

DOMESTIC WORK IN THE UAE: THE MORAL DILEMMA OF THE DAY OFF

This article examines the management of migrant domestic workers by employers in the United Arab Emirates. It first examines the laws governing domestic work and describes the arbitrary authority that employers are legally granted over domestic workers. Then, the article proceeds to analyze how employers respond to this authority and establishes that they do so in a variety of ways. Moreover, it illustrates the diverse ways employers choose to manage domestic workers through an analysis of the day off, and examines why some employers chose to grant domestic workers a day off, whereas others allow only chaperoned excursions or refuse entirely. Based on interviews with 35 employers, this article and its discussion of the day off illustrates the moral conundrum that the law engenders when it comes to the management of domestic work.

Rhacel Salazar Parreñas*



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* Rhacel Salazar Parreñas is Professor of Sociology and Gender Studies at the University of Southern California.

On 21 July 2018, a Kuwaiti social media influencer with 2.1 million Instagram followers, Sondos Al Qattan, posted a vlog vowing to never hire a Filipino domestic worker again.¹ While complaining about the new memorandum of understanding between Kuwait and the Philippines, she expressed outrage over the agreement to extend to domestic workers the right to hold their passports and have a weekly day off. The vlog triggered an outcry among Filipino netizens who flooded her Instagram page with accusations of racism and modern-day slavery. It also stirred a backlash among other Arabs.² Several of her sponsors including MAC and Max Factor consequently revoked their deals.³ Yet, the backlash against Al Qattan was only short-lived. A few months later, it was back to business for Al Qattan, whose number of followers has since increased to 2.6 million.⁴ She managed to secure new endorsements from other big-name brands including Boots and Christian Dior, while releasing her own line of scents and eyelashes under the Sondos Collection.⁵ She also silenced her critics by turning off comments on her Instagram page.

The outrage over Al Qattan's comments, while condemned by other social media influencers in the MENA region,⁶ was short lived because they were not out of the ordinary but, in fact, in line with the dominant perspective.⁷ In a survey of more than 2,300 Qatari nationals on the 2016 reform of the kafala program, the labor migration sponsorship system that binds migrant workers to their sponsor, the majority of respondents disagreed with the reform as it granted migrant workers greater ease to change jobs and allowed them to leave the country without the permission of their sponsor.⁸

¹ See description of vlog at <https://www.mintpressnews.com/migrant-worker-turned-activist-speaks-out-about-gulf-slavery-following-rant-by-kuwait-makeup-queen/246810/>. Verified on 30 March 2019.

² See report on public statement by Nadine Wilson Njeim at <https://www.thenational.ae/arts-culture/film/former-miss-lebanon-on-sondos-al-qattan-how-can-anyone-be-ok-with-slavery-but-the-backlash-is-also-bullying-1.755184>. Viewed on 8 April 2019.

³ See report on backlash at <https://www.thenational.ae/lifestyle/kuwaitis-call-sondos-al-qattan-s-video-an-embarrassment-1.754455>. Verified on 30 March 2019.

⁴ Sondos Al Qattan can boast having 2.6 million followers by March 2019. See her Instagram page at https://www.instagram.com/sondos_aq/?hl=en. Verified on 30 March 2019.

⁵ Her products are available in online beauty retailers in the region including boutiquaat.com. See <https://www.boutiquaat.com/en-kw/lazartique/sondos/br/>. Verified on 30 March 2019.

⁶ MENA refer to Middle East North Africa. See a news report on the reactions to Al Qattan of other social media influencers in the region at <https://www.arabianbusiness.com/media/401654-gulf-based-influencers-condemn-sondos-al-qattans-domestic-worker-comments>. Verified on 26 October 2018.

⁷ Al Qattan dismissed criticisms directed at her as “foreign media campaigns” against not only her but “Islam, the Hijab, and Kuwait.” See <https://www.arabianbusiness.com/media/401654-gulf-based-influencers-condemn-sondos-al-qattans-domestic-worker-comments>. Verified on 26 October 2018.

⁸ Abdoulaye Diop, Trevor Johnston and Kien Trung Le, “Migration Policies across the GCC: Challenges in Reforming the Kafala,” in Philippe Fargues and Nasra M. Shah (ed.) *Migration to the Gulf: Policies in Sending and Receiving Countries*, (Cambridge: Gulf Research Centre, 2018).

Utilizing in-depth interviews conducted with 35 employers in the United Arab Emirates (UAE), this article examines how employers such as Sondos Al Qattan negotiate the terms and conditions of the *kafala* system. Under the *kafala*, domestic workers are made the legal responsibility of their employers. Most studies called attention to the vulnerabilities this position elicits on domestic workers and have ignored its impacts on employers. This article addresses the latter as it calls attention to the moral dilemmas imposed by the *kafala* on employers and accordingly, examines how employers respond to the arbitrary authority they are given over domestic workers.

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The Kafala

There are approximately 11.5 million migrant domestic workers globally, of whom 8.45 million are women.⁹ 27.4 percent of the domestic workers are employed in the Arab States, followed by 20 percent in Europe and 19.4 percent in South-Eastern Asia and the Pacific.¹⁰ Most migrant domestic workers in Arab States come from Southeast Asia, specifically Indonesia and the Philippines¹¹ but there are also sizeable numbers from South Asia¹² and Africa.¹³ The largest number of domestic workers can be found in the Kingdom of Saudi Arabia, estimated at nearly one million, followed by an estimated 750,00 in the UAE, 620,000 in Kuwait, 250,000 in Lebanon, and 100,000 in Bahrain.¹⁴

The *kafala* system establishes the terms of legal residency for domestic workers in Arab States. Under the *kafala*, domestic workers are without labor market or

⁹ International Labour Organization, “ILO Global Estimates on Migrant Workers,” 2015, https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_436343.pdf

¹⁰ ILO (2015).

¹¹ Rhacel Salazar Parreñas, Rachel Silvey, Maria Hwang and Carolyn Choi, “Serial Labor Migration: Precarity and Itinerancy among Filipino and Indonesian Domestic Workers,” *International Migration Review*, <http://journals.sagepub.com/doi/abs/10.1177/0197918318804769>

¹² Attiya Ahmad, *Everyday Conversations: Islam, Domestic Worker, and South Asian Migrant Women in Kuwait*, (Durham and London: Duke University Press, 2017).

¹³ Bina Fernandez, “Traffickers, Brokers, Employment Agents, and Social Networks: The Regulation of Intermediaries in the Migration of Ethiopian Domestic Workers to the Middle East,” *International Migration Review*, Vol. 47, No. 4 (2013), pp. 814-843; Pardis Mahdavi, *Gridlock: Labor, Migration and Human Trafficking in Dubai*. (Stanford, CA: Stanford University Press, 2011).

¹⁴ Numbers available at the website of the advocacy group migrant-rights.org, at <https://www.migrant-rights.org>. Verified on 9 April 2019.

employment flexibility as they are technically bound in a relationship of servitude with their sponsor (*kafeel*) whose permission they must secure in order to terminate or transfer employment.¹⁵ Typically, a migrant worker also cannot enter or exit the country without the approval of their sponsor. The *kafala* is technically a sponsorship system that assigns full legal responsibility of a foreign worker to their *kafeel*, who in the case of domestic work would be the employer. This means that any legal violation including crimes committed by a foreign worker would be the responsibility of the *kafeel*.

In response to mounting criticisms and pressures from human rights advocates on the vulnerabilities elicited by the terms of the *kafala* on migrant workers, various Arab States have since revisited the *kafala* system.¹⁶ However, domestic workers remain excluded from these reforms. Whereas migrant workers in construction, retail, hospitality, and transportation can now claim some limited rights with respect to mobility in the labor market. Domestic workers have gained no such ground. For domestic workers, the *kafala* system and their relationship of unequal dependence to their employer is also aggravated by the live-in condition of their employment.¹⁷ This condition combined with the bound status of domestic workers vis-à-vis their sponsor results in the legal constitution of domestic workers as a mere household dependent of their employer-sponsor and not an independent worker.

The Moral Conundrum of the Day Off

The question remains on how employers respond to their arbitrary authority over domestic workers in the *kafala* system. Most scholars assert that employers abuse their authority, maximize the labor of domestic workers, and inevitably mistreat them.¹⁸ On the contrary, I found that employers do not have a singular response to their authority over domestic workers but instead react in a variety of ways. The different reactions are most notable in the case of the day off.

The day off is a point of contention when it comes to the human rights of domestic workers. Rights advocacy groups have long argued that the absence of a day

¹⁵ Anh Nga Longva, *Walls Built on Sand: Migration, Exclusion and Society in Kuwait* (Boulder, CO: Westview Press, 1999).

¹⁶ International Labour Organization, "Employer-Migrant Worker Relationships in the Middle East: Exploring scope for internal labour market mobility and fair migration," 2017, https://www.ilo.org/wcmsp5/groups/public/---arabstates/-ro-beirut/documents/publication/wcms_552697.pdf

¹⁷ Ray Jureidini, "Trafficking and Contract Migrant Workers in the Middle East," *International Migration*, Vol. 48, No. 4 (2010), pp.142-163; Amrita Pande, "'The Paper that You Have in Your Hand is My Freedom': Migrant Domestic Work and the Sponsorship (Kafala) System in Lebanon," *International Migration Review*, Vol. 47, No. 2 (2013), pp. 414-441.

¹⁸ Pande (2013); Mahdavi (2011).

off is indicative of the modern-day enslavement of domestic workers.¹⁹ Employers, however, cannot seem to agree on this issue. Sondos Al Qattan, for instance, does not see the denial of a day off as a violation of the human rights of domestic workers. After defiantly disagreeing with the mandate of their weekly day off, she proceeds to claim recognition of their human rights: “I have not on any circumstances in the present or the past have mistreated, degraded or in any way mistreated an employee... I consider all employees as equal human being [*sic*] with equal rights to that is of mine.”²⁰ In contrast, others agree with rights advocacy groups and see the day off as an inviolable right of a domestic worker. One such employer is Royal Highness Sheikha Noor of Bahrain, who states “I just want a one day break at the end of the week to get my energy back. I think my personal helper at home needs to have a day off.”²¹

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Countries do not help resolve the question of whether the day off is a human right of domestic workers. Since the passage of the Domestic Workers Convention (Convention No. 189 of the International Labour Organization), various signatory countries in the MENA region have attempted to create labor standards for domestic workers and, among other employment conditions, revisited the question of the day off. Indicating how the day off remains a point of contention, most countries have not extended a weekly day off to domestic workers but only the right to a “weekly rest day” or “weekly break.” The latter denotes the ability of employers to restrict domestic workers from venturing outside the home during their supposed “break.” The Kingdom of Saudi Arabia had been the first to implement a law regulating domestic work and granted workers “one weekly rest day” on 15 July 2013 (Decision 310 of 1434 on Domestic Workers). Kuwait adopted a new law for domestic workers on 24 June 2015, requiring “a paid weekly break” for domestic workers (Article 22 of The Domestic Worker Law).²² On 22 August 2017, Qatar followed suit and implemented Law No. 15 of 2017 (Section 13) to regulate domestic work and granted workers

¹⁹ Human Rights Watch, “‘I Already Bought You’: Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates,” 2014, <https://www.hrw.org/report/2014/10/22/i-already-bought-you/abuse-and-exploitation-female-migrant-domestic-workers-united>

²⁰ See Sondos Al Qattan’s Instagram page at <https://www.instagram.com/p/BllxgMEHqDK/>. Verified on 8 April 2019.

²¹ See news report on Sondos Al Qattan at <https://www.arabianbusiness.com/media/401654-gulf-based-influencers-condemn-sondos-al-qattans-domestic-worker-comments>. Verified on 30 March 2019.

²² In 2018, Kuwait revisited this law and reached a separate agreement with the Philippines to grant domestic workers the right to have a cellular phone and, much to the chagrin of the likes of Al Qattan, made it mandatory for domestic workers to hold their passport.

the right to a “paid weekly rest holiday.” In the UAE, Federal Law No. 10 of 2017 was put in place on 26 September 2017. Also known as the Domestic Labour Law, it likewise enforced standards of employment for domestic workers which included “one day of paid rest per week.” In the meantime, employers in Bahrain, including the earlier cited Sheika Noor, are still not legally required to grant domestic workers a weekly day off or rest day.

The question of the day off foregrounds contradictions in the legal governance of domestic workers. Indeed, most countries leave it to employers to decide on whether to restrict the “rest” of domestic workers within the confines of their home or to allow domestic workers to venture outside during their “rest” or “break.” However, limiting the efforts of countries to increase the rights and protections of domestic workers is a way of maintaining the *kafala* system. Under the *kafala*, employers would remain culpable for offenses committed by domestic workers outside their home, including the moral crimes of pregnancy and sex outside of marriage. This, in turn, deters employers from granting domestic workers a day off. Not surprisingly, the question of whether to extend the mandate for a rest day to a day off is frequently met with hesitation by employers. We consequently see a variety of responses to have a mandatory “one day rest per week” among employers in the UAE. Some repress their fear of the potential “misbehavior” of domestic workers and allow a day off. Others limit domestic workers to chaperoned excursions outside their home. Then a final group does not grant domestic workers a day off but insist on confining them in the home during their rest day.

Criminal liability for the illicit sexual activities of domestic workers is what discourages many employers from granting a day off with the risk of pregnancy being a frequently mentioned fear. Pregnancy had been a subject that employers repeatedly raised without solicitation when asked whether or not they allow their current domestic worker to have a day off. This had been the case not only for employers who deny domestic workers a day off, but also for their counterparts who grant them a day off, thus suggesting that the risk of pregnancy had been an issue many felt compelled to address and resolve when deciding on their rules regarding a day off. Justifying her decision to grant a day's leave, a Canadian employer Maureen shares, “I don't think that's an excuse for not giving somebody a day off. Keep them in because they're – you're scared they're going to get pregnant.”

In contrast, others cannot quite get themselves to fully trust their domestic worker despite recognizing their need to spend time outside the confines of the home. This is the case with Emirati employer Mohammed who resolved his moral dilemma over the day off by deciding on regularly granting his domestic worker chaperoned excursions. As he explains:

The hard part about housemaids is that they are in a house all day. When you don't see the sun, you are missing something inside. So they should have a day off. But if they have a day off, they don't have the money to do the nice things, only to find a boyfriend. They get pregnant then both the worker and the employer are in trouble. It's better to take the housemaid with you on errands, on vacation, but not day off. They will be much happier.

In some cases, employers deny their domestic workers time off to avoid being criminally liable for their actions. This had been the case for the family of Tarik, an Arab-American, who ironically describes himself as “American oriented.” As he explains:

About her going out, yeah there was a worry because she was under our responsibility. It's not like trust or anything but you don't know this person you know. It doesn't happen in any kind of job where you would let them take their work visa and go outside and do what they want to do... And honestly, they are from abroad and they don't know people around here, they don't know who they are going to go out with. And so we don't want them to have a boyfriend and have pregnancy and deal with all that.

“The question remains on how employers respond to their arbitrary authority over domestic workers in the kafala system.”

As Tarik's statement indicates, employers who deny a day off are those less likely to trust their domestic workers. As one Emirati woman flatly states, “You can't trust them,” when justifying why she does not permit a day off. Her Emirati friend agrees, explaining “I wouldn't have a problem [with a day off], if I know they wouldn't be getting into trouble. And I know for the West that's perceived as slavery.”

We could dismiss employers who fail to trust someone who resides in their home, or perhaps even cares for young children, as hypocritical. Yet, blame also falls on the state for the moral dilemma the *kafala* imposes on employers who wish to minimize their criminal liability for the actions of domestic workers. Sharing his moral dilemma over the day off, another Arab employer Ahmed explains that while he wishes his domestic worker could pursue romantic relations, he cannot ignore the state policy in which “domestic workers are not allowed to have a boyfriend.” To minimize temptation and mitigate the risk of legal culpability for the crime of romance, he decided to deny granting his domestic worker a day off.

Conclusion

The day off poses a moral conundrum for employers under the *kafala* system. From Human Rights Watch to migrant-rights.org, there is a consensus among international advocates of domestic workers that the denial of a day off is akin to slavery. While employers who grant domestic workers a day off are likely to agree, others would beg to differ. This latter set of employers are those who do not see the day off as a human right of domestic workers. They likewise do not see the denial of a day off as a sign of mistreatment. This includes Tarik, who denies his domestic worker a day off but claims there is “no reason for her to leave” as he supposedly treats her fairly and “without abuse.” Likewise, a White American employer, Maureen does not feel immoral for denying her domestic worker a day off because she feels that the isolation of domestic work is sufficiently countered by the ability of her domestic worker’s relative to spend the night at their home. Finally, many justify that the denial of a day off does not mean the lack of the mandatory rest period. As an Emirati employer explains, “They take rest periods, so on Friday our family usually go out so my kids and my husband, so they have no responsibility whatsoever. Nothing to cook, nothing to clean, nothing to do for the kids.”

Admittedly, it is not only morals but also self-interest that deters employers from granting a day off to domestic workers. We see this with the case of social media influencer Sondos Al Qattan, who worried about the money she would lose if her domestic worker decides to abscond during her day off. The act of absconding, which is to leave their current employment without the permission of their employer, poses a financial risk for the latter. Absconding, however, poses more constraints for domestic workers as those who do will not be able to legally work elsewhere and face the threat of a lifetime ban from the UAE.²³ Employers also want a domestic worker constantly available at their beck and call. This includes the White British employer Matt, who has come to expect constant subservience around him. As he shares without embarrassment,

We have often talked about starting a maid’s school, you know? It has been a topic of conversation in many dinner parties. Someone needs to make the maid’s school. Because what you are really looking for, and you wanna see, is the same level of service you can get in a hotel. That is what you actually, what you really want.

Matt’s proclivity for constant subservience does not emerge from a vacuum, but rather from the social hierarchy of the UAE and neighboring countries, which make cheap domestic labor available for the majority of households. Domestic workers are the largest group of migrant workers throughout the MENA region.

²³ Employers have also been known to file false absconding cases against domestic workers who file labor abuse cases against them.

Historically, the inflow of domestic workers remained vastly unregulated as it had been only governed by the terms of the *kafala*. Consequently, employers became primarily in charge with the management and treatment of domestic works. Some employers have taken advantage of this arbitrary authority by abusing their migrants workers.²⁴ Stories of rape, torture, and the starvation of workers in the region have been frequently cited in the media. Although this is not the case for all employers in the UAE, it is incumbent upon the state to adopt policies that respect domestic workers' rights. The challenge of enforcing the new labor laws²⁵, the maintenance of the *kafala* system, and the continued legal responsibility of employers for the actions of workers present an uphill battle towards improving labor protections for domestic workers in the UAE. However, it behooves the state as well as other countries in the MENA region to recognize the rights of domestic workers and reform the central employer-employee relationship.

²⁴ Mahdavi (2011).

²⁵ The challenge of enforcing regulation in domestic work has been documented by Bakan and Stasiulis (2004) in Canada. We see the same challenge in the defiance of Sondos Al Qattan, who responded to the outrage of Filipino netizens and other Arabs against her complaints about the day off by not only voicing once again her disagreement with the new policy but also admitting that “many household employers don’t allow the worker any off-days even if the contract specifies a certain number of off-days.” See Sondos Al Qattan’s Instagram page at <https://www.instagram.com/p/Bllxg-MEHqDK/>, verified on 8 April 2019. See: Abigail Bakan and Daiva Stasiulis, *Negotiating Citizenship: Migrant Women in Canada and the Global System*. (Toronto: University of Toronto Press, 2004).