



# THE KAFALA SYSTEM IN LEBANON

Map The System 2023

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# Table of Contents

<b>Table of Contents</b>	<b>2</b>
<b>Overview</b>	<b>3</b>
<b>Objective</b>	<b>4</b>
<b>Challenge Landscape: Historical and Current context</b>	<b>4</b>
<b>Iceberg Model</b>	<b>6</b>
<b>Systems Thinking</b>	<b>7</b>
<b>The Kafala System: Modern Day Slavery</b>	<b>8</b>
<b>Master/servant relationship</b>	<b>8</b>
<b>No mobility/held hostage</b>	<b>9</b>
<b>Exploitation of power/abuse</b>	<b>9</b>
<b>Unpaid work</b>	<b>10</b>
<b>Stakeholder Map</b>	<b>11</b>
<b>Key Players</b>	<b>11</b>
<b>Kafeel</b>	<b>11</b>
<b>Lebanese Government</b>	<b>13</b>
<b>Agencies</b>	<b>14</b>
<b>Sending Nations</b>	<b>15</b>
<b>Solutions Landscape</b>	<b>16</b>
<b>Global</b>	<b>16</b>
<b>Local</b>	<b>16</b>
<b>Impact Gap Themes &amp; Levers of Change</b>	<b>18</b>
<b>Key Insights and Lessons</b>	<b>21</b>

## OVERVIEW

Lebanon, with a population of approximately 6 million residents, is currently home to more than **250,000** Migrant Domestic Workers (MDW) brought into the country under the **Kafala system**. This demographic consists mainly of women from Africa and Asia (Patrick, 2021). With article 7 of the Labor Law specifically excluding kafala migrant workers from protections (Asia News Monitor, 2022), most of these workers remain victims of sexual and physical abuse, forced labor, racial profiling, and even homicide. The unfair working standards continues to play a toll on their mental health (Asia News Monitor, 2022) and death rates are estimated at about 2 each week (Azhari, 2019).

The Kafala system, also known as the Sponsorship system, is a recruitment procedure that ties migrant workers to their employers (Kafeels). The **kafeel** is a sponsor who is given statutory rights to employ foreign workers on a contractual basis (Robinson, 2022). The kafeel is responsible for the transport costs, accommodation, and feeding of the workers for the tenure of the contract. The provisions of the contract limit the employee's freedom of both physical and employment mobility. It also ties the legal status of the workers to the kafeels.

		Number	%
Nationality of MDW	Sri Lanka	62	5.2%
	Ethiopia	505	42.1%
	Philippines	138	11.5%
	Nepal	37	3.1%
	Bangladesh	321	26.8%
	Indonesia	14	1.2%
	Other <sup>11</sup>	123	10.3%
	Age of MDW	Less than 20	52
20-30		918	76.4%
31-40		182	15.3%
41 or over		48	4.4%

Table 1

*ILO, A Study of Employers of Migrant Domestic Workers in Lebanon*

## OBJECTIVE

The objective of this paper is to investigate and evaluate the structures that foster the operations of the Kafala system in Lebanon. We also explore how these play into the systematic violence and abuse experienced by MDW.

## Challenge Landscape: Historical & Current context

Lebanon experienced a civil war in 1975 which crippled the economy and saw many Lebanese leave the country. This created a **labor gap**, especially in the domestic service sector. The immigration of workers from Africa and Asia during this time was timely enough to fill this gap. With home countries seeing this as a source of foreign revenue and debt remittances, and Lebanon discovering a source of cheap Labor within an economic crisis, a **support system** was established on which the Kafala system thrived.

Lebanon faced several political and economic challenges since October 2019. To address the loss of value of the Lebanese pound and inflation, protests sparked across the country, as people demanded accountability and an end to corruption. Within the current situation, the Lebanese pound lost more than 90% of its value, 50% of the population now lives below the poverty line, and unemployment has exceeded 30% (Nassif, 2022). The pandemic and the Beirut port explosion in 2020 marked the culmination of the crisis. These situations have only worsened the experience of MDWs in Lebanon. Employers can't pay them and the recorded cases of **abuse** have skyrocketed.



Despite the growing civil society involvement in this topic, more MDW continue to come into the country to be trapped, unbeknown to them, under this exploitative system (Azhari, 2019). Migrant domestic workers, who are among the most vulnerable groups in Lebanon, have been facing even more **challenges**, with many facing unemployment, and those under contracts experiencing delayed or non-payment of wages and abuse. Undocumented migrant domestic workers have been affected by the pandemic, as they are denied access to tests and hospitals, and have limited access to the vaccine. The situation in the country has also increased **tensions, racism, and xenophobia** (Puig & Ferriol, 2021).

## Historical and Current Context

### Before the Civil War

19TH - 20TH CENTURY



- Lebanon became more connected to the global economy, new forms of labor began to emerge, including factory work and wage labor in the emerging commercial sector.
- Lebanese people were doing domestic work (young girls)
- Also some Arab women (Egyptians, Syrians, Palestinians)

### Civil War

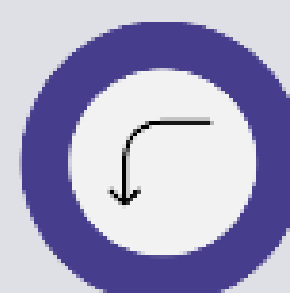
1975 - 1990

- Disrupted the economy
- 40% of Lebanese migrated to the Gulf which created labor gaps
- Immigration of workers from Africa and Asia filled these labor gaps
- Kafala system was established
- Workers that remained faced discrimination and violence



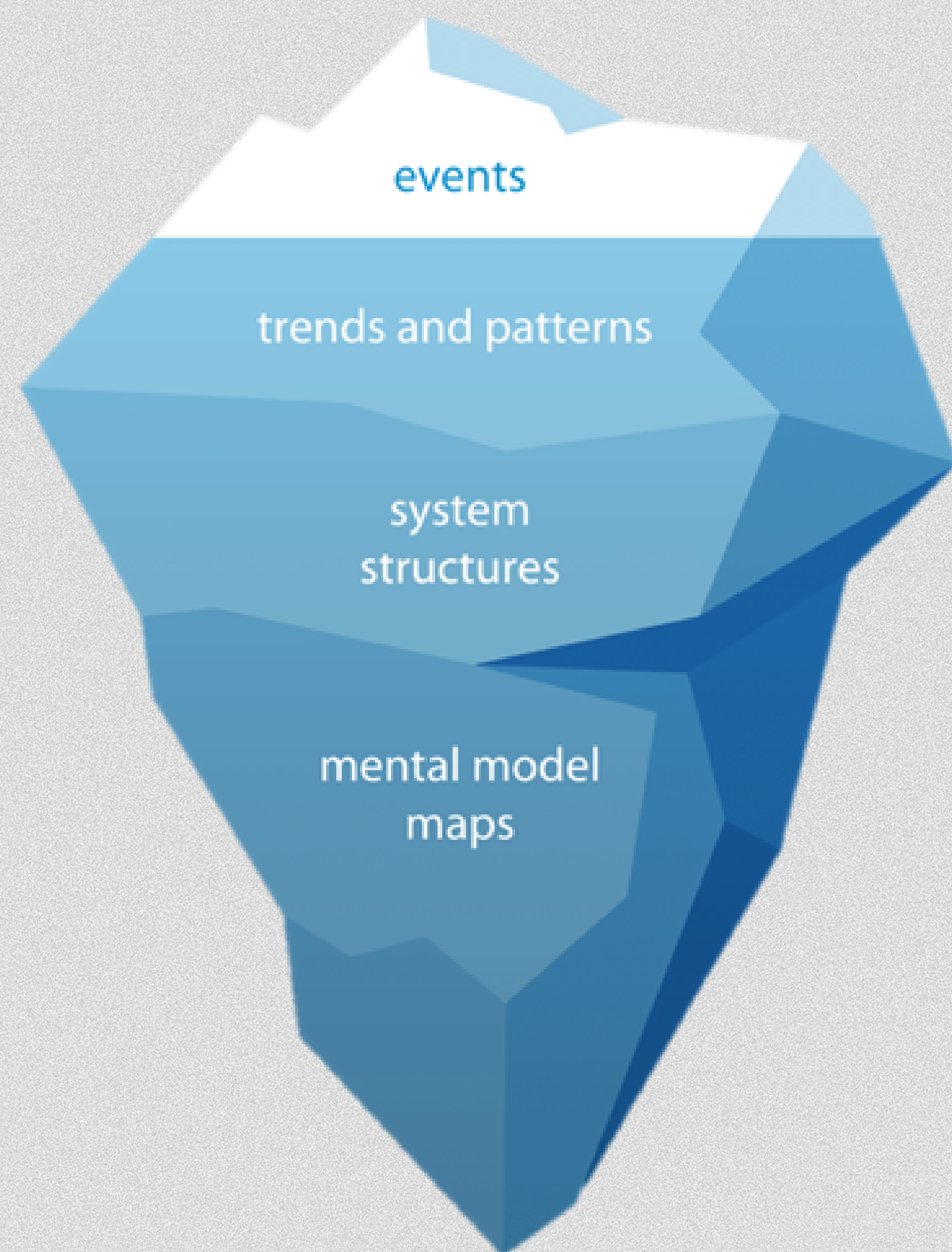
### The Fall

2019-PRESENT



- Political and economical instability in 2019
- Pandemic and Beirut explosion in 2020
- No pay and abuse for migrant workers skyrocketed
- Significant decline in migrant workers rights and values.

# Iceberg Model



## Events

- People don't follow existing rules
- Absence of proper regulations
- Inflow of low-skilled cheap labor
- Lack of proper welfare infrastructures
- Imbalance of power
- Low wages

## Trends and Patterns

- Unregulated agencies
- Unreliable legal systems
- Weak labor laws
- Inadequate financial institutions
- Inaccessible higher education in home country

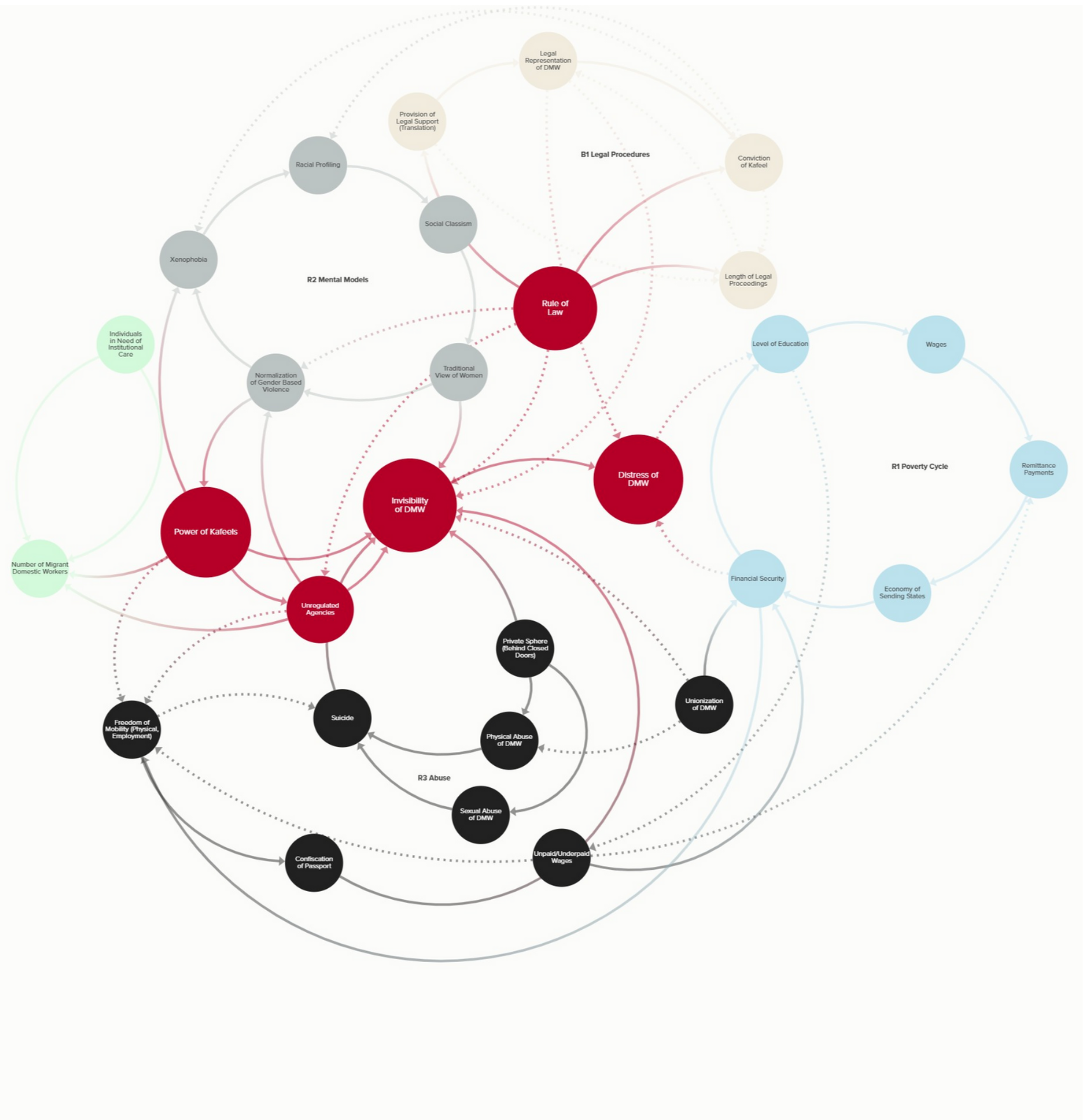
## System Structures

- Financial and housing insecurity
- Sexual and physical abuse
- Violation of rules and regulations
- Physical and employment immobility

## Mental Model Maps

- Belief that migrant workers are easily replaceable
- Hope of better life abroad
- Agencies and kafeels believe dehumanization of workers keep them loyal
- Normalization of racism and violence
- Culture of silence
- Social classism
- Bigotry rooted in patriarchal society

# Systems Thinking

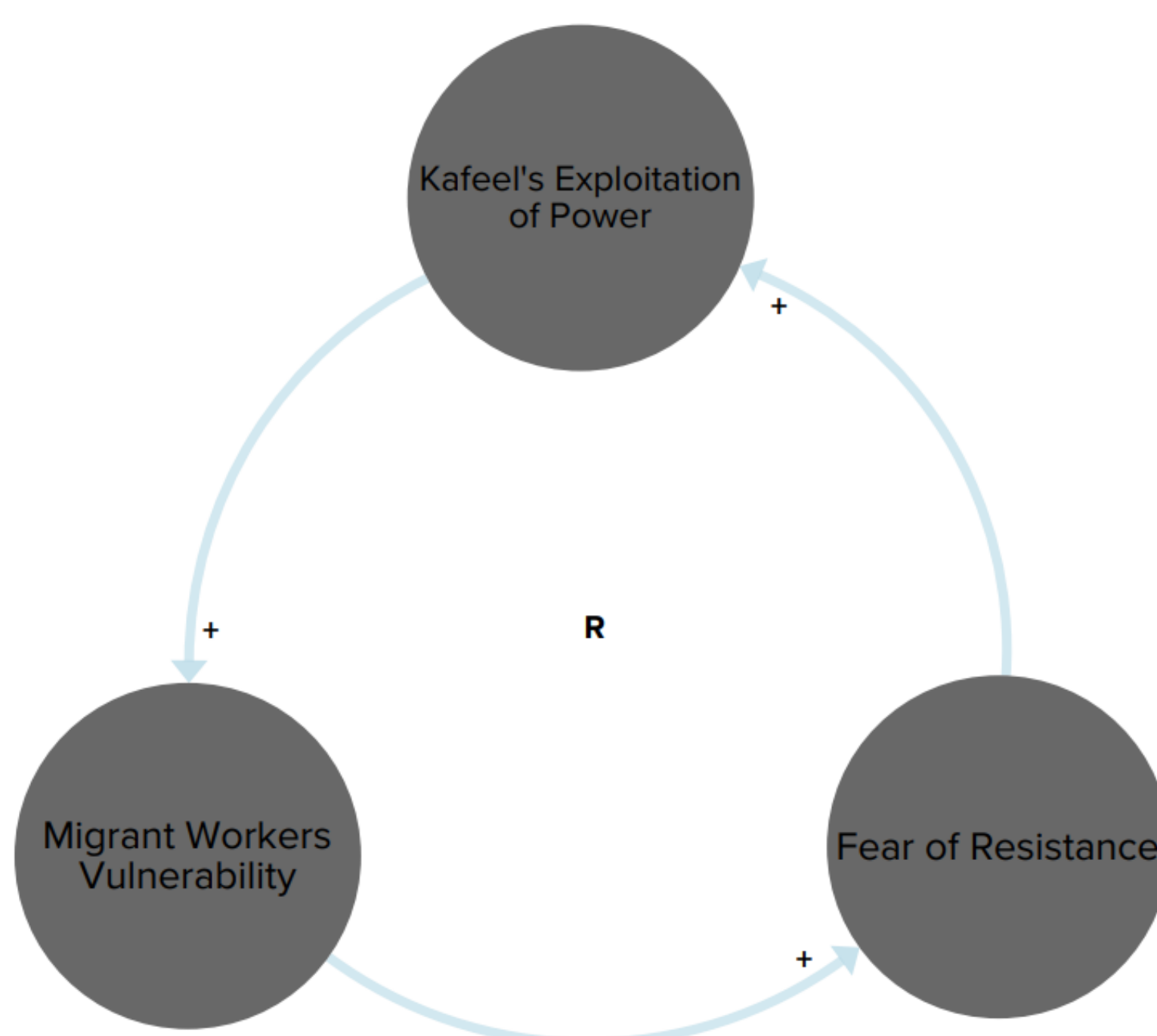


Applying a system thinking approach, we have been able to evaluate the interconnectedness of different forces driving the Kafala system and how its outcomes are akin to modern day slavery. We also uncover how key players operate in this system in ways that foster abuse and violence on MDW.

## The Kafala System: Modern Day Slavery

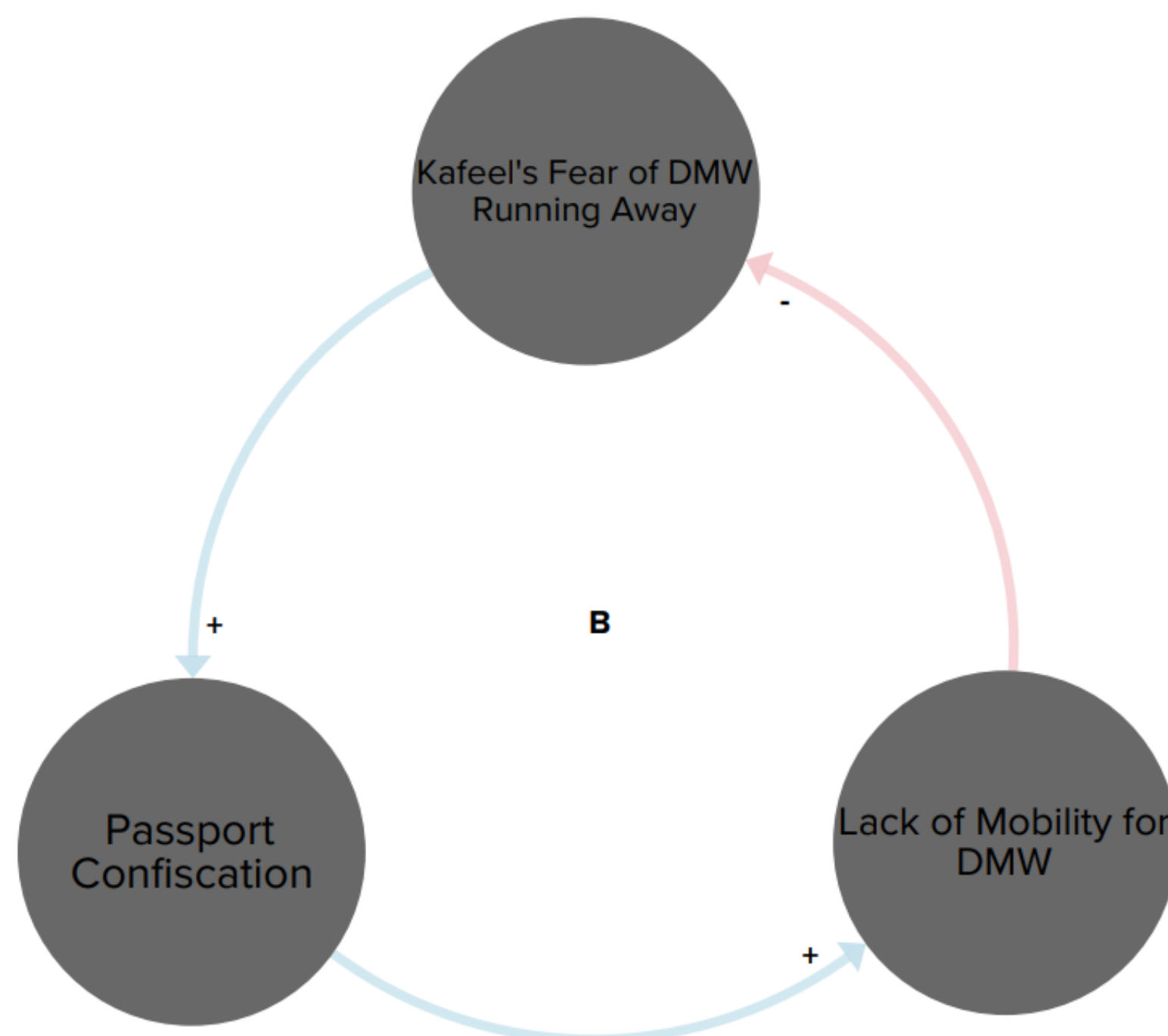
Due to its operations and cases of human rights violations, the kafala system has been termed **Modern Day Slavery**. It categorically alienates workers from their humanity and their corresponding human rights, trapping them in a cycle of abuse.

**Master/servant relationship:** The power the kafeels hold in the kafala system creates a **system of dependency** where domestic workers depend on their employers not only for their wages, but for food, health, accommodation, and legal status (Azhari, 2019). The provisions of the foreigner's law also subject workers to arrest and detention if they leave their employer's house without permission (Asia News Monitor, 2020). In the words of a senior International Labour Organization (ILO) representative in Beirut, such "total dependence breeds total vulnerability, which opens the door wide to exploitation" (Kafa, 2012).

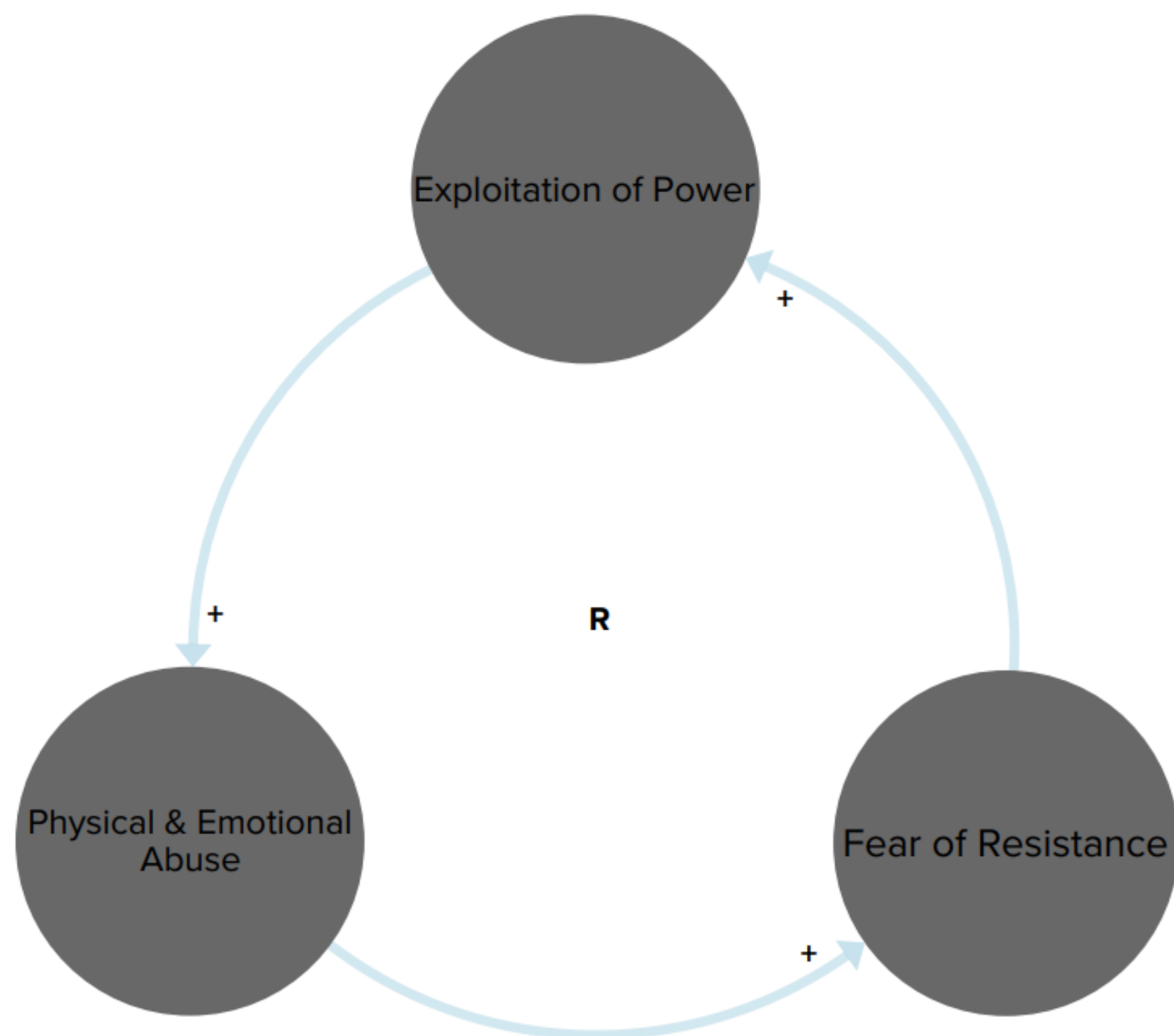




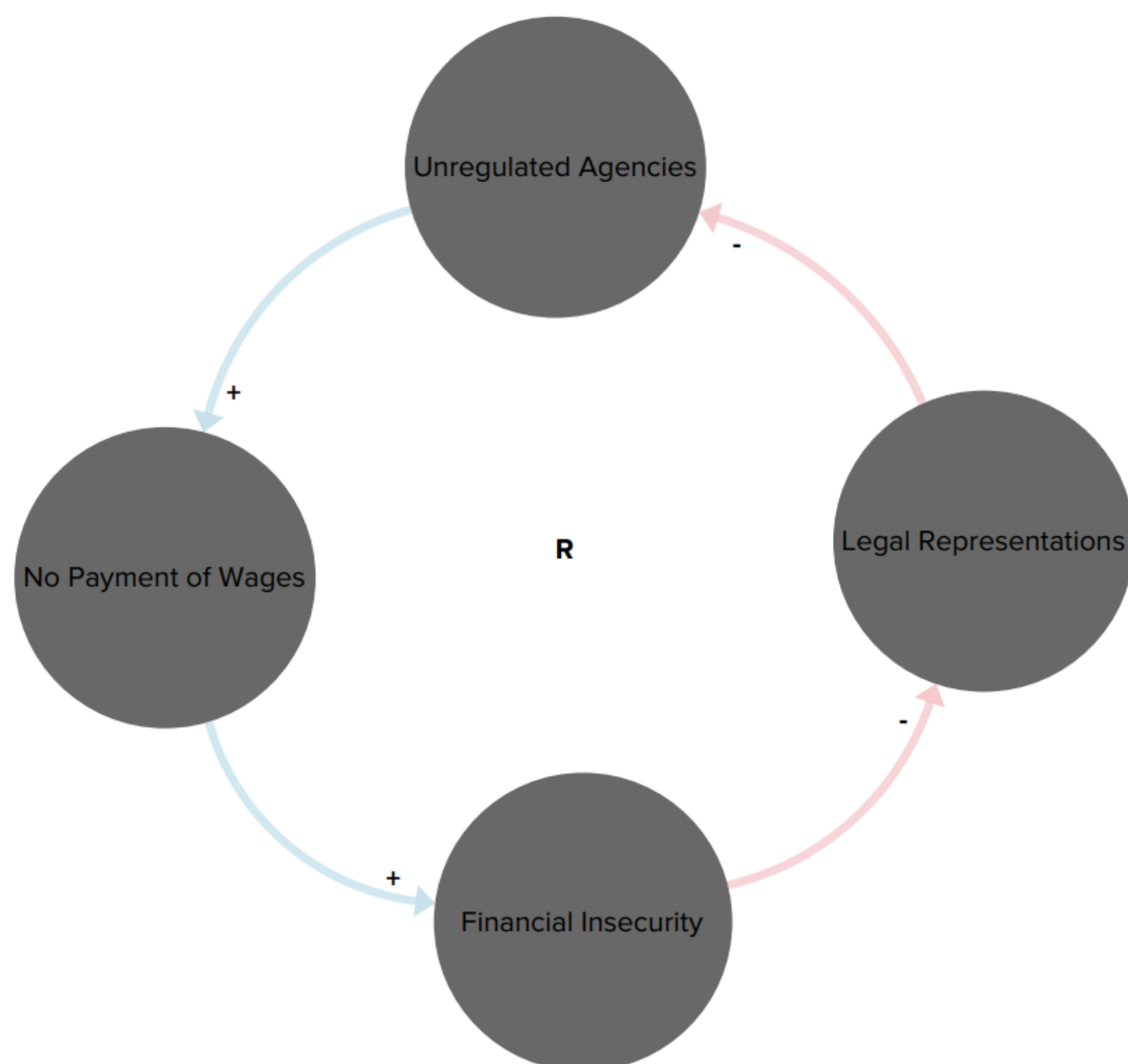
**No mobility/held hostage:** There have been a plethora of reports involving employers locking up domestic workers at home for fear that “they would run away”. Agencies have also advised employers to seize their workers passports, a means to hold them **hostage**. Workers under the Kafala system also **lack employment mobility** as they can’t resign or switch jobs without the consent of their employers (Kafa, 2012). “Runaway” workers are stripped of their legal residence in the country and orders are sent out for their arrest. There have been instances of employers putting up their workers for sale on social media once their services were no longer needed.



**Exploitation of power/abuse:** The power imbalance that exists between MDW on one hand and agencies and kafeels on the other serves as a conducive breeding ground for **abuse**. With their ability to influence the legal stay of MDW in Lebanon, some employers use this to demand extra working hours and have been physically violent if the worker revolted. Reports of emotional and sexual abuse have also been on the rise with 2/3 of workers reporting being sexually abused (Masri, 2021).



**Unpaid work:** Many DMW don't receive their due wages or do not get the full amount (Dermitzaki & Riewendt, 2020). With agencies facilitating their entry into the country, some agencies demand some months of workers' salaries from the employers to "cover recruitment costs". Some workers go **months** without getting paid. This is also praised by agencies as a means to ensure workers don't run away. This has even worsened due to the current economic crisis.



# Stakeholder Map

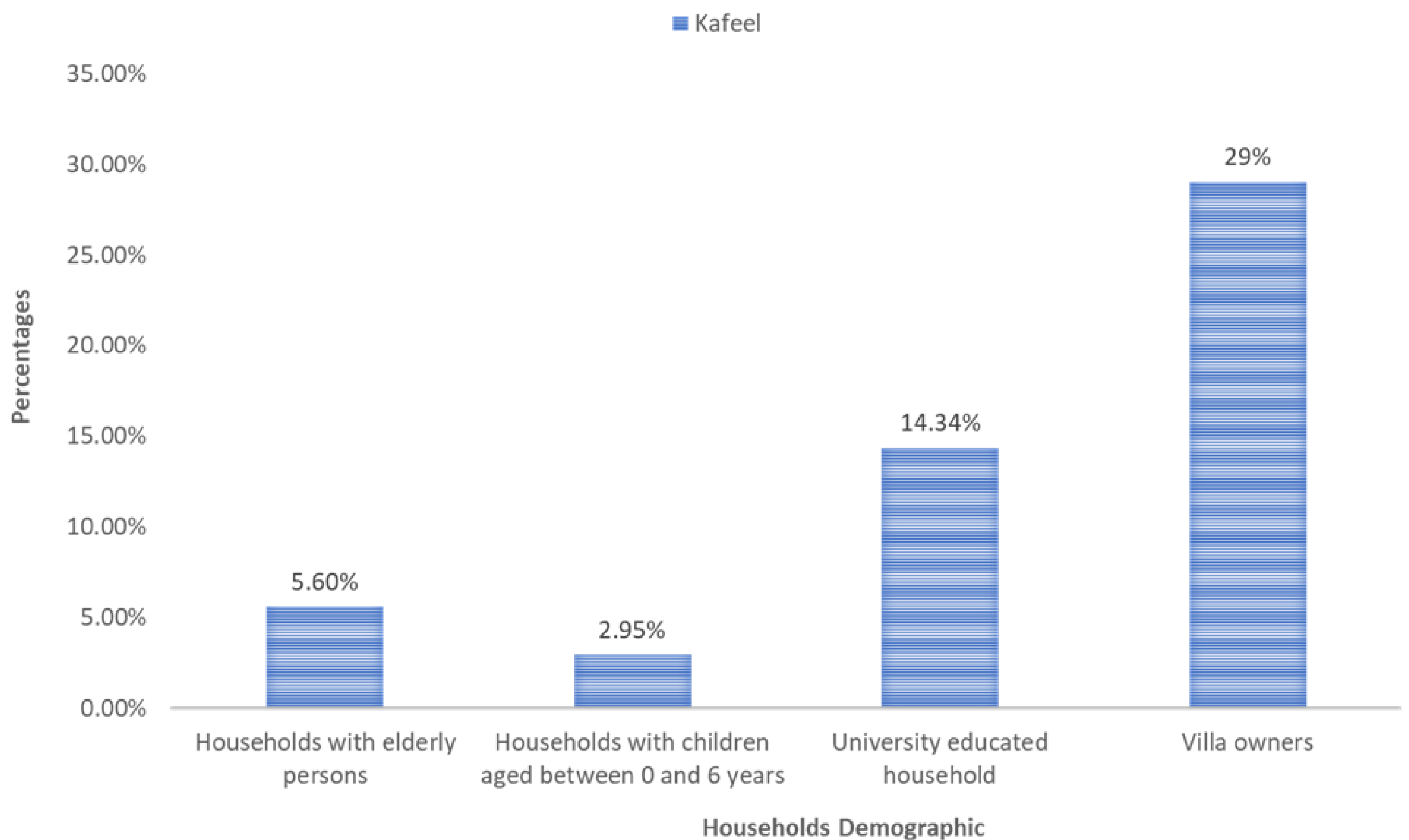


## Key Players

### Kafeel:

A study done by Fakhri & Marrouch (2014) showed a difference in the percentage of households employing MDW based on their demographics. For instance, households with elderly members have a higher MDW employment rate of 5.60% compared to households with children between 0-6 years old, which is only 2.95%. Additionally, it is worth mentioning that 14.34% of household heads with a university education employ MDW. When looking at dwelling types, we have observed that around 29% of villa owners use the services of MDW. (Fakhri & Marrouch, 2014).

## KAFEEL



According to the standard unified contract between the employer and the domestic worker, it is mandatory to pay the worker's full salary by the end of each month. Failure to do so is considered illegal. However, a significant proportion (40%) of Lebanese employers **do not pay their workers on time**, and many (41%) paid the first three months' salary to the recruitment agency instead of the worker. Moreover, Lebanese law prohibits withholding another person's legal documents and belongings. Despite this, a vast majority (94%) of Lebanese employers admitted to **keeping the worker's passport** with them, and more than half of them believed that the contract allowed them to do so, which is illegal. Limiting the worker's **freedom of movement** by locking them inside the house is also illegal and punishable by law. However, around 22% of Lebanese employers still restrict their domestic workers' ability to move freely by confining them inside the house.

## Lebanese Government:

A major cause for the maltreatment of immigrant domestic workers has been the **lack of laws and regulations** implemented by the Lebanese government. As stated before, MDW are excluded from the Lebanese labor law and are even subject to discrimination regarding legal actions. After conducting interviews with MDW who were abused and attorneys who frequently handle their cases, Human Rights Watch concluded that the Lebanese judicial system **failed** on many occasions to protect these workers' rights (Human Rights Watch, 2010). For instance, 13 criminal cases examined by Human Rights Watch, where DMW filed against employers showed that they took an average of 24 months to settle, while complaints for unpaid wages lasted on average between 21 and 54 months.

In addition, MDW may face countercharges of theft, months in pre-trial detention, and trials in which international norms of due process and fairness are not always upheld, which **discourages** them from filing complaints about employers' mistreatment. Human Rights Watch examined 84 instances in which MDW were charged with a crime; in most of these cases (61 out of 84), the employer charged the MDW with theft. Other charges included carrying fake identity documents, engaging in prostitution, or using violence against the employer or other people. Moreover, most MDW face the legal system without adequate representation or translation, despite the fact that many do not speak fluent Arabic. 47 out of 84 criminal cases, did not have a defense lawyer (Human Right Watch, 2010). The operations of the kafala system in Lebanon is also fostered by its economic implications on the nation. In 2019 alone, an annual revenue of \$36.5 million was earned by the General Security Directorate (Alarabiya, 2020).



## Agencies:

According to research from the Triangle Research, Policy and Media Centre in Beirut, the local recruiting agencies benefited most from the kafala system in 2019, bringing in almost \$57.5 million in revenue (Al-Mahmoud,2020). The agencies are **key stakeholders** in Lebanon's kafala system. The agencies oversee selecting and screening laborers, setting up their travel plans and visa applications, and connecting them with employers. Yet, the agencies' participation in the kafala system has also drawn criticism for supporting mistreatment of migrant workers. A few organizations have come under fire for allegedly charging workers outrageous fees, which results in debt bondage and other types of enslavement. Others have been accused of **misleading** workers about working conditions and pay, resulting in forced labor and human trafficking.

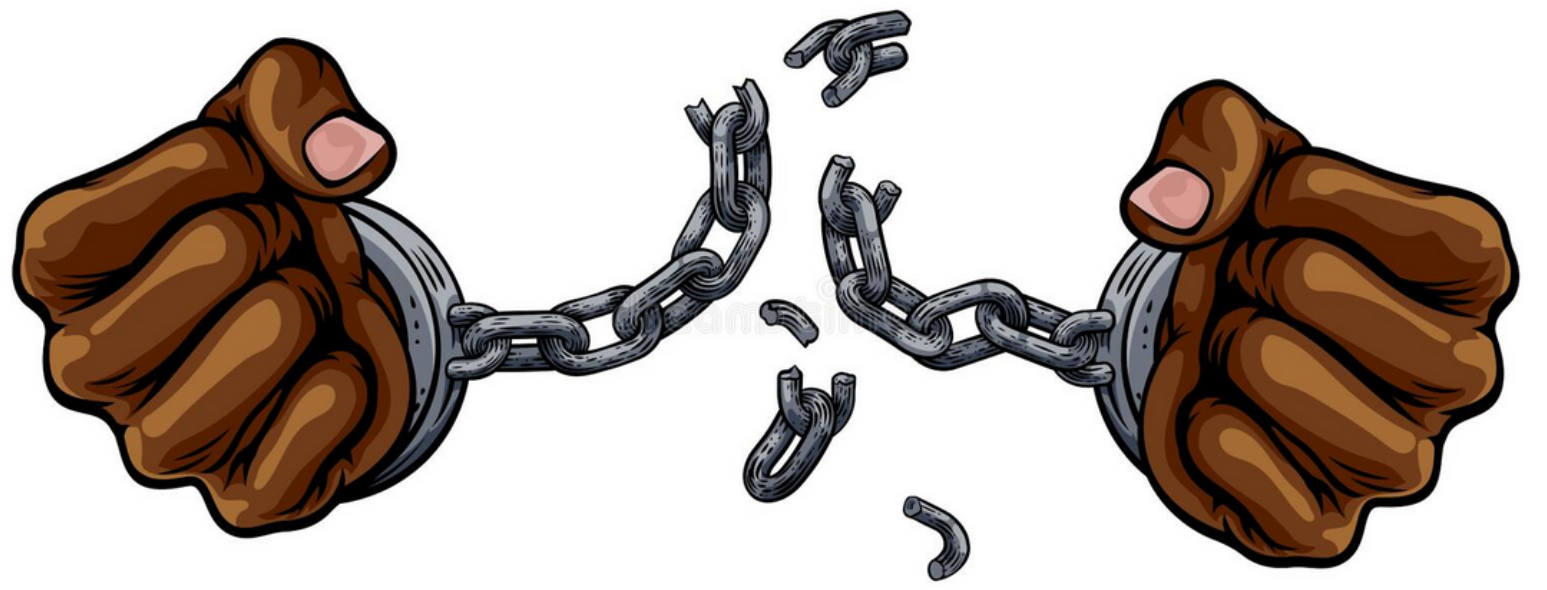
The Shura Council, Lebanon's top legislative court, overturned a proposed standard contract for domestic workers after strong resistance from the recruitment agencies' syndicate. They argued that the proposed updates to the contract would have a **negative effect** on the industry of domestic worker recruitment in Lebanon and would go against labor laws (Al-Mahmoud,2020). The revised contract would have provided domestic workers with **fundamental labor rights** such as the ability to terminate their employment agreement without needing their employer's permission, working specific hours each week, receiving overtime pay, and being given their own private lodging, among other principles. Any attempts to reform the system and enhance the rights of migrant workers must deal with the role played by these agencies and guarantee that they conduct their operations **transparently** and **ethically**.

## Sending Nations:

As earlier stated, most MDW come from southeast Asia and Africa. The governments in these regions have increasingly seen the repercussions of the exploitative kafala system, proven by workers stranded in front of embassies in Lebanon and unexplained deaths. However, systems from the sending nations create an enabler pattern that traps MDW in a web of abuse in Lebanon. Firstly, **illegal** agents and brokers continue to infiltrate the recruitment process in the home countries due to no government monitoring. With **false hopes** and promises of a better life, most women become victims of trafficking syndicates (Kafa, 2014). Moreover, sending states sing the praises of MDW, terming them “economic heroes” for the virtuous act of committing to serve their families and nations (Parreñas, 2011). This undermines the mistreatment DMW workers endure under the oppressive Kafala system. Many countries also set up trainings for migrant domestic workers before they travel (Pande, 2013). Basically, developing compliant workers who should expect no protections from their governments. The enablement of this system by home governments can be pinned to the economic benefits DMW provide sending states in the form of remittances (Jureidini & Moukarbel, 2006). Every year, foreign workers in Lebanon, including MDW who form a majority, send \$2 Billion as remittances. Also, no bodies have been put in place to ensure congruence of labor and migration laws between Lebanon and sending nations. For instance, while Kenya forbids workers from signing any contract outside the country, MDW are forced to sign new contracts in Lebanon in a language they don't understand.

*"Every part of society: police, general security, judges, and every part of the society that you can imagine, and that is supposed to be there to help protect the vulnerable, have been often instead done everything in their power to protect the abusive employer" (Interview 3)*

## Solutions Landscape



### GLOBAL:

- MENA and Gulf region: In 2016, **Bahrain** dismantled the kafala system by giving the responsibility of sponsoring migrant workers to the government-run Labour Market Regulatory Authority (LMRA) instead of employers (Khan & Tavel, 2011). In 2010, **Qatar** also took a move to ensure the financial security of workers by asking companies to provide employees' monthly salary details. In 2016, **Saudi Arabia** gave workers the right to switch employers if salaries were not paid for three consecutive months or if employers failed to renew work permits (Migrant-rights.org).
- The **UK** has established the Overseas Domestic Worker (ODW) Visa for domestic migrant workers. This visa makes the migrant worker independent of their employer. Also, the employer must pay workers' salaries based on the UK minimum wage laws.
- In **Hong Kong**, the Department of Labor governs matters relating to MDW and is a central player in handling worker-employer conflicts. This ensures cases are handled within the law. Hong Kong also includes MDW in its minimum wage law and gives them the right to holidays (Kafa, 2012).

### LOCAL:

- **Standard unified contract:** On September 8, 2020, the Shura Council with the Ministry of Labor adopted the standard unified contract. This contract gave MDW rights to a minimum wage, sick pay, rest days, and the ability to end their contract without the consent of the employer (Dumoulin, 2021). This contract was however suspended after a month.



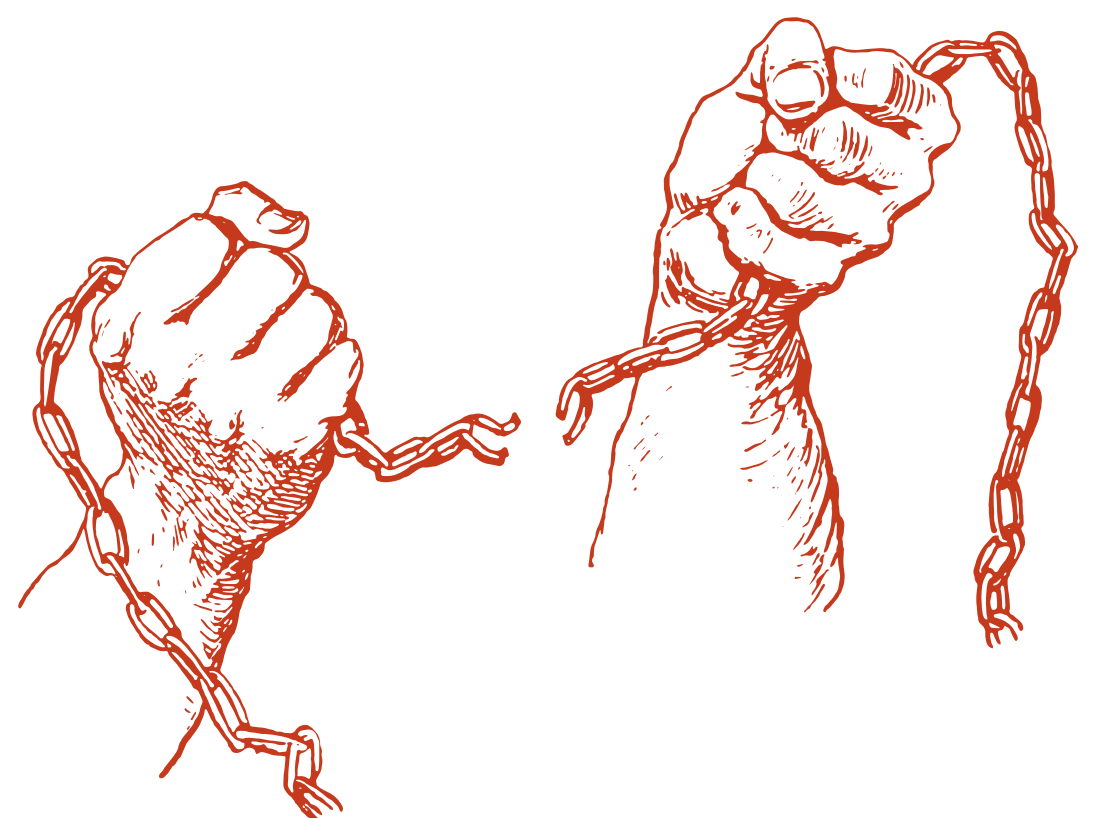
- In 2013, the Lebanese government in collaboration with some NGOs, established an **ethical recruitment code of conduct** to serve the interest of both agencies and migrant workers. However, the power imbalance between workers and agencies still allows agencies to solely seek their interests.
- **Civil society efforts**: NGOs like Kafa and Human Rights Watch have been involved in drafting propositions to abolish the Kafala system and include domestic workers in the labor law. Kafa also runs a hotline for workers to report cases of abuse and seek help.
- In 2014, **The Domestic Workers Union** (DWU) was created, comprising 350 domestic workers from its conception (Aljazeera, 2019). Though considered illegal by the government, it serves as a lobbyist for MDW, calling attention to the plight of workers and seeking better working conditions.
- **Memorandum of Understanding** (MOU): The Kenyan Central Organization of Trade Unions (COTU-K) and the National Federation of Worker and Employee Trade Unions in Lebanon (FENASOL) are involved in ratifying the International Labor Organization domestic worker convention. They signed an MOU to have more stringent regulations on the domestic worker recruitment process (ILO, 2022).

The current local solutions landscape has been insufficient in ensuring the dignified employment of MDW in Lebanon due to the absence of governmental intervention and monitoring. This is in contrast to the global landscape where a pattern of governmental intervention and monitoring is a prerequisite for reforming the system.

## Impact Gap Themes & Levers of Change

**Gap:** Lack of Legal Protections for DMW

- **Exclusion of MDW from labor law:** Lebanon explicitly excludes MDW from the Labor Law, opening them up to all forms of systematic abuse.
  - **Contract vs law:** The Standard Unified contract doesn't have the same legal power as a law. Nothing would radically address the problem unless an amendment of the labor law. Also, the contract lacked an implementation and monitoring mechanism.
  - **Extended legal hearings:** MDW lack access to legal representation and even when they do, cases can last anywhere from 21 to 54 months (Human Right Watch, 2010).
- **Apply labor law to MDW:** Including DMW in the Labor law guarantees protections such as minimum wage, rest days, and paid sick leaves.
  - **Draft separate labor law for MDW:** This should establish the conditions of the working contract. Major points should include working hours, mobility of workers, and a resignation system.
  - **Provide legal aid and certified translators** for MDW who report cases of abuse. Also establish bodies within the legal system for proactive and timely investigation of reported grievances.



## Gap: Absence of Due Diligence and Monitoring

- **Recruitment process:** The use of unmonitored agencies for recruitment allows agencies to put their profit incentive above the safety of workers.
- **Monitoring implementation of the laws:** The absence of frameworks to ensure policies are implemented leaves laws as simply points on paper.

*"The Standard Unified Contract failed because it lacked an implementation and monitoring mechanism (Interview 1)"*

## Levers of Change:

- **Applying a professional recruitment system** with interviews to match worker and employer. Apply due diligence in the recruitment process by providing workers with contracts in the languages they understand and ensuring they are aware of resources available for their safety: hotlines, civil societies.
- **Establish an online government facilitated recruitment process.** This breaks the power of agencies as intermediaries who sometimes act as enablers of MDW abuse. This could also help track workers' work situation and ease follow-up and monitoring of employer employee relationships.
- The Lebanese government should **set up a monitoring and evaluation body** for MDW to ensure reforms are implemented.

## Gap: No Collaboration Between Major Stakeholders

- **Government and civil societies:** Though they play very important parts in drafting policies to establish better working conditions for MDW, the Lebanese government and some members of the civil society are still at loggerheads. This makes the reform process slow and futile.
- **Home governments and Lebanese governments:** The absence of collaboration between sending states and Lebanon creates policy silos which do not benefit the workers. For example, while Kenya forbids workers from signing a second contract, in Lebanon, they are often asked to sign contracts with their employers on arrival. Absence of collaboration also makes it difficult for sending states to follow up on the treatment of workers in Lebanon.
- Despite being the victims of this system, MDW are **excluded** from discussions around reforming the Kafala system.

## Levers of Change:

- Establish **good working relationships** and effective communication systems with governments and civil societies.
- Commit to **inter-union relationships** between unions from both sending states and Lebanon.
- **Strengthen regulatory frameworks** for recruitment agencies in both sending states and Lebanon.
- **Grant DMW agency** by giving them the ability to engage in driving discourse that pushes for measures which serve their interest; like the ability to form work unions.

## Possible Implementation Challenges to Consider:

- Bridging the gap of accessibility of services to those trapped at home with their employers.
- Slow actionable response from government; incentivizing Governments to implement reforms.
- Persistent power imbalance between Kafeels and Agencies on the one hand and MDWs on the other.

## Key Insights and Lessons

Before our research, we saw exploitation of Migrant Domestic Workers as a result of toxic employer-employee relationships. By this, we failed to see the holistic view of elements that drive the Kafala system. Systems thinking enabled us to see past employment relationships to uncover the role other players like agencies and governments played within the system. We also explored mental models around racism and xenophobia that perpetuate instances of violence. This enhanced our understanding of the underlying models which need to be disrupted to provide sustainable solutions to the problems faced by MDW in Lebanon.

Through our research, we also uncovered steps taken by stakeholders to make MDW have dignified employment status in Lebanon. However, we got to see how **limited** the current measures are as they fail to take into consideration the power imbalances that exist, which don't serve the interests of the workers. Also, **lack of collaboration** among key players makes it difficult to establish important monitoring systems to guard the interests of MDW and see the implementation of policies.