor Organization. *Domestic Workers: Little Protection for the Underpaid*. Geneva: International Labor Organization, 2005. <http://www.migrationinformation.org/Feature/display.cfm?id=300>. (Accessed November 30, 2012).

International Labor Organization. *Gender and Migration in Arab States: The Case of Domestic Workers*. Beirut: ILO, 2004.

International Labor Organization. *Report IV: Decent Work for Domestic Workers*. Geneva: International Labor Organization, 2010.

Jureidini, Ray. "In the Shadows of Family Life: Toward a History of Domestic Service in Lebanon." *Journal of Middle East Women's Studies* 5 (3), (Fall 2009).

Jureidini, Ray. "Lebanon's Ways are Sponsoring Suicide". *The Daily Star*. April 10, 2012.

Kanna, Ahmed. "A Politics of Non-recognition? Biopolitics of Arab Gulf Worker Protests in the Year of Uprisings." *Interface* 4.1. (May 2012) 146-164.

Karamah, Lama. *Al Nakabat wal Kada' fi ma'rakat kanoun al 'amal 1946 hina bada al Kanoun Silahan fi Ayadi Al Kiwa Al 'amila*. [Unions and Judiciary in the Labor Law Battle of 1946: When the Law Seemed as a Weapon in the Hands of the Working Forces]. (Beirut: Legal Agenda, 2012). <http://www.legalagenda.com/>

Koser, Khalid and Susan Martin. *The Migration-Displacement Nexus: Concepts, Cases and Responses*. New York: Berghahn Books, 2010.

"Lebanese man accused of killing wife to remain in prison". *Al Akhbar Newspaper*. July 26, 2013. <http://english.al-akhbar.com/node/16539>

- Lebanon passes law against domestic violence. *Associated France Press*. April 1, 2014.
<http://news.yahoo.com/lebanon-passes-law-against-domestic-violence-180739224.html>
- Lutz, Helma. *The New Maids: Transnational Women and the Care Economy*. New York: Zed Books, 2011.
- Mahdawi, Dalila. "Lebanon 'Far Behind' in Protecting Migrant Workers: Government has 'Not Even Managed the Incremental Step of Creating a Fair Employment Contract'." *McClatchy – Tribune Business News*, Dec 18, 2008.
<http://search.proquest.com/docview/456513790?accountid=8555>.
- Morton, Stephen & Stephen Bygrave. *Foucault in an Age of Terror: Essays on the Biopolitics and the Defense of Society*. New York: Palgrave MacMillan, 2008.
- Mroueh, Wassim. "Parliament Passes Domestic Violence Law Amid Controversy". *The Daily Star*. April 01, 2014. <http://www.dailystar.com.lb/News/Lebanon-News/2014/Apr-01/251912-parliament-convenes-amid-protests.ashx#axzz2xkFhUc1t>
- Negri, Antonio. "The Labor of Multitudes and the Fabric of Biopolitics." Trans. Sara Mayo, Peter Graefe and Mark Coté. Ed. Mark Coté. *Mediations* 23.2 (Spring 2008) 8-25.
- Norris, Andrew. *Politics, Metaphysics, and Death: Essays on Giorgio Agamben's Homo Sacer*. Durham: Duke University Press, c2005.
- Pande, A. (2012). From "balcony talk" and "practical prayers" to illegal collectives: Migrant domestic workers and meso-level resistances in lebanon. *Gender & Society*, 26(3), 382-405. doi: <http://dx.doi.org/10.1177/0891243212439247>.
- Robyn, Magalit Rodriguez. "Philippine Migrant Workers' Transnationalism in the Middle East." *International Labor and Working Class History* 79, no. 1 (2011): 48-61.
doi:<http://dx.doi.org/10.1017/S0147547910000384>.
<http://search.proquest.com/docview/871230124?accountid=8555>.
- Rodríguez, Encarnación Gutiérrez. "Reading Affect—On the Heterotopian Spaces of Care and Domestic Work in Private Households". *Forum: Qualitative Social Research*. Vol. 8, no. 2 (May, 2007).
- Michel Senellart et al. *Security, territory, population: lectures at the College de France, 1977-78*. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, 2007.

Shami, Seteny et al. *Publics, Politics, and Participation: Locating the Public Sphere in the Middle East and North Africa*. New York: Social Science Research Council, 2009.

Stoughton, India. "Lebanon's domestic workers demand equal rights." *Waging non violence* (2012). <http://wagingnonviolence.org/2012/05/lebanons-migrant-domestic-workers-demand-equal-rights/>. (Accessed 1 December 2012).

Tayah, Marie-Jose. *Working with Migrant Domestic Workers in Lebanon (1980-2012): A Mapping of NGO Services*. Beirut: International Labor Organization, 2012.

"The Daily Star: Migrant Domestic Workers Left Unprotected Despite Reforms." *The Daily Star Online (Provided by World News Connection)*, Dec 23, 2009. <http://search.proquest.com/docview/857951874?accountid=8555>.

"The Daily Star: Migrant Workers being Smuggled to Lebanon from Philippines Officials." *The Daily Star Online (Provided by World News Connection)*, Dec 02, 2008. <http://search.proquest.com/docview/850529536?accountid=8555>.

UN Economic and Social Council. *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*. 7 September 1956. Available: <http://www2.ohchr.org/english/law/slavetrade.htm>. [Nov. 18, 2012]

UN Human Rights Council. *Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, Addendum : Mission to Lebanon*. 4 July 2012, A/HRC/21/41/Add.1. Available: <http://www.unhcr.org/refworld/docid/5051cd9d2.html> [accessed 18 November 2012]

UN Human Rights Office Of the High Commissioner. *Universal Human Rights Index*. Available: <http://uhri.ohchr.org>. [Nov. 18, 2012]

"UN Independent Expert Urges Lebanon to Investigate Suicide of Migrant Domestic Worker." *M2 Presswire*, Apr 04, 2012. <http://search.proquest.com/docview/963813546?accountid=8555>.

UN General Assembly. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. 10 December 1984. Available: <http://www2.ohchr.org/english/law/cat.htm>. [Nov. 18, 2012]

UN General Assembly. *Convention on the Elimination of All Forms of Discrimination Against Women*. 18 December 1979. Available: <http://www2.ohchr.org/english/law/cedaw.htm>. [Nov. 18, 2012]

UN General Assembly. *International Covenant Economic, Social, and Cultural Rights*. 16 December 1966. Available: <http://www2.ohchr.org/english/law/cescr.htm>. [Nov. 18, 2012]

UN General Assembly. *International Convention on the Elimination of All Forms of Racial Discrimination*. 21 December 1965. Available: <http://www2.ohchr.org/english/law/cerd.htm>. [Nov. 18, 2012]

UN General Assembly. *International Covenant on Civil and Political Rights*. 16 December 1966. Available: <http://www2.ohchr.org/english/law/ccpr.htm>. [Nov. 18, 2012]

UN General Assembly. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. 18 December 1990. Available: <http://www2.ohchr.org/english/law/cmw.htm>. [Nov. 18, 2012]

UN General Assembly. *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian*. New York: UNGA, 2012.

UN General Assembly. *Universal Declaration of Human Rights*. 10 December 1948. Available: <http://www.un.org/en/documents/udhr/index.shtml>. [Nov. 18, 2012]

"UN: Third Committee Approves 10 Draft Resolutions on Palestinian Rights, use of Mercenaries, Refugee Issues, Migrant Workers; Reports Discussed on Violence Against Women, Human Rights Defenders -- Part 3 of 3." *M2 Presswire*, Nov 14, 2003. <http://search.proquest.com/docview/444694056?accountid=8555>.

Uproar against Lebanon's Murr TV (MTV) comedy show denigrating migrant domestic workers, *Migrant Rights Website*, February 1, 2012. <http://www.migrantrights.org/2012/02/uproar-against-lebanons-murr-tv-mtv-comedy-show-denigrating-migrant-domestic-workers/>

Zein el Dine, Aref. *Labor Law and Social Security*. Tripoli: Al Halabi Legal Publications, 2011.

Additional sources:

Full labor code in English can be found on <http://www.ilo.org/dyn/travail/docs/710/>

Labour%20Code%20of%2023%20September%201946%20as%20amended.Publication%202010.pdf

Order No. 5 of the Ministry of Labour (17 January 2003)

The Lebanese Code of Obligations and Contracts

The Unified Employment Contract <http://www.general-security.gov.lb/housemaid-%281%29.aspx>