Domestic workers in Saudi Arabia and the Emirates: a socio-legal study on conflicts

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12. Summary, Conclusions and Recommendations

In this chapter, section one summarizes the results from this research and contains the answers to the five research sub-questions. Section two places these results into a single framework and provides an answer to the central research question: which factors influence the conflicts between domestic workers and their employers? It discusses the pivotal role of oil and point at three important point of theory developed in this dissertation. Section three extrapolates the results and discusses the extent to which this research provides answers to matters concerning domestic workers in other countries, and concerning other migrant workers and women in Saudi Arabia and the Emirates. As some of the research results led to new questions, section four offers suggestions for further research. Considering the aim of the research and its results, section five contains several policy recommendations for ways to improve the position of domestic workers both in Saudi Arabia and the Emirates.

12.1 Summary

12.1.1 Norms referred to in conflicts

Chapter one introduced a distinction in three types of conflicts. In the first type of conflict, there is disagreement from the outset regarding the norms that should apply. In such instances, the conflict is clearly connected to a preliminary disagreement over applicable norms. In the second type of conflict, the conflicting parties disagree as to behavior or a preferred outcome and only thereafter disagree over the norms that should apply. It is not a disagreement over the norms that leads to such a conflict, but disagreement over behavior or outcome, whereupon both parties refer to norms as discursive or justification tools. In the third type of conflict, both parties initially agree on the norms, but one party nevertheless acts contrary to these norms. Thereafter, the party that is in breach of the shared norm regularly refers to a norm that states that his behavior is a permitted exception. In short, type one conflicts commence with norm disagreement, type two conflicts commence without a clear concept of the applicable norms, and type three conflicts commence with a norm agreement.

This tripartite distinction has been useful for data analysis, in combination with the theory of legal pluralism. Legal pluralism, as described in chapter 3, is generally defined as a situation in which two or more legal systems coexist in one social field. Legal pluralism is the existence of more than one legal order, based on different sources of ultimate validity and maintained by organizations, including (but not limited to) the state, in one social location. Domestic workers in Saudi Arabia and the Emirates, as described in chapters 4 through 7, work in such a state of legal pluralism. There are customary, contractual, Islamic and formal legal
norms to which both parties refer. By providing an overview of these norms, these chapters answered the following first three sub-questions: (i) In what way and to what extent do domestic workers and their employers refer to Islamic, customary, contractual and formal legal norms? (ii) Do conflicts concern disagreement over norms or disputes regarding behavior contrary to the norms upon which both parties agree? (iii) Which factors influence the Islamic, customary, contractual and formal legal norms that both parties (may) refer to in conflicts?

Chapter 4 described the Islamic norms to which both domestic workers and their employers may refer during conflicts. This chapter discussed how Sharia may be viewed as a collection of rhetorical tools or arguments that are used in power struggles throughout all strata of Islamic society, including conflicts between domestic workers and their employers. The result depends not on Sharia but on who is in power to decide which legal concept or normative tool will be applied. Such is the case with not only the position of domestic workers but also the position of women in general; their positions are both under attack and are defended through the use of Islamic discourse. Another argument regularly used to defend the proposition that Islam negatively influences the position of domestic workers is that female witnesses under Sharia only count as one half and that, in certain cases, non-Muslims are not permitted to testify at all. In practice though, the evidentiary rules are followed if the judges involved decide to do so. Thus, in the end, the result does not depend on an evidentiary rule, but on the judge. A third factor from Sharia that can theoretically deteriorate the position of the domestic worker, is that Islam (according to some interviewees) emphasizes that everyone has been given a place in society by God (Allah), which, therefore, must be accepted. Nevertheless, as with the position of women, Sharia also offers rhetorical or discursive resources that directly contradict this discourse which legitimizes and perpetuates inequalities.

Furthermore, there are several aspects of Sharia that can, theoretically, affect positively the position of domestic workers. The first is a view of Allah as a panoptic God who constrains the individual through the belief that God will one day punish him even for sins that no one witnessed. Another aspect of Sharia that Muslim interviewees regularly emphasized is the centrality to Islam of justice, basic human rights, dignity and equity. The concept of human rights, according to several interviewees, is not new to the Middle East, as it has already been introduced by the Prophet Mohammed. Apart from these general principles of Sharia that prescribe human rights and dignity, there are several specific Sharia rules for the proper treatment of slaves and workers. If all Muslims on the Arabian Peninsula followed these rules, the domestic workers would be doing rather well. Another possibly positive aspect of Sharia is the emphasis placed on the fact that contemporary domestic workers are neither slaves nor concubines. This distinction means that while slave owners are permitted to have sex with their slave,
employers are not permitted to have sex with their domestic worker. In practice, though, employers are never punished for harassment and are rarely punished for rape. As domestic workers are migrants, their knowledge of Arabic is usually poor or non-existent, and as many are not Muslim, their capability to convince a decision-maker through use of Sharia rhetoric is very limited. In courts, domestic workers typically lose (see chapter 8). Within the house, the employer has more power than the domestic worker (see chapters 10 and 11). Therefore, he can easily enforce the to him more convenient interpretations of Sharia, using the normative tools that defend his preferred outcome.

Chapter 5 described customary norms and how they are changing because of the rapid economic changes taking place in both the Kingdom of Saudi Arabia and the United Arab Emirates. Over the last fifty years, both countries have undergone a process of industrialization in which production was moved from extended family units to companies and factories that are outside the family. This same transformation has taken place in Europe, but over a much longer period of time and in a different manner; thus, similarities could be deemed unlikely. Nevertheless, the similarities between Europe and the Gulf as to the customary norms that pertain to domestic workers are striking. Rollins describes three phases in the development of the position for domestic workers in Europe; a status-based phase, and intermediate phase and a contractual phase. Domestic workers as well as employers in both Saudi Arabia and the Emirates make statements about the position of domestic workers that very much resemble these three phases. The difference between Europe versus Saudi Arabia and the Emirates is that, due to the speed of the economic changes, the three phases are recognized concurrently between families, within families and even in the discourse of one employer. At the same time, domestic workers expect or demand either a status-based or a contractual relation, depending on their country of origin and the issue at hand. The speed of these changes and the coexistence of different normative models can be referred to as anomie, as described by Durkheim.

Although both employer and employee maneuver between a patriarchal status model and a contractual model, the intermediate phase is never referred to as a normative model or an ideal to be followed. This phase is only acted out by certain employers, as it merely describes the situation in certain relationships. Therefore, an adjustment in Rollins’ theory is proposed. Whereas Rollins presented her findings as three phases in the development of labor relations, the results from this research suggest that they concern two normative models: the status-based model and the contractual model. The intermediate phase concerns a labor relationship in which humiliation and even dehumanization are possible, as the enforcement mechanisms for the status model are disappearing, while the enforcement mechanisms for the contractual model are not yet in place. Rollins’ description of the three phases is thus, in this dissertation, redefined as two models having an
intermediate phase, wherein dehumanization is possible because the safeguards for the status model have disappeared, and the safeguards for the contractual model are not yet in place. The data from this research, furthermore, show that strategic maneuvering does not simply take place between the two models but between different subtypes as well. In addition, the data indicate that if parties have a preliminary, contradicting conviction as to the appropriate model, this can cause conflicts. The co-existing normative models are not only used for strategic maneuvering in (type two or three) conflicts, but they also cause (type one) conflicts.

Chapter 6 described both the contractual norms that domestic workers and their employers refer to in conflicts and the question where these norms come from. Because of a lack of information or incorrect information, domestic workers and employers often have very different perceptions as to the contractual norms that have been agreed to. These differences lead to many conflicts and raise questions regarding the binding force of these contracts. In the Philippines and Indonesia, middle men or agents do not provide important information such as exactly what the work entails, how many days and hours per week the domestic worker must work and the fact that most domestic workers are not permitted to freely leave the house. Domestic workers in these two countries regularly either must sign contracts they cannot read, contracts they are not permitted to read, multiple contracts, or they have no contract at all. Governments and other organizations use different standard contracts without an agreement as to which contract is binding or on the legal basis for such actions. During their training, domestic workers receive information that is incorrect, too vague and that should have been provided to the worker prior to her commitment to the job offer.

Agencies in Saudi Arabia and the Emirates also provide a great deal of incorrect information to the employers and regularly deny that the domestic worker signed a contract pre-departure. Often employers are not permitted to read the contract either. In addition, agencies regularly encourage employers to restrict the domestic workers’ rights and freedoms. The result is a broad range of (type one) conflicts caused by disagreement over the applicable contractual norms. Such conflicts concern the most basic working conditions: salary, transaction costs, deductions, weekly days off, hours worked per day, confinement, tasks, experience, age and even the country in which a domestic worker will be employed.

Chapter 7 provided an overview of formal legal norms that concern domestic workers and that were either written or ratified by the Saudi or Emirati government. In both Saudi Arabia and the Emirates, domestic workers have been explicitly excluded from the protections of statutory labor laws because they work in the private sphere of the house that is still highly protected. The sponsorship system is a set of immigration regulations that allows for deportation of the domestic worker upon the wish of either the employer or government. Thus far, international protests against this system have been without much result, as the
sponsoring system provides substantial financial means to both governments and several other parties. Moreover, it is perceived by Saudis and Emiratis as providing safeguards against the dangers of large migration flows.

Both Saudi Arabia and the Emirates have ratified several ILO treaties, but because neither country recognizes domestic workers as workers, these conventions are not applied to them. The most relevant and ratified rules of international law are the Palermo Protocol against human trafficking and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). Many domestic workers, both in the Emirates and in Saudi Arabia, meet the definition for trafficking victims. The Palermo Protocol obligates states to offer assistance and protection to trafficking victims as well as to criminalize and prevent trafficking. However, this assistance and protection does not take place, probably because there is too much money involved in the maid trade. By prohibiting a distinction that has the effect of impairing the rights of women, the CEDAW prohibits both direct and indirect discrimination. As almost all domestic workers are female, excluding them from the protections of the labor law seems tantamount to indirect discrimination. However, CEDAW has practically no effect in either country.

The interplay of the four different types of norms, customary, contractual, Islamic and formal legal norms, can be referred to as legal pluralism. This interplay creates an unregulated arena or maneuvering space in which primarily the more powerful party, the employer, can tactically choose which norms to apply, which will usually be the norms more favorable for him. A larger maneuvering space or a larger reservoir of discursive tools, allows employers to enforce a larger range of outcomes that they prefer. This maneuvering space could be limited by formal legal norms, such as a labor law that protects the weaker party, the domestic worker, but they are excluded from the existing labor laws. However, even if domestic workers were covered by existing labor laws, their protections would be minimal; the formal legal protections for laborers are overall rather limited in both Saudi Arabia and the Emirates.

Therefore, chapter 7 described, primarily on the basis of the work of De Swaan, the way that Western labor law can be perceived as a collective good developed by the ‘haves’ to protect the ‘have-nots’ in their own interest. Under this analysis, labor laws emerged in Europe because the upper class was confronted with the problems created from the poor state of the underclass, such as crime, contagious diseases, the threat of strikes and revolutions, the need for (new) laborers to perpetuate wealth and the need for an economic level playing field. By improving the state of the underclass, the upper class also improved its own position. However, on the Arabian Peninsula, most lower class laborers are migrants who are generally deported for every possible (perceived) shortcoming. Thus, the societal factors that stimulated the upper class in the West to take protective steps toward the underclass barely exist on the Arabian Peninsula. This absence of incentives made
effective labor laws unlikely to come into existence over the last decades. Currently, the societal stimuli for the upper class to protect laborers have, in part, come into existence. Still, substantial change cannot be expected, as the absence of a civil society further blocks the development of protective laws. The governments of Saudi Arabia and the Emirates are both dictatorial states. As such, they do not recognize either the freedom to unite, the right to collective action, or the freedom of expression. However, these rights all appear to be necessary for the creation of collective goods, such as protective laws. Therefore, even to the extent that the societal circumstances would stimulate labor protection for the poor to come into existence, this process barely takes place because of the lack of a civil society.

12.1.2 Conflict resolution mechanisms
Part III of this dissertation answered the fifth sub-question: which types of external conflict resolution methods are used, what are their usual outcomes and which factors influence these outcomes? The conflict resolution mechanisms were placed in the framework of the theory on citizenship, as formulated by Bosniak. She distinguishes three types of citizenship, which are helpful in analyzing the position of domestic workers. The right to legal protection can be referred to as civil citizenship. Political citizenship refers to the right to participate in public decision-making processes. Economic citizenship refers to the right to gain an independent economic existence on the market. Economic citizenship for domestic workers is not limited, and political citizenship is not what they seek. What they lack is civil citizenship, the right to legal protection by the government.

Domestic workers lack this type of citizenship because of two separate causes. Bosniak makes a distinction between (i) those who lack citizenship based on either their bureaucratic status or their lack of membership in a community and (ii) those who lack citizenship based on a lack of membership in the public community. The first category encompasses illegal migrants who have no official right to reside in a country. In many countries, they either have no rights or cannot enforce them, whereas in other countries, they have limited rights. The second category contains those members of the community who have a diminished membership in the public community, including women and others whose lives are largely contained within the private sphere of a household, such as children and domestic workers. Both in Saudi Arabia and the Emirates, these two causes strongly diminish the civil citizenship of domestic workers. The first cause is that they are migrants, working and residing under the sponsorship regulations as described in chapter 7 on formal legal norms. The second cause for limited civil citizenship is a status that domestic workers in Saudi Arabia and the Emirates share with domestic workers worldwide and, more generally, with all women worldwide: second-class citizenship. This gender-related limitation to civil citizenship in the two countries researched, works via three concepts: the private sphere of the house, the mahram (person who can function as
male representative) and *khulwa* or seclusion. These three concepts are all related to the patriarchal system, not to Islam.

Chapter 8 described what this limited civil citizenship of domestic workers looks like in empirical reality: domestic workers are excluded from the Saudi and Emirati Labor Laws and therefore, they have no official access to the labor offices that are designated to deal with conflicts between employers and employees. Other conflict resolution mechanisms do not compensate for this exclusion. Domestic workers in general are too afraid to go to the police, and they seem to be correct in this fear. They are regularly brought back by the police to their, possibly abusive, employers and apparently are sometimes abused by the police themselves. In the Emirates, this situation seems be improving though. In Saudi Arabia, the Governor’s office, the National Society for Human Rights and the Human Rights Commission function in an ombudsman role, but all three are rather prejudiced against domestic workers. Another possibility would be to refer to the Saudi Sharia courts. However, many Sharia judges apparently refuse to look into cases concerning domestic workers.

In the Emirates, in a conflict, domestic workers are officially supposed to turn to the mediation offices under the responsibility of the Ministry of Interior. In Abu Dhabi, this office did exist, but in Dubai, it did not. Diplomats in the Emirates also occasionally take cases to the Sharia Courts or the attached reconciliation committee if a rule of Islamic law has been broken. However, domestic workers and diplomats complain about the very meager chances of winning a case. The evidentiary problems in the Sharia courts, language problems and a lack of knowledge regarding the legal system could possibly be alleviated, in part, by legal representation, but there is practically no legal aid available to domestic workers.

Many domestic workers apparently use connections through friends or family to return home or disappear on the black market, but these workers are difficult to research. Other runaways turn to the agency of the employer for help. Some agencies place the workers with another employer, but they also reportedly abuse domestic workers frequently. Additional places to turn to for help include the two (or possibly three) government shelters in Saudi Arabia, although they are reported to be overcrowded, dirty and prison-like. Deportation usually follows swiftly. In the Emirates, the government shelter is practically empty; no domestic worker is allowed to enter it. No other safe or corruption-free shelter has been found. Hotlines are also impossible to find. Several embassies have opened their own safe houses, which are also overcrowded and seemingly corrupt. Domestic workers have no proper redress in their countries of origin either. The access to justice for domestic workers is, thus, extremely limited. The effect is that they cannot bargain in the shadow of the law; their employers, in negotiations, do not have to consider what result a domestic worker could reach in court, as she cannot reach anything there. Thus, he can, on the basis of his power, impose the result that he desires.

Summary, Conclusions and Recommendations
To provide further explanation for the inadequate access to law for domestic workers in Saudi Arabia and the Emirates, chapter 9 described the overall malfunction of the Saudi and Emirati legal systems and linked it to the rentier state theory. The legal systems in both Saudi Arabia and the Emirates have many shortcomings. The rule that persons can be held legally accountable only for rules they could have known is not applied; there are many unknown and untraceable rules. The unavailability of access to justice is a problem with which not only domestic workers but also most other non-citizen residents struggle. The number of available and well-qualified lawyers and judges is low and free legal aid for the poor is not available. An important problem for women, particularly in Saudi Arabia, is the unavailability of female legal aid and female judges. Non-application of Sharia seems to be the rule instead of the exception. According to all interviewees, the party that wins a case is usually the more powerful one, while in the lower strata of society, people seem to lose every conflict.

Although there is no rule of law, there is something of a system that regulates the issue of who usually wins in a conflict; the man with wasta, a word that can be translated as ‘connections’ or ‘clout’. A person’s wasta is determined from a combination of patriarchy, tribalism, cronyism, and the power to corrupt or bribe. Whoever has the least clout, the least wasta, loses a conflict. This party is usually the domestic worker, as she forms the bottom stratum of society; she has no family or tribe in the destination country. She lacks the funds to obtain legal aid or bribe a judge, and she does not know any princes. Employers seem to know this, and they seem to act upon the knowledge that, in the case of a conflict, the domestic worker will always lose.

To answer the question why the legal system functions poorly, chapter 9 referred to the rentier state theory, in the following way: states that receive substantial amounts of revenue (rent) from the outside world on a regular basis, combined with a relative absence of revenue from domestic taxation, tend to become autonomous from their societies, unaccountable to their citizens and autocratic. Such states fail to develop in the direction of the rule of law. This dissertation adds the following point to the rentier state theory. As the governments of Saudi Arabia and the Emirates have an independent source of income and, thus, cannot be forced into organizing a proper legal system, individuals have no choice but to protect themselves through ulterior systems including patriarchy, tribalism, cronyism, and corruption, (which collectively determine somebody’s wasta). As domestic workers form the bottom stratum of society, they do not have wasta and are the ultimate victims of the oil revenues. The fact that they are ‘victims’ of the oil revenues is not because the oil revenues have made their employers rich enough to hire domestic workers, but because the oil allows the governments concerned to ignore abusive individuals, including many domestic workers’ employers.

Although this is true both for the Kingdom of Saudi Arabia and the United Arab
Emirates, the rule of law in Saudi Arabia is even less developed than in the Emirates. The primary reason seems to be the fact that, in contrast to the Emirates, Saudi Arabia has had a class of religious leaders with a strong power base for centuries. In the Trias Politica framework of Montesquieu, the Al Sheikh family and their cronies occupy two out of three branches of power. The power of this nobility over the judiciary is strong. The government (the family Saud and its cronies), therefore intends to create all sorts of specialized courts; as the layers of an onion, they intend to peel off the power of the judicial establishment. As can be expected, the legal-religious class resists such change. In the Emirates, the situation of the legal system seems to be somewhat better; most interviewees were somewhat positive about either the legal system or the reforms.

12.1.3 Dynamics in the house
Part IV of this dissertation answered the fourth sub-question: (iv) which party is able to enforce its own norms or to act contrary to norms on which both parties agree, and which factors influence this (im)balance of power? It addresses the dynamics in the house, the unequal power distribution and related conflicts. Considered from an economic perspective, the result from these constraints cannot be labeled a free labor market. Although recruitment may, to some extent, have been free (though severe poverty can reduce this freedom to nothing), as soon as the domestic worker arrives at the workplace, her freedom vanishes. The result is a phenomenon that economists call monopsony, a market form with only one buyer. This gives the employer the power to unilaterally decide on salary and the amount of hours to be worked. The welfare loss suffered by the domestic worker is larger than the gain for the employer, which is the reason that this situation can be considered Pareto inefficient.

In the international press, the situation is not described as monopsony, but as modern-day slavery. The most frequently cited definition is the one given by the League of Nations committee on slavery: “The state or condition of a person over whom any or all the powers attaching to the right of ownership are exercised.” This right of ownership is what distinguishes slavery from all other forms of dependency and involuntary labor. According to this definition, domestic workers are not slaves in either Saudi Arabia or the Emirates, because they are not officially the property of the employer. However, this definition depends upon the concepts of ownership and property, concepts that are relatively new in history, while the institution of slavery is very old. The United Nations has abandoned the concept of property in persons, but the organization has not succeeded in abandoning the type of slavery that existed before the concept of property came into being: a power relationship in which one person has extreme control over another. Such extreme control is not possible where an organization protects individuals from being placed in such a position. According to Patterson’s definition of
slavery that he based on historic research concerning this phenomenon, domestic workers in Saudi Arabia and the Emirates are slaves. The employer holds extreme power over the worker; he can make her work all day and decide how much and whether she eats or sleeps. He is considered to have the right to use a certain level of violence to make her obey (chapter 5), and he can deport her at will (chapters 7 and 11). Many domestic workers cannot leave his sphere of influence, either physically or psychologically, and the situation is described in terms of his rights (based on the contract and payments to the agency) and her duty to fully obey him. As the labor relationship is perceived as a private issue in which the government may not interfere (chapters 5 and 7), no one protects the domestic worker from the power of the employer. Therefore, using Patterson’s description of slavery, that is what domestic workers are, albeit only for the two-year term of a contract. As the relation is not one of property, but of extreme power, it is usually referred to as bonded labor. However, because it is akin to pre-Roman slavery, to slavery as it existed before the invention of the concept of property over persons, this labor relationship can also be referred to as ‘power slavery’ as opposed to ‘property slavery’. This term has advantage over the term ‘bonded labor’, as it clarifies the similarity between the position of the domestic worker and the position of women and children, in such locations where the patriarch is considered the state within the private sphere of the household; in such locations where no organization is deemed to be allowed to protect individuals against extreme power of others over them.

Finally, chapter 11 described the unusual position domestic workers find themselves in within their employers’ houses. They are part of the family, yet they are not family. They are women who are very close physically, yet not close at all mentally. This position leads to specific conflicts related to three different forms of ‘otherness’: (i) the foreign woman, (ii) the other woman, and (iii) the woman. As a foreign woman within the household, the domestic worker has a difficult position. On the one hand, her different way of communicating and her strange habits are threatening. On the other hand, she can be fascinating and enchanting. This otherness as foreigner is especially significant in Saudi Arabia because of the Wahhabi teachings. The second form of otherness is the domestic worker as the other woman toward the wife. The domestic worker often forms or is perceived to form competition for the love of the husband and therefore the target of jealousy. This type of otherness is widespread in Saudi Arabia and the Emirates. Its pervasiveness is potentially related to the possibility of multiple marriages, as many women are concerned that they will have to share their husbands. As a third form of otherness, the domestic worker is a woman, and husbands or sons sometimes react to the domestic worker as they would to any other woman: as a woman who is different from a man and, therefore, both fascinating and threatening. This type of otherness is pervasive in the Emirates and even more so in Saudi Arabia, be-
cause of the segregation rules. These rules render interactions with women infrequent, which leads to a mystique regarding women and severe sexual tension.

As the husband and wife are also the employers with extensive power over the domestic worker, small conflicts can deteriorate into severe aggression, both physical and sexual. When this occurs (or threatens to occur), the ‘other’ is regularly expelled from the family via all sorts of accusations. A historically common accusation used to expel the other from the inner circle, is magic. This accusation is still common in Saudi Arabia and, to a lesser extent, in the Emirates. In other cases, accusations are made regarding boyfriends, theft, or abusive behavior toward the children.

These accusations are usually accepted by the authorities as legitimate, without any further examination into the facts of the case. This activity demonstrates the employer’s power to instantly end the work relationship, which stands in stark contrast to the domestic worker’s inability to end her employment, as discussed in chapter 10. Via accusations, the employer may end the work relationship at any time. Thus, the question of whether the accusations are true is, from a sociological point of view, as irrelevant as asking whether the claim of magic is true. Whether true or not, the accusations have a real effect: they expel the marginal other. At first glance, the crimes of extramarital sex and magic do not have much in common. However, chapter eleven revealed that accusations of sex and magic are very much connected. They resemble practices from other places and times, as they perform a specific function relating to male desire, the fear of women and the restoration of peaceful family relations.

Chapter 11 concerned the power relationship between the domestic worker and her employer, as an imbalance in power can lead to behavior that is contrary to the norms of both parties and is possible because no one interferes. Rape is such a type of conflict; both employer and domestic worker agree that this is not permitted. Yet, it happens. This chapter demonstrated that the employer holds a very strong power over the domestic worker; he can have her deported at will, while chapter ten established that she has no freedom to leave. Such power can add up to, among other issues, sexual harassment. No one interferes, because, as discussed in chapter 5, customary norms prescribe that the government does not regulate what happens behind closed doors. However, rape is related not only to the power of the employer that allows it to happen but also to the otherness of the domestic worker. In such instances, the power of the employer to instantly remove her from the family prevents further aggravation of the situation. Thus, the power of the employer over the domestic worker should be limited to diminish the possibility of abuse, but this should be done by enlargement of the freedom of the domestic worker, not by limiting the freedom of the employer to expel her.
12.2 Answer to the research question

12.2.1 Putting the pieces together
The central question underlying this research is, as stated in chapter 1, the following: which factors influence the (emergence and character of) conflicts in the Kingdom of Saudi Arabia and the United Arab Emirates between domestic workers and their employers, the norms both parties (may) refer to and the related (im) balance of power? This section aims to combine the research results as summarized in the previous section, to answer this research question. All of the results from will be visualized in a single framework, which is presented below in a step-wise manner. Allow me to add the remark here that, as this research methods did not concern Popperian falsification of one hypothesis but grounded theory methods, the arrows drawn below are not intended to stand for rock-solid conclusions. They merely draw the picture that, based on all the data gathered for this research, is the most likely answer to the research question.

![Diagram showing relationships between factors: Oil riches, Rentier State, Rapid economic changes, and Large demand for domestic workers.]

Large oil fields have been discovered both in Saudi Arabia and the Emirates, which caused three important issues. First, the oil revenues have created, as discussed in chapters 2 and 9, the rentier state, a state that has an independent source of income and, therefore, functions independently of its own population. Second, the discovery of oil caused, as discussed in chapters 3 and 5, extremely rapid economic changes. Third, because of the oil revenue, a large portion of the population is now able to afford domestic workers.
The rentier state has had two effects. For one, as the population has no means to force the government to actually govern the country and organize the necessary services, the rentier state contributes to a poorly functioning legal system (as discussed in chapter 9). In addition, the government has attempted to appease the population by providing luxuries (chapter 2) of which the domestic workers are an important part. The rapid economic changes, as discussed in chapter 5, have led to the co-existence of multiple models of customary norms. Furthermore, as the former legal system of social control is no longer sufficient; a top-down legal system has become necessary, but the government does not provide this, as it is a rentier state.
The picture becomes somewhat more complicated. Because of poverty elsewhere, there is a huge supply of domestic workers worldwide. Demand in Saudi Arabia and the Emirates, combined with the large supply from elsewhere, has created a large import of domestic workers. As the legal system functions poorly, the maid trade is under-regulated. This situation creates many conflicts concerning the contractual norms, as discussed in chapter 6. Furthermore, due to the rapid economic changes, there are multiple models of customary law; the status based model and various contractual models. This, as discussed in chapter 5, also causes conflicts concerning norms.
As discussed in chapter 7, based on the theory of De Swaan it is plausible that because of the rentier state and the large flow of migrant workers, the ‘haves’ do not have much of an incentive to protect the ‘have-nots’. To the contrary; the domestic workers form part of the luxuries supplied by the rentier states to appease the Saudi and Emirati population. Therefore, little or no formal legal protection has come into existence.

A societal factor, which primarily has an effect in Saudi Arabia, not in the Emirates, is Wahhabism. The Wahhabis have a long standing agreement with the Sauds and as long as the Sauds are kept in power with oil money, the Wahhabis are also likely
to remain in power. The Wahhabi legal-religious nobility protects its own power position and, as such, contributes to a poorly functioning legal system. Furthermore, its teachings weaken the position of women in general. Third, Wahhabism spreads a fear of anything foreign to maintain its power. The poorly functioning legal system, the lack of effective formal legal protection and the poor position of women in general all influence the domestic workers’ limited access to justice.

In the Emirates, Wahhabism does not have this same influence, as, historically, there is no strong religious elite in power there. However, in the Emirates, the local population has become a very small minority in its own country, which has created the same fear of foreigners; the domestic workers already outnumber the citizens. This fear of foreigners keeps the sponsorship system in place, as discussed in chapter 7. The sponsorship system is another factor limiting domestic workers’ access to justice.
Both the Emirates and Saudi Arabia are Muslim countries. Therefore, it is appropriate to consider Islam and Sharia (with the presumption that they can be separated, while in reality this is more difficult). As described in chapter 4, Sharia can be viewed as a collection of discursive tools. In practice, both men and women as well as employers and domestic workers, refer to Sharia to defend their positions. Therefore, in this depiction, it is not Sharia that influences the poor position of women, but the Wahhabi elite, which has the power to implement certain interpretations or discursive tools and discard others. Therefore, Islam and Sharia are in this picture not connected to the other societal factors.

The sponsorship system adds to the domestic worker’s lack of access to justice. These two factors, in addition to the overall poor position of women, result in an extremely limited civil citizenship for the domestic worker, as discussed in chapter 8. The limited civil citizenship leads to a powerless position for the domestic worker, while the sponsorship system creates, in contrast, a very powerful position for the employer (see also chapter 10).
Poverty in the countries of origin not only creates a large supply of domestic workers but also, as discussed in chapter 10, leads to the fact that domestic workers are generally not in the financial position to leave their employer. This lack of freedom to leave their employer adds to her powerlessness. As discussed in chapter 11, the final complicating factor is the position of the domestic worker as a stranger in the family. This issue, combined with the very powerful position of the employer and the powerless position of the domestic worker, leads to many conflicts. Such conflicts in general do not concern norms. They are often more violent conflicts that are usually resolved by expulsion of the domestic worker from the family.
Combining all these illustrations, we get the following picture:

Many additional aspects could be included in this overview. For example, the discovery of oil has, as described in chapter 2, also created Dutch Disease. This concerns the phenomenon that, due to the export of oil, the currencies of both Saudi Arabia and the Emirates have risen, which results in a high level of difficulty for the development of other export-oriented sectors of the economy. This adds to unemployment among citizens, which contributes to a fear of foreign workers whom are perceived as threats on the tight job market. Furthermore, the variety in countries of origin leads, as discussed in chapter 5, to different expectations with respect to customary norms. This could have been added in the overview, but is not. Poverty in the country of origin leads to corruption, which adds to the under-regulation of the maid trade. However, the picture, as painted above, is intended to summarize the most important factors, not to be complete. Furthermore, as stated before, not all the arrows are based on rock-solid evidence. It is the picture that, based on the data of this research, shows the most relevant aspects of the most likely answer to the research question.

On the basis of this overview of the most important factors that influence the (emergence and character of) conflicts in the Kingdom of Saudi Arabia and the United Arab Emirates between domestic workers and their employers, the next
section will provide suggestions to reduce the occurrence of conflicts between domestic workers and their employers in Saudi Arabia and the Emirates. But first, this section will discuss the extent to which these results apply to others parties than the domestic workers in the two countries concerned.

12.2.2 Oil: the black curse

Oil was discovered on the Arabian Peninsula in the 1930s. When the prices increased sharply in the 1970s, both Saudi Arabia and the Emirates acquired unprecedented wealth in a very short time. This wealth allowed for a growing inflow of female domestic workers (about two million working there at present). With an average salary of around $200 per month per worker, oil revenues thus created a flow of almost five billion dollars per year from the oil rich countries to many developing countries where it feeds family members (mainly children and younger siblings). It educates, medicates and shelters them, which substantially raises the next generation’s economic prospects. The money is also used to gain access to nations with higher salaries, and even to set up businesses. Without the discovery of oil none of this would have been possible.

On the other hand, without the oil, domestic workers would not have gone to the Middle East, hence there would not have been conflicts with employers there. Yet the connection between oil and these conflicts is more diverse than that. Oil created a salary differential for domestic workers by at least a factor of ten, enough to make them pack their luggage and get on a plane to the other side of the world. They don’t (properly) speak the language, they don’t understand the culture and the religion, or even the way they are supposed to do their household chores. Because of oil, young girls from the villages around Jakarta, girls who don’t even speak proper Bahasa and who have never seen a gas stove or a microwave, get on planes and travel to Arab families, where they are expected to know how to prepare the traditional soup during Ramadan. This leads to conflicts.

Oil has also led to such unprecedented economic changes that both societies are rather confused and could even be called schizophrenic. Weddings are celebrated in twenty-first-century luxury hotels according to a complex mixture of long-standing traditions and new fashions. With one foot in Bedouin life and the other in a post-industrialized society, both Saudi Arabia and the Emirates suffer from substantial lack of clarity regarding their norms and behavioral patterns. Is the domestic worker supposed to be a family member (albeit with a somewhat lower position)? Do her actions bring shame on the family? Is her employer responsible for her good name, finances and immortal soul? Or is she merely a contract worker who should neither be patronized nor protected?

This lack of clarity in normative patterns can itself lead to conflicts, but rapid changes have also taken place in the (efficiency of) mechanisms for enforcement of norms. Social control no longer functions properly, yet no other adequate rule-enforcement
mechanisms have been set up to replace it. Oil has changed society there from tightly knit smaller groups into anonymous metropoles. The grandmothers of today once assisted their husbands in maintaining peace among their extended families. Now they often have no idea what their grandsons are up to when they jump in their sports cars. Are they going to share a traditional shisha water pipe with friends, or are they visiting a former domestic worker who has been forced into prostitution? Social control used to be sufficient; now a police force is needed, but that force has not been properly set up.

Again, oil plays a role in this; proper law-enforcement mechanisms, the rule of law, they have not (yet?) come into existence. Both governments have had only a brief period of time to achieve this Herculean task, but in fact neither government has reason to do so. When governments need money from their populations (as in Europe and the United States), they are forced to listen to their taxpayers about how to spend it. Thanks to the discovery of oil, the Saudi and Emirati governments have independent sources of income. This allows them to behave in a dictatorial manner. If they do not feel inclined to set up a proper system for law implementation, or if they feel it is not in their interest, then they do not.

In other parts of the Middle East, 2011 was the year of the Arab Spring, but such was not the case in Saudi Arabia and the United Arab Emirates. Again, we have to look at the influence of oil; both governments basically bribe their citizens into acquiescence with oil revenues. Protests were comparatively negligible in the Emirates, where the government provides all the basics; housing, schooling and healthcare are available to citizens. In Saudi Arabia not all citizens are properly taken care of, and the Arab Spring did have an effect there. The king immediately promised new funding, and the unrest subsided. Among the luxuries provided by the dictators to appease their citizens are domestic workers. Neither government does much to improve the situation of domestic workers, who are migrants, vis-à-vis their employers, who are citizens. Migrants can be deported, but citizens cannot, or at least not on this scale.

Because of (a) Saudi Arabia’s endless oil reserves, (b) production flexibility, which makes it of pivotal importance to the stability of oil prices, (c) the threat Iran poses to Saudi Arabia’s stability (the oil fields are located in a region populated mainly by Shi’a Muslims), and (d) the geographically strategic position of the Emirates with regard to Iran and their willingness to host a U.S. military presence, it is unlikely that the West will put pressure on either country to ratify the Convention on Domestic workers, or to undertake other substantive projects to protect these migrant workers. Again, oil plays a pivotal role.

The flow of migrant workers will not stop as long as the oil flows. That raises another problem. In Europe’s past the upper classes had incentives to provide various forms of aid to the less fortunate, but such is not the case in the Middle East,
where every problematic worker can be deported instantly. There have been, of course, large migrant flows in Europe, but deportation was not as easy there as it currently is in the Gulf. The deserts that provide the oil also form an impenetrable barrier. Oil revenues finance extensive and technically sophisticated border patrols, including iris scans. Because of those revenues, the governments need neither the financial means of their citizens, nor their labor. All workers can be deported, hence there is no incentive for the upper class to improve the position of the lower classes.

A final connection between oil and the conflicts can be found not only in the billions of dollars per annum in remittances, but also in the substantial fees paid to the maid trade. These fees flow partly into the pockets of those who could fight human trafficking, and who could properly regulate the international maid trade. The red tape and resulting bribes (which ultimately come from the oil revenues) allow a situation to exist that can best be described as a spaghetti junction of contracts that contradict each other—and as such cause conflicts. The countries of origin have low per-capita GDPs and low government salaries, which makes their officials more susceptible to bribes from oil money, which in turn prevents both proper regulation of the maid trade and prosecution of traffickers.

The discovery of oil in Saudi Arabia and the Emirates has had a massive impact (even though oil reserves in the Emirates have since shrunk). In a myriad of ways—the speed of economic changes, the dictatorships supported by its revenues, the flows of remittances, the bribes and red tape—oil causes conflicts, and also severely weakens the position of domestic workers in these conflicts. If the question “What causes the high occurrence of conflicts between domestic workers and their employers in Saudi Arabia and the Emirates” could be answered in one word, that word would be oil.

12.2.3 Theory development

Legal pluralism and conflicts
On a more theoretical level, what can we learn from conflicts involving domestic workers? One important lesson is the extension of the theory of legal pluralism. Current theories suggest that a plurality of normative orders allows flexibility in conflict resolution. The parties involved can maneuver strategically, choosing a conflict resolution mechanism and the norms they appeal to, in order to achieve their preferred outcome. This research shows that legal pluralism has more consequences. First, contradicting norms not only offer choices in existing conflicts, they can also lead to conflicts. Second, if one of the parties is more powerful than the other, legal pluralism works mainly to the advantage of that more powerful party. This research also shows that conflicts can usefully be divided into different categories: (i) conflicts about disagreement on norms, (ii) conflicts about behavior
without preliminary norms or (iii) conflicts about behavior contrary to shared norms. The division in categories moved the focus from the individual conflict to the broader question of what caused the disagreement over norms, and it may do the same in other research.

**Rentier state theory**

Three distinct contributions to rentier state theory, which describes how governments with independent income sources become unaccountable to their citizens and turn into dictatorships, are made by this research. First, this dissertation describes how dictators have no reason to set up properly functioning legal systems, which is a disadvantage to those at the bottom of the social hierarchy. Second, revenues other than taxes not only make governments independent of their citizens’ financial means, but also of their labor force. This again diminishes the incentive to care for those at the bottom of the social hierarchy. Migrant workers are imported and deported on an unprecedented scale, especially in Dubai where migrants make up more than 90 percent of the population. As a result, the Saudi and Emirati governments are completely globalized in both their finances and their work forces. This obstructs not only the democratization processes, but also the development of rule of law in general and labor law in particular. The third contribution to rentier state theory could be called the export of the rentier state. The trade in humans, the migrant-worker industry, creates large flows of money from rentier states to the governments of countries of origin in the form of official fees, bribes and red tape, thus making those governments less accountable to their own populations as well.

**Intersectionality and slavery**

Female migrant workers in particular are in a vulnerable position because of their severely limited access to justice. They are largely excluded from the legal system based on the fact that they are both non-citizens and women, an intersectionality of gender and bureaucratic status. The concepts of *khulwa* and *mahram* and the strictly protected private sphere of the household all serve to limit women’s access to justice, as does the sponsorship system for migrants. The concept of intersectionality highlights the fact that discrimination often occurs based on a combination of classifications such as gender, race, nationality, class and sexual orientation. Intersectionality has the advantage of emphasizing that double discrimination often leads to a greater than double disadvantage. The concept also has its limitations in that it creates an illusion of coherence and gives the false impression that discrimination under different regimes has more in common than just the end results. Limited access to justice for women is connected to the patriarchal system. Discrimination against migrants is better analyzed using neo-Marxist theories, for example, as the migrants’ subordinate position is tied to the political
economies of both countries. Does this intersectionality of discrimination against female migrants, their limited access to justice and the resulting lack of effective rights make them modern-day slaves, as is often claimed? One needs a proper definition of slavery to answer this question. To that end, this dissertation introduced the concept of power slavery, in which one individual holds extreme power over another, but does not hold property rights. This concept has an advantage over that of bonded labor. It clarifies how the domestic worker’s position is connected to that of wives and children, in such situations where the patriarch is considered the head of state within the private sphere of the household.

12.3 Extrapolation
This section discusses the extent to which these research results are also applicable beyond the specifics of this research topic; to what extent are they applicable to domestic workers in other countries, to other migrant workers in the same countries and to women in general the same countries? The answer to this question can best be illustrated using the above drawing and the factors in it which are likely to have effect elsewhere or on others.

As Islam was of little consequence, that factor has been removed. Luckily, the Wahhabi elite has power only in Saudi Arabia, and therefore, this factor will be of little influence elsewhere. However, other legal-religious elites in power in other
countries can, in the same manner, limit the protection of the lower classes in their own interest. For instance, in Iran, the legal-religious elite is likely to worsen the position of women and to enhance distrust toward foreigners to retain its power. While in Iran this has not lead to visa regulations comparable to the sponsorship system, this factor influences the position of domestic workers in the other Gulf countries that do have this system. In these countries, access to justice is also limited, and therefore, civil citizenship is limited. This factor influences the position of all migrant workers. The discovery of oil, likewise, has its influence in other oil countries (such as the Gulf countries), but the rentier state may also be caused by other factors. If a country receives comparable large amounts of for instance donor money, this factor also renders governments less accountable to their residents and, therefore, will deteriorate both the legal system and formal legal protection. As such, development aid may actually diminish access to justice for several groups in society. Rapid economic changes may also be caused by other factors than oil. For instance, Hong Kong has seen an unprecedented growth, which may have led to comparable phenomena of the co-existence of multiple models of customary law or the poor functioning of the legal system. Additionally, of course, throughout the world, poverty is a factor that influences the lack of power for domestic workers and many other migrant workers; without viable economic alternatives, workers are vulnerable to abuse. Last but not least, the position of the domestic worker as stranger in the family, as discussed in chapter 11, also has an influence worldwide. However, whether this leads to violent conflicts depends on the power balance between the two parties and the freedom that both parties have to end the labor relation. Because of this precarious position, it should always be easy for the employer to hire another worker and for the domestic worker to find another employer.

The picture also clearly shows which factors will influence the position of other migrant workers and women in Saudi Arabia and the Emirates. Although they thank their job to oil, other migrant workers also suffer the consequences of oil, as they are equally affected by the sponsorship system, the poorly functioning legal system and the fear of foreigners. Saudi and Emirati women in general suffer from limited access to justice and limited civil citizenship. In the Emirates this is caused by the combination of rapid economic changes and the rentier state, while in Saudi Arabia the Wahhabi religious elite adds to that as a third factor undermining the position of women in general.

12.4 Suggestions for further research

12.4.1 Quantitative research
The introductory chapter states that the quoted Human Rights Watch report gives the impression that the position of domestic workers in the Middle East is worse than elsewhere. Reports 8, 17, 18 and 19 support this suggestion, as do several
interviewees from NGOs in Manila and Jakarta as well as interviewees from the International Labour Organization. Nevertheless, no hard quantitative data are available to confirm this. Hard numbers are available neither on the domestic workers that are actually employed in Saudi Arabia and the Emirates, nor on the number of runaways. No study has been able to quantify the reasons that domestic workers run away, nor the percentages of the domestic workers that should be considered victims of trafficking. This research has not been able to provide such quantitative answers either. Extensive multi-site, multi-method research is required for the correct answers. For the best results, such research should be executed by a team of both male and female researchers to limit researcher bias. Furthermore, cooperation of the governments concerned must be asserted to gain access to certain locations, such as detention centers and deportation centers. Funds are needed to hire translators from different backgrounds, to prevent sample bias based on nationality. Furthermore, it is recommended to interview domestic workers at airports upon arrival in their countries of origin, as this method provides access to large groups of domestic workers, both runaways and those who were satisfied with their employers. At the airports of the destination countries, if local authorities would allow this, researchers could determine to what extent the workers have been promised realistic work conditions and, thus, to what extent they are victims of trafficking due to deception by agents. Researchers from the same nationality as the domestic workers are likely to gain the best access to the black market, to assess the extent to which domestic workers employed there ran away because of conflicts with their employers or for other, possibly financial reasons. Researchers with the nationality of the destination countries are most likely to gain proper access to employers for interviews concerning conflicts. These interviews may be conducted individually, in discussion groups, through questionnaires, or via social networks such as Facebook.

12.4.2 Sociology of the Palermo Protocol

Although further quantitative research is needed, on the basis of the data in this research, it seems a safe estimate that at least one-third of the domestic workers in the Emirates and in Saudi Arabia meet the definition of trafficking victims. This portion is primarily for the following three reasons: (1) they regularly end up in situations of forced labor and exploitation; (2) they are regularly misinformed regarding important work conditions; and (3) they are often minors. Despite the fact that both Saudi Arabia and the Emirates, as well as many domestic workers’ countries of origin have ratified the Palermo Protocol, there is barely any prosecution taking place against human trafficking.\footnote{Vlieger (2011 c).}
This deficiency is related to several obstructions to implementation of the UN’s Palermo Protocol. Primarily, the human trafficking business is estimated to be approximately as large as both the illegal arms trade and the drug trade combined. This amount of money can buy a lot. In all four countries visited for this study (Saudi Arabia, the Emirates, Philippines, and Indonesia), interviewees stated that a legal case or action against a rich and powerful man cannot be won. Sometimes an agency’s license will be temporarily suspended, but afterward, either the suspension is cancelled or the agent concerned simply begins a new agency under a different name. Government officials are said to be either bribed or connected to the agents by family ties. The potential penalties can be changed into fines low enough not to deter anyone.

Moreover, governments in labor-sending countries are more concerned with employment and remittances, which constitute a very large portion of their GNP. The IMF and the World Bank apparently use remittance flows in calculating sustainability of loans, and credit rating agencies such as Moody’s, Standard & Poor’s, and Fitch, do the same for their decisions on certain bond ratings. The governments in labor-sending countries understandably do not want these remittances to diminish and therefore, in general, do not make a strong stand for their overseas workers. Thus, neither the countries of origin nor the destination countries do much to prevent human trafficking. At international conferences, the destination countries state that the agencies in the countries of origin are the problem, whereas the countries of origin state that the agencies and employers in the destination countries are the problem. The result is that trafficking agencies in all countries continue their business virtually untouched. Given the amount of money and political interests involved, this system cannot be expected to change unless new implementation mechanisms are developed.

To design the proper implementation mechanisms, what is first necessary is research on the sociology of the Palermo Protocol. The questions underlying such research should include the following: Which barriers exist that prevent the effective prosecution of traffickers both in the countries of origin and destination? To what extent can this situation be expected to improve in low-wage countries of origin, or in rentier states? Are there implementation mechanisms existent that are immune to corruption? And, if such mechanisms cannot be found, does this justify lifting implementation of the Palermo Protocol to an international level? If so, then what should the implementation mechanisms preferably look like? And, finally, how likely is it that enough states will ratify a treaty with such international implementation mechanisms to render it effective?

12.4.3 Miscellaneous
There are a few more, smaller issues that deserve further research. The first issue concerns the data from chapter 9 regarding the legal system. The hypothesis
posed there is that the differences between the Saudi and the Emirates legal systems can be explained through the existence in Saudi Arabia of an old legal-religious elite, which is trying to hold on to its power. Members of this legal-religious elite are generally not keen on granting anyone the right to interview them or providing access to courts and other legal institutions. Likely only Saudi researchers can ascertain the extent to which this elite blocks, to protect its power position, legal reforms that have become necessary because of economic changes. Only Saudi researchers can ascertain to what extent judges are indeed corrupt or generally apply what they feel is Allah’s concept of Justice.

Chapter 7 also points to a larger scale of power politics. It proposes the hypothesis that the ruling families (executive, legislative or judiciary) do not offer proper protection to the lower strata of society because they have no incentive to do so. Necessary for conclusive answers to this issue, is comparative research in several countries on labor protection and the extent to which the five incentives set out by De Swaan exist. Such research should include countries with different religions. Singapore should preferably be included in this research, as it is also a labor-importing state that has a preoccupation with the employer-citizen, rather than with the employee-migrant worker.625

Another issue that deserves more attention is the fact that the data seem to suggest either that policemen more frequently rape domestic workers, or that rapists frequently pretend to be policemen. If the answer turns out to be the latter, then this could be related to the fear of domestic workers towards policemen, either caused in the countries of destination, or in the countries of origin. If policemen indeed more frequently rape domestic workers, one explanation could be the overall poor functioning of the legal system and the knowledge of policemen that they will go unpunished. Another explanation could be that policemen, either in general or in these countries, enjoy exerting control, with reference to the view that rape is not (only) about sex but about control. This last hypothesis would also explain why rape as social problem seems to rise in occurrence generally (also outside the police force) when the patriarchal system declines; as the power of men over women diminishes, rape could augment in an attempt to regain control. Thus, although patriarchy is a factor facilitating rape (as the rapists in this system is supposed to be the one protecting the victim), an additional factor that might make matters worse is patriarchy under pressure. The fact that certain Saudi and Emirati men currently resort to sexual or other forms of violence against women could be related to the fact that these women no longer obey the way they used to. The fact that they no longer obey, may have to do with social changes in the economy that call for smarter, higher educated workers, workers that may as well be female.

In other words, sexual violence may (temporarily?) increase because of economic changes in the following manner; specialization of the economy raises the demand for higher educated workers – regardless of gender, which raises the demand for independent women, which undermines the power position of men, which may lead to a higher occurrence of sexual violence. This hypothesis is worthy of further comparative research, particularly from scholars trained in gender studies.

An interesting issue that could simultaneously be investigated is the extent to which the rise in aggression against homosexuality is also related to the decline of the patriarchal system and changes in the economy. This violence against homosexual men is relatively new; in the sixties, especially in Dubai, gay relations were accepted. This situation has changed, though not because of large numbers of gay tourists; a hypothesis regularly offered for countries such as Egypt and Morocco. Dubai has never seen comparable gay tourism, while aggression against homosexuals has nevertheless increased. One explanation could be that the economic changes undermine the patriarchal system, which undermines the power attributed to men based on their role as the masculine provider and protector. As the male power position is under threat, men may resort to violence against homosexuals because they deny the traditional role models which used to grant this power. Further research is needed on these possible connections.

Also possibly connected to gender violence and potentially to economic changes, is the issue of occultism. In patriarchal societies, women are supposed to obey the men in their family, and several male interviewees stated that occultism must be at play when a man falls in love so deeply that a woman controls him. A woman in control goes against what is considered the natural state of things, and therefore, the supernatural must be involved. Throughout the world and history, primarily women have been accused of ‘doing magic’ and of being witches, accusations that are strongly attached to the otherness of the woman, which creates both desire and fear. Also in Europe, mainly women were accused of witchcraft. It would be interesting to see if there has been a heightening in such accusations in regions where women gained power. During the Enlightenment in the eighteenth century, people began to consider the world more scientifically. The consistency of the newly discovered laws of nature rendered the concept of witchcraft unlikely. In Saudi Arabia and the Emirates the growing power of women may increase the occurrence of accusations of witchcraft, while the spread of education in the natural sciences to the contrary may lead to a process of disenchantment, which should diminish accusations of magic. More research is necessary on this subject.

Potentially connected to the issues of occultism and (the decline of) the patriarchal system is the issue of extreme adherence to contracts. Some interviewees who were victims of rape stated that they stayed with their employer “because of the contract.”

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How can this extremely strong adherence to a contract that is disregarded by the employer be explained? Moreover, there is a difference between Indonesian and Filipina domestic workers concerning this issue.

The Filipinas, when asked why they could not go home, gave diverse answers, such as the following: “I already talked to them about that when my son got sick; I could not go” and “I know they have paid money at the agency for me and for my ticket, so it’s too much hard for them to release my papers.” Very few referred to the contract. Indonesians, on the other hand, almost all referred to the contract. There are two possible explanations for this phenomenon. One is the possibility that, as one interviewee stated, the agencies indoctrinate them that leaving prior to finishing the contract is impossible, and Indonesian agencies maybe do so more than Filipino agencies. The other explanation is offered from symbolic anthropology: for domestic workers from a patriarchal and low-educated society, the contract may have some supernatural force. There seems to be a stronger belief in Indonesian society in occultism (see chapter 11), which may then explain this stronger adherence to contracts. Further research is needed here.

12.5 Policy recommendations

The four main incentives for the conflicts described in the second section to this chapter are oil revenues in Saudi Arabia and the Emirates, poverty in many other countries, Wahhabism and the awkward position of the domestic worker as an outsider within the family. Obviously, these four factors cannot be changed easily. The oil reserves will run out one day, which will force the Saudi and Emirati governments to find other means to collect revenues. According to the rentier state theory, this will most likely lead to improvements in their governing efforts. However, this process will take time and be accompanied by severe and unwanted economic problems for both countries.

To what extent the worldwide poverty problem will and can be resolved any time soon is highly controversial. I do not consider myself capable to provide an answer here. But more important, for all current domestic workers, action is needed sooner. The awkward position of the domestic worker is another issue that is difficult to improve; she will always remain a stranger who, as a marginal person within the privacy of the family, can be perceived as both attractive and threatening. The overview does discuss the factors Islam and Sharia, but as chapter 5 demonstrates, Sharia has little or no influence on conflicts, and therefore, there are no arrows coming out of the Sharia-circle. In contrast, Wahhabism is a factor of influence. However, the extent to which the Wahhabi legal-religious nobility will be able to maintain its power position is another question I do not consider myself capable of providing an answer to. Nevertheless, there are several factors between the four main causes and the resulting conflicts that can be addressed. This section, therefore, discusses four policy recommendations that I, on the basis of the data from
this research, deem to stand the largest chance of success in improving the position of domestic workers in Saudi Arabia and the United Arab Emirates.

12.5.1 Regulate the maid trade

The first issue that could be changed to improve the position of domestic workers worldwide is the highly under-regulated maid trade. As described in chapter 7, there is so much money involved in this industry that large scale action against malpracticing agents cannot be expected either in the countries of origin or destination. One strategy could be to empower organizations above the governments. As discussed in section 12.3.3, research is needed regarding the sociology of the Palermo Protocol to assess the shortcomings in its implementation mechanisms and to draw up ameliorations. The ILO currently advises countries to set up a national licensing system. It is probably more effective to draw up an international treaty stating that anyone bringing a worker across borders must be internationally licensed by the ILO. This organization could randomly check into whether workers receive the conditions promised to them before departure. If this is not the case, the agency should receive a warning and its actions should be scrutinized more carefully. After two warnings and a misstep, the agency should lose its license, and the owners should be banned from applying for new registration. Anyone bringing a worker across a border without an ILO license should be subject to punishment in any country that has ratified the relevant treaty. Under this system, well-meaning higher officials could bypass corruptible lower officials.

This strategy makes sense given that other international problems, such as international commodity and capital flows, have been solved by empowering international organizations. Although world migration pressures have increased, progress towards a multilateral approach to migration management is far slower than in the management of trade and capital. Yet setting up such a system will take time, especially to advocacy ratification. Therefore, in the meantime, the ILO could develop a hallmark, an international mark of ethical quality, given only to those agencies that do not violate the ILO’s basic treaties. Through media campaigns, employers could be stimulated to do business only with such hallmarked agencies, not only because of ethical reasons, but also to reduce the risk of hiring unsatisfied and disappearing workers.

Another strategy that may work is to empower those below government level, such as the individual employer and employee. As for the employers of domestic workers, they are simultaneously consumers of agencies. Therefore, an international consumer organization could be established, to unite the employers’ forces against the agencies. This consumer organization could demand agreements between employers and agencies under the condition of payback of fees in the case that the workers have been misinformed as to essential work conditions. As both Saudi Arabia and the Emirates have strict laws against non-governmental
organizations, the consumer organizations should be set up as commercial organizations. Another option, especially for Saudi Arabia where the Chambers of Commerce are comparatively powerful, would be to set up a department in the Chambers of Commerce that unites consumer interests against certain powerful producers. Such consumer organizations may turn out to have the additional benefit of stimulating the development of producer liability laws, which may improve protection of both housewives and domestic workers against health damaging cleaning products.

The domestic workers could also be united in an international organization. This arrangement has been suggested before, but it is now becoming feasible, as increasing numbers of domestic workers have mobile phones. Such a union could be set up via telephone-pyramids, with small units of domestic workers keeping an eye (ear) on each other and informing one another of rights and duties. In the forthcoming treaty on the rights of domestic workers, a stipulation should therefore be included stating that domestic workers worldwide have the right to the use of a mobile phone (outside of their 8 to 10 work hours). As use of the Internet and tools such as Facebook are also growing, these web-based communities could be actively used to improve the protection of domestic workers.

As the Internet is without borders, organizations such as the ILO can set up a system in which both employers and employees can give ratings on the agencies with which they have done business. Further, these websites, through data mining, could provide information regarding the connections between the agencies in the countries of origin and destination; joint liability for human trafficking, in the end, is pointless as long as there is no information on the business partners. Of course, serious intellectual investments are required to render such websites hacker-proof, as the agencies have a large financial interest in protecting their reputation.

The ILO treaty for domestic workers should, furthermore, contain rules for agents that oblige them to properly explain work conditions. In addition, it should state that parties be requested to include in their legal systems a rule governing the case where a worker has been misinformed regarding essential work conditions. In this circumstance, such a rule should require a judge to apply the contract that was signed in the country of origin. In this instance, the employer should be forced to pay the higher salary, after which the employer can collect this money from the agency with which he has done business. Likely, the agencies in the destination countries will then discontinue business with those agencies that lie to workers in the countries of origin.

Media campaigns could make the Saudi and Emirati public familiar with the salaries that the governments of the different countries of origin prescribe. Websites could provide all of the standard salaries prescribed by the different countries of origin. Although this publication could be undertaken by the ILO, the Saudi and Emirati governments are obligated to do so based on article 9 sub 5 of
the Palermo Protocol, which states that both governments must take educational measures to discourage trafficking (see chapter 7). An alternative would include the policy recommendation discussed in 12.4.4, a standard contract for all domestic workers in the entire Gulf region that is widely published in all the countries of origin.

Non-governmental organizations have played an important and recognized role in exposing fraud, graft and corruption in the responsible administrative bodies and in assisting victims of such. However, as Saudi Arabia does not allow NGOs and the Emirates does so only to a very limited extent, this is rarely the case in these two destination countries. Therefore, the international treaty on the rights of domestic workers should include a specific stipulation that allows individuals to set up NGOs in the interest of domestic workers. The UN could play a role in uniting these NGOs via a transnational advocacy network. However, these networks should not organize the international licensing of agencies or the ethical hallmark, as NGOs in poorer countries are unfortunately but logically also susceptible to corruption. To summarize, as governments cannot be expected to proactively fight human trafficking, other solutions are necessary either below or above the government level.

12.5.2 Improve the legal system and access to justice
A second issue that needs to be addressed is that the Emirates and even more so Saudi Arabia suffer from a poorly functioning legal system (chapters 8 and 9). As neither the Emirati nor the Saudi population has proper means to force their governments to take action regarding the (near) absence of the rule of law, the international community must. Given the fact that the oil revenues will eventually dry up, both countries try to diversify their economies (see chapter 2). Both countries try to attract foreign investors and sign favorable treaties with organizations such as the WTO and the EU. In each of these instances, the international community should pressure both countries to improve access to justice for migrant workers in general and domestic workers in particular.

Furthermore, the international community could try to create better access to justice itself. Currently, non-governmental organizations are not or barely permitted in either country. There are other possibilities, though. Civil society is extremely poorly developed in the Gulf, as all governments are suspicious of anybody who claims to be doing something simply ‘for the greater good’. What the governments concerned do understand or expect, is activism with private interests. Therefore, the potential for Corporate Social Responsibility projects is relatively large in the Gulf. What Westerners would call human rights meetings, are organized in the Gulf by private companies that operate under the name of ‘event planner’ or by companies that see CSR as a way of creating goodwill.

What thus seems possible in both countries, is a Corporate Social Responsibility
project, aiming at the provision of free paralegal services to migrant workers to strengthen the rule of law. Such a CSR project should be set up in close coordination with the Embassies of the labor-sending countries as well as the embassies of the United States and the European Union. These last embassies should be involved not only to provide means but also to minimize corruption through the establishment of computerized and depersonalized procedures, and use their clout to gain cooperation from the governments of the countries concerned.

The legal aid offices could be set up in cooperation with companies such as Microsoft that already have a good track record on Corporate Social Responsibility projects. Other companies that could be involved are those that profit from contacts with migrant workers, such as Western Union. Furthermore, law firms can be involved, as they can use the legal aid offices to find and train their future associates. Law schools can be involved, as the legal aid offices provide excellent training opportunities for students in their final year. The legal aid offices could take on the simple cases themselves and forward complicated cases to lawyers. In large parts of the world, lawyers work on cases for free, which is called pro bono (for the good) or pro deo (for God). As Islam prescribes Muslims to pay zakat, attempts could be made to involve mosques in a project to have lawyers pay their zakat by taking on cases Lillah (for Allah).

Another necessary measure is for both governments to exclude all lawyers, (para)legal advisors and judges from the sponsorship regulations, freeing them from the threat of deportation. Furthermore, many lawyers need additional training. One interviewed diplomat stated it as follows: “Usually it’s not that they are unethical, but they are just very unprofessional and the result is unethical.” If the governments do not take any action to better regulate their countries’ lawyers, the international community could attempt to do so by directly contacting bar associations or similar organizations. Judges also need more training, particularly on topics that seem entirely unfamiliar to them, such as the sociology of law. Judges need training as to their own role in society, ways to perform this role, ways to reflect on their own role and self-regulation.

12.5.3 Alteration of the sponsorship system

The gulf countries receive extensive criticism from the international community regarding the sponsorship system (chapter 7). However, its abolition is not likely in light of the objections to the abolition of the system. These objections, therefore, need to be addressed. If not, if the support under the population in favor of abolition is low, then employers will find loopholes in the new laws or they will invent tricks to keep the situation as it currently is. For instance, they will continue to retain the passports of the workers to prevent them from leaving. Therefore, successful alterations need to address the existing objections to abolition.

In Saudi Arabia and the Emirates, two alternatives for the sponsorship system
are being discussed that, to a certain extent, address the objections to abolishment. Both entail transfer of sponsorship to a larger organization. In the Emirates, according to two government interviewees and newspapers, there are plans to put sponsorship in the hands of the government. The Minister of Labor is stated to have sketched a blueprint of new procedures that would require laborers wishing to work in the Emirates to go through the Ministry of Labor, rather than recruiting agencies. In contrast, in Saudi Arabia, a limited number of agencies are planned to become sponsor, turning these contracted agencies into labor pools. These agencies are expected to recruit large numbers of foreign laborers, enabling employers to hire a worker on the spot, without the delay currently experienced by sponsors in both Saudi Arabia and the Emirates. In the event of dissatisfaction, a foreign worker would simply flow back into the Ministry’s or agency’s labor pool and the employer would instantly be provided with another worker.

If the adjustments are combined with a residency cap, a maximum stay of approximately 6 years, the issue of fear from large numbers of migrant workers is addressed. This residency cap has a downside though, which is the loss of trained and experienced workers. However, the Gulf countries themselves have suggested a solution, asserting that the caps do not prevent workers from moving on to another Gulf country after 6 years employment. As such, the Gulf countries will profit from on-the-job education provided in the surrounding countries, without the downside that the workers might pose a (real or perceived) threat to their citizens.

The issue of high fees that are currently paid to the agencies (chapter 10), that create a sense of ownership over the worker, could be addressed by obliging the employers to pay wages to the sponsor (the government or the agency) that will, then, pay the worker after deduction of the transaction costs. As such, payment of fees would not take place in advance, but would be spread over the 24 or 36 months that the worker resides in the country concerned. Unfortunately, the Emirati government (which intends to create a labor pool in the Ministry of Labor, contrary to Saudi Arabia, which intends to create labor pools in a limited number of agencies) may decide not to do so. Such a regime could support the impression that the fees are a tax, which (as several interviewed government officials explicitly stated) could possibly lead to unwanted demands for political power.

As the altered sponsorship system will allow for easy transfer of a worker to a new employer, there is far less reason for workers to disappear on the black market, and, therefore, criminality is also likely to diminish. Furthermore, with the agencies or government as the new sponsor, these adjustments also support the idea, contrary to international law but widely shared in both countries, that everyone requires a local guarantor. As such, the proposed alterations address all the

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627 This has been denied by an interviewee from the ILO who stated transfer of sponsorship to the Ministry of Labor would not be possible in light of the governmental structure of the UAE and the independency of the different Emirates. Nevertheless, reports that this is indeed the plan are rather consistent and therefore are here deemed to be correct.
objections against abolition of the sponsorship system (chapter 7). The adjusted
visa system grants more freedom and, therefore, more power to the worker.

However, this system is not perfect and, therefore, not uncontested. If the worker
gets into a conflict with the Ministry (in the Emirates) or the agency (in Saudi
Arabia), he or she would, according to these critics, be just as powerless as now. But
because the relationship in these scenarios is not one-on-one, the level of abuse
might be lower. An interviewee in Riyadh clearly noted this, stating, “It is better to
find a job in a large company, because, in a one-man company, typically the employ-
er gets very abusive.” Furthermore, these labor pool systems may be better for cer-
tain migrant workers than a completely free market, for the following two reasons.

The first reason that total abolition of the sponsorship system may not be the
best solution, is that not all workers can handle total freedom. This may sound de-
grading or paternalistic, but many domestic workers are 14 to 20 year old girls
from the countryside of, for instance, Mindanao. These workers have not seen
much outside their village of origin, stem from a patriarchal society in which they
have learned to always obey men, have had a few years of school education only,
cannot read and do not speak proper Arabic. These workers cannot be expected to
make well-informed decisions in their own interest and to close agreements in
freedom and knowledge. Illustrative in this sense is the answer of one very young
interviewee to the question why she had come to a for domestic workers danger-
ous place like Saudi Arabia: “Well my father needed a scooter, so I went.”

Furthermore, many of the domestic workers are aware of their incapacity for han-
dling full freedom and often do not want it. In the two countries researched, most
domestic workers live with the family they work for. Others work on the black mar-
et and are so-called ‘freelancers’, as they work for several different households eve-
ry week. As these freelancers are not dependent on a single employer for their in-
come, they usually have the freedom to quit if they do not like the way that they are
being treated. This freedom certainly has advantages, although there are also disad-
vantages, as the workers have to arrange for their own housing, food, transportation,
medical care, phone bills, holidays and pension. For some domestic workers, this is
a sufficient reason not to become a freelancer. One interviewee for instance stated:
“I don’t want to be a freelancer. Too much headache you know, with transportation
and the house and all. I am good where I am.” Some domestic workers that were in-
terviewed had run away and became freelancers, but they gave it up when they faced
problems that they considered too large to deal with themselves. They later returned
to the Middle East as ‘live-ins’ again.

The second reason why complete freedom for migrant domestic workers may not
be the best solution, concerns transaction costs incurred by the workers when they
change employers. Several domestic workers that were interviewed do not leave
their employers because the process of getting another employer is too costly. This
is what is known as transaction costs: money actually spent and the money that
could have been earned during the time spent searching for new employment. Workers usually need time and money to leave the house of the employer, wait for clearance to leave the country (one interviewee had been in the embassy’s shelter for three years with no income), fly to their home country (employers usually do not pay for return tickets upon absconding), approach a recruiter, possibly pay for new (false) IDs, wait for placement (two or three months), fly back to the Middle East, and possibly not be paid during the first two or three months by their new employer. This process renders changing employers so costly that many domestic workers, upon absconding, decide to find employment directly on the black market. Others pay their former employer to sign a release. This No Objection Certificate is needed to move to another employer without leaving the country and taking on all the travel expenses.

An interviewed domestic worker explained how the high transaction costs placed her and her husband in a Catch-22 situation: “For a transfer we have to pay 8000 Riyal. My husband is trying to get the money together now. If we do not find a new sponsor who wants to pay this amount, we must go home, but then we need money for the ticket. Either way we need money.” She then burst out crying and added, “Please help me!” Domestic workers are usually aware of the problem of the high transaction cost and it makes them ready to suffer a considerable amount of abuse to avoid incurring these costs. Alcid, likewise, writes about domestic workers in Hong Kong: “Fighting for their rights from the viewpoint of the worker, is not without risks and sacrifices, because they spend the equivalent of two to three months wages to find work again in Hong Kong. Workers are terrified to lose their jobs, so they are prepared to suffer considerable indignity and often inhuman working hours and conditions to keep them. Thus it is only in the most extreme circumstances that they will lodge an official complaint.”

The high transaction cost is one aspect that limits domestic workers’ freedom and increases the power of the employer (chapter 10). Economic theory on this topic offers a suggestion for improvement. Transaction cost is the key point in the controversy between the neo-classical view on the labor market and the neo-institutionalists. Neo-classicalists view the labor market as a place where workers and producers, respectively, offer and demand (hours of) labor. When the price of an hour of labor goes up, the workers will offer more hours, while the producers will demand less and vice versa. The market will move to an optimal equilibrium if there is no interference. The neo-institutionalists claim that, in reality, the market does not work like this, and that, contrary to what neo-classicalists support, transaction costs are neither zero nor negligible, but are actually quite high. As this is the case, in certain instances, it is more cost effective to have workers organized in an institutional setting instead of a free labor market.

628 Ten months salary for her, or about seven months for him.
629 Alcid in Heyzer (1994) P175.
As described, sponsorship in Saudi Arabia may be transferred to a small number of private companies and in the Emirates to the government. From the perspective of the neo-institutionalists, this creates an institutional setting from which both workers and employers will benefit, as it will create a better allocation of resources; workers can be replaced with other employers for comparatively low transaction costs. This system is in the interest of both employer and employee. Several interviewed diplomats and human rights activists claimed to prefer full abolition of the sponsorship system. However, entirely free labor relations, according to the neo-institutionalists, are economically unprofitable until the transaction costs are lower than the profit gained from a switch from one employer to another.

Alteration of the sponsorship system as proposed by the Saudi and Emirati government is also in the interest of the family of the employers. These workers have a somewhat different position from other migrant workers, as they work in the private sphere of the household. Here, they take the marginal position of an outsider who is very close, a foreigner who learns all the secrets of the house; the workers is an enchanting stranger who can be perceived as both extremely attractive and intensely dangerous. This marginal position and the attached combination of attractiveness and danger can lead to a variety of explosive situations (see chapter 11). A simple example concerns a young domestic worker who is lonely, far away from home, who falls in love with the son of her employer and starts an affair. As soon as she realizes that he will never marry her, tensions will rise. If she is not removed from such a family, the situation can explode and lead to situations involving rape, theft and severe violence from both sides. As the data from this research demonstrated, many severe conflicts began small, but turned into a downward spiral of diminishing trust and augmenting aggression.

In such situations, domestic workers are often instantly expelled from the household by the employer. In light of the explosive situations that result from the marginal position of the domestic worker, the freedom of the employer to expel the domestic worker should not be limited; on the contrary, it should be enlarged. The domestic workers are usually deported, but some are sentenced to jail upon accusations and without evidence. If the freedom of the employer to expel the worker is enlarged, such accusations are no longer necessary. An important reason to make false accusations seems to be that the employer does not have to provide for a return ticket if the domestic worker has committed a crime. Therefore, if the employer does not have to pay for a return ticket, but simply returns the worker to the large institutional sponsor, returns her to the labor pool, then the number of false accusations will likely diminish.
12.5.4 Standard contract for domestic workers

To target the problem of unregulated domestic workers, several countries in the Gulf have introduced a standard contract. The International Labour Organization is promoting such a contract as solution. Although everyone agrees that such standard contracts are a good attempt to improve the situation, there are currently several problems that need to be addressed. First, most domestic workers do not know the difference between the several Gulf countries. For many of them, the term ‘Dubai’ stands for the entire Middle East. They do not choose a country, but the recruitment agency places them in one of these countries. Some of them after two years of employment still do not know in which country they work. As the standard contracts are different per country, this does not make it easier for the domestic workers to find out what their rights are.

Second, as not only the destination countries but also several countries of origin currently write standard contracts, many domestic workers have several contracts. For instance, Filipina domestic workers sign a standard contract prescribed by their government, which states that their salary should at least be $400 per month. As soon as they arrive in the Gulf though, this contract is replaced (contract substitution) with, for instance, the Emirati standard contract, stating a salary of approximately $200. Although some domestic workers are aware that their contract will be replaced and that the Filipino contract is just signed “to get the paperwork processed”, not all of them realize this. That they then receive only half the promised salary renders them a victim of trafficking under the Palermo Protocol (see chapter 7). If the entire Gulf would work with a single contract that is widely published in the countries of origin, this situation would be prevented.

A third problem with the current standard contracts is that many of them have been written in very complex language. They have been written from the perspective that domestic workers have been excluded from the labor law and therefore should be given certain rights via contract. However, a law and a contract are two very different things, as they are supposed to be read and used by different parties. Laws are meant to be used by jurists, while contracts are meant to be used by the persons who sign the contract. Awareness of the difference between the two is especially important in light of the meager possibilities for implementation of any rule or regulation inside the private sphere of the household (which prohibits labor inspections for domestic workers). In this setting, the only possibility for enforcement is if the domestic worker herself demands implementation of her rights and the employer acknowledges them. This is only possible where they both understand what the respective rights and duties are. In light of the fact that the domestic worker’s level of education is generally very low, the contract needs to be written in a language that is 100% comprehensible especially to her.

A fourth problem with the current standard contracts is that they have been written largely on the advice of Western lawyers, who had the rights of the
domestic workers in mind, not the rights of the employers. However, because it is a contract, not a law, the contract should, to gain acceptance among employers, be equitable. Therefore, they should also contain rules regarding the rights of the employer and the duties of the domestic worker. Currently, this is rarely the case. For instance, for many employers in the Gulf, it is very important that the domestic worker respects the culture of her employer and, therefore, does not start a love affair. Many domestic workers are not aware of how important this rule is to the employer, which, therefore, leads to many conflicts. If the contract also contained these rules, many conflicts would be prevented. Furthermore, the contract would gain acceptance among employers, as it also protects their interests.

These four issues could be targeted by a project that aimed to implement one standard contract for domestic workers in all Gulf countries. Such a project could be coordinated through the ILO office in Beirut. The contract would then need to be published widely both in the countries of origin and destination. It should be written in a language that is entirely comprehensible by both the employers and domestic workers. Furthermore, it must contain all rules that both the domestic worker and employer deem important. To achieve this, someone should sit down with both parties and determine the extent to which they fully understand the language of the contract and the extent to which the contract contains all of the issues that both parties believe should be in the contract. Thereupon, the ILO should insist that all Gulf countries prescribe this one standard contract through their visa procedures. At the same time and in connection to the previous policy recommendations, the governments should declare that the labor courts in their respective countries are the appropriate courts to deal with conflicts concerning this standard contract.
12.6 Summary in Dutch


Ten eerste heeft de olie gezorgd voor maatschappelijke veranderingen in een ongekende snelheid. Daar waar de beide Arabische landen in de jaren vijftig nog vooral bestonden uit kleine gemeenschapjes van boeren, nomaden en handelaars, zijn het nu volledig geïndustrialiseerde samenlevingen met steden vol wolkenkrabbers. Die veranderingen hebben zulke grote verschuivingen teweeggebracht in de normen en waarden van de maatschappij, dat niemand nog echt weet hoe ‘het hoort’ of wat normaal is. Daardoor ontstaan er allerlei conflicten. De snelheid van de veranderingen heeft nog een ander gevolg gehad: daar waar vroeger in de dorpen sociale controle prima functioneerde als handhavingmechanisme, is dat nu niet meer voldoende. In de grote steden zijn opsporingsdiensten en politie nodig, rechters en advocaten, wetten, beroepsmogelijkheden enombudsmannen. Een halve eeuw is erg weinig om dit alles op te zetten.

Bovendien hebben de beide regeringen niet echt veel reden om hard te werken aan het opzetten van een rechtssysteem. In Europa hadden regeringsleiders altijd meer geld nodig voor het groeiende overheidsapparaat en steeds duurdere wordende oorlogen. Ze haalden dat bij de opkomende middenklasse en later ook bij de lagere klassen, in de vorm van belastingen. Die belastingen maakten wel dat het volk bepaalde eisen stelde aan hoe dat geld besteed werd. Zo is in het Westen de rechtsstaat ontstaan naast het belastingstelsel. Maar op het Arabisch Schiereiland is de staat eigenlijk pas ontstaan na de ontdekking van de olie. De regeringen hadden sindsdien een onafhankelijke inkomstenbron. Ze konden doen en laten wat ze wilden en het opzetten van een rechtssysteem kreeg geen prioriteit. Het gevolg is dat er niet iets is ontstaan wat we een rechtsstaat kunnen noemen: een systeem met regels die duidelijk zijn en op iedereen min of meer gelijk worden toegepast. In de Golf geldt dat dienstbodes bijvoorbeeld heftig gestraft kunnen worden voor het hebben van een vriendje, terwijl een prins of legerofficier zelden gestraft wordt voor iets als zware mishandeling.

Bij gebrek aan een behoorlijk rechtssysteem gaan mensen een beroep doen op

Een andere reden dat de dienstbodes niet om hun rechten vragen, is het visumsysteem. De verblijfsvergunning van arbeidsmigranten is altijd gekoppeld aan een sponsor: meestal de eigen werkgever. Zodra de arbeidsovereenkomst om wat voor reden dan ook eindigt, loopt ook het visum af. Zonder ontslagbescherming komt dit systeem erop neer dat de werkgever de werknemer kan laten deporteren wanneer hij maar wil. Bovendien, als een dienstmeisje weggloopt van de werkgever, dan wordt ze direct beschouwd als crimineel, zelfs als ze door hem geslagen wordt. Ook hierin speelt de olie weer mee; de dictatoriale regeringen zijn niet al te populair, maar kunnen het volk tevreden houden door hen in weelde te laten baden. Dit kan natuurlijk met oliegeld, maar het visumsysteem blijkt het heel makkelijk te maken om buitenlandse arbeiders uit te buiten; zo kan de bevolking rijk worden, zonder dat de overheid daarvoor het oliegeld hoeft te gebruiken. In Saoedi-Arabië maakt de Koninklijke familie dat liever op aan geheime diensten, wapens en buitenhuizen. In De Emiraten is de olievoorraad nu redelijk aan het slinken, maar daar zorgen de buitenlandse arbeidsmigranten, die inmiddels zo’n 90% van de bevolking uitmaken, ervoor dat de meeste Emirati’s er toch warmjes bij zitten.

De olie speelt nog op een andere manier een rol. In Europa had de regerende bovenklasse vaak een reden om iets positiefs te doen voor de lagere klassen. Het zogeheten proletariaat veranderde namelijk nog weleens in roversbendes, communisten of TB-patiënten, wat allemaal risico’s meebracht voor de welgestelden. Dit is van invloed geweest op het ontstaan van ons rechtsstelsel en de welvaartstaat. In de Arabische Golf is dat niet zo. Omdat het grootste deel van de arbeidersmigranten zijn, kunnen de regeerders iedere arbeider die lastig is, vrijwel direct deporteren vanwege die eerder genoemde visumregels. Elke uitgezette kracht kan direct vervangen worden door een ander. De salarissen zijn voor ons misschien heel laag; tweehonderd dollar per maand voor een dienstbode, maar ongeveer de halve wereld, zo’n drie miljard mensen, leeft op minder dan $2,50 per dag. Vervanging genoeg, dus als er een opstand dreigt dan wordt er geen wet geschreven, maar een vliegtuig geboekt.
Dienstmeisjes in landen als Indonesië verdienen vaak nog geen tiende van wat ze in het Midden-Oosten kunnen verdienen. Daarom blijven ze komen, ondanks het feit dat de verhalen over slechte behandeling nu vrijwel alle dorpen bereikt hebben. “We hebben geen keuze,” zeggen ze. En daarom pakken ze als vijftienjarige meisjes hun tas, vertrekken ze uit hun hutje zonder elektriciteit, om aan de andere kant van de wereld het huishouden te runnen in een gezin waar ze de taal niet begrijpen, noch de cultuur of religie, maar ook vaak de huishoudelijke apparaten niet. De boel loopt dan regelmatig uit de hand, als ze bijvoorbeeld eerst eens het gas aan heeft laten staan. “We hebben geen keus,” zeggen ze ook als ze dagelijks in elkaar geslagen worden, maar toch niet weglopen. Veel dienstbodes zijn al wat ouder, verlaten door hun man en moeder van meerdere kinderen: “Als je wegloopt, dan verdien je maandenlang geen geld; hoe moeten de kinderen dan eten?”

“We hebben geen keuze,” zeggen de dienstbodes als ze nog in het land van herkomst hun handtekening zetten onder een contract waar ze geen touw aan vast kunnen knopen. Ze worden vaak voorgelogen en misleid, maar zelfs als ze dat doorhebben, werken ze mee aan de aanschaf van een vals paspoort en zitten ze volgzaam drie maanden lang opgesloten in een compound van een mensenhandelaar, die intussen uitvoertel welke meisjes eventueel de prostitutie in te dwingen zijn. Ook daar wordt helaas weinig aan gedaan, en opnieuw draait het om geld. De dienstbodes zijn, met de bedragen die ze naar huis sturen, onmisbaar geworden voor de economische groei van die landen. Bovendien verdienen de mensenhandelaar zoveel geld met deze praktijken, dat iedereen die hen eventueel wil vervolgen of aanklagen, eenvoudig afgekocht kan worden. De rijkdom aan de ene kant, de armoede aan de andere kant; het creëert een vaak treurige, soms explosieve situatie.

Heeft de Saudi of Emirati cultuur er dan niets mee te maken? Deels niet, deels wel. Vaak wordt er beschuldigend gewezen naar ‘De Islam’ maar wie de regels van de Sharia bestudeert, komt erachter dat die voor dienstbodes lang zo slecht nog niet zijn; er zijn een aantal regels minder positief, maar er zijn ook veel regels wel positief. Het probleem is dat die laatste in praktijk niet worden toegepast, in verband met dat eerder genoemde systeem van tribalisme, corruptie en vriendjespolitiek. Een ander punt is dat er van alles aan de Islam wordt toegeschreven dat daar weinig mee te maken heeft. Zo mag je in Saoedi-Arabie als vrouw niet autorijden. Je mag eigenlijk ook niet in een auto meerijden met iemand die geen familie is, terwijl er bijna geen openbaar vervoer is. Dat maakt het voor weggelopen dienstbodes lastig om hun Ambassade te bereiken, maar met Islam heeft het niets te maken. Het heeft wel alles van doen met de extreem conservatieve religieuze elite waar de Koninklijke familie zich aan gelieerd heeft om uit te leggen waarom ze recht heeft op al dat oliegeld (onder het mom van bescherming van Mekka, houden ze er hele collecties raceauto’s op na).
En daarmee zijn we terug bij de centrale rol van olie, het smeermiddel dat maakt dat de Saudi’s en Emirati’s in korte tijd ontstellend rijk werden, zo rijk dat ze nu allemaal een dienstmeisje van de andere kant van de wereld halen, zo rijk dat de bedoeïenen van een generatie terug nu de baas zijn over meisjes uit een volstrekt andere cultuur, zo rijk dat de regering liever in een buitenhuis zit, dan dat ze een Orde van Advocaten opricht, zo rijk dat er aan alle kanten genoeg geld overblijft om mensen te onderdrukken die het er niet mee eens zijn, mensen buiten te sluiten die lastig zijn, mensen om te kopen die om verandering vragen. Maar wat we vooral niet mogen vergeten; de Saudi’s en Emirati’s zijn er zo rijk van geworden, dat twee miljoen vrouwen geld naar huis sturen, waar kinderen en andere familieleden gevoerd worden, naar school kunnen, waar bedrijfjes opgericht worden en huizen gebouwd. Want in deze twee landen, waar heel wat werkgevers hun dienstbodes mishandelen en uibuiten, zijn er ook verschrikkelijk veel die, ondanks de mogelijkheden die het magere rechtstelsel bieden, hun dienstbodes wel goed behandelen. Aan deze werkgevers is dit boek dan ook opgedragen.
الإيجابية ولكن من نهية أخرى هناك الكثير من القوانين فيها إيجابية كثيرة.

المشكلة هي عدم تطبيق القوانين الإيجابية في الحياة اليومية من أجل النظام المذكور أعلاه سابقاً، أي النظام الفيزي، الرشوة ونظام المحسوبة. تُنسب أمر كثيرة إلى دين الإسلام لا يتعلق به إلا بقليل. في سبيل المثال في المملكة العربية السعودية لا تستمع للمرأة بقيادة السيارة ولا تسمح لها بالركوب في السيارة مع شخص لا علاقة عائلية بها في الواقع أيضاً. ومن أجل تنظيف الخاضمات الهاربات للصعوبات في حالة بردن الذهاب إلى سفارتهم. لا تتعلق هذه الصعوبات بدين الإسلام ولكن بانوثية الطائفة المحافظة للمدينة والتي تكون العائلة الملكية السعودية مرتبطية بها من أجل تأمين حقوقها في إيرادات النفط كلها (وتحت غطاء حماية مدينة مكة تملك مجموعات كبيرة من سيارات السباح). ومع هذا ترجع إلى الدور الرئيسي للنفط، النفط هو مادة للذهب تزويد السعوديين والإماراتيين بثروة لا يمكن تصورها في وقت قصير. ومن أجل تثبيتهم الضخمة يمكنهم الحصول على خامات من بلدان بعيدة، ومن أجل تثبيتهم الضخمة يتأمر البدو من الخيول السابقة ببناء من ثقافات مختلفة تماماً، ومن أجل تثبيتهم الضخمة تفضل الحكومة الإقامة في بيت من بيوت الريف بدلاً من أن تقوم بإنشاء هيئة محامية، ومن أجل تثبيتهم الضخمة وثابرة إيراداتهم يمكنها باضطهاد كل واحد لا يتفق معهم، وأن يقوم بوضع جنبًا كل شخص معه، ومن أجل تثبيتهم ت تقوم بشرم كل واحد يطلب التغييرات منهم. ولكن إيانا أن نتمكن بأن الثروة الضخمة للسعوديين والإماراتيين تزود مليونين مرة بدخل يغيف بإرساله إلى العائلات في بلدانهم الأصلية. يمكن هذا الدخل أطفالهم وعائلاتهم من شراء الطعام والذهب إلى المدرسة وإنشاء الشركات الصغيرة وبناء البيت. ففي هذين البلدتين كثير من الناس يقوم بسو معايدة واستغلال خاماتهم، ومع كل هذا - والحمد لله - يوجد هناك الكثير من الناس أيضاً يتعاملون مع خاماتهم بشكل جيد رغم أن الاشكاليات يزود بها النظام القانوني الضعيف.

إلى هؤلاء أرباب العمل الجيدين أهدي هذا الكتاب.

Summary, Conclusions and Recommendations
بالطائرة بدلاً من كتابة مشروع قانون. الخدمات في بلدان مثل إندونيسيا يكتسبن
في أغلبية الحال إلا عشراً أو أقل ما يمكنه الانتشار عليه في الشرق الأوسط.
وللذ هذه السبب لا تزال البنات يعنن إلى الشرق الأوسط رغم أن قصص سؤ المعاملة
المعروفة في كل القرن تقريباً، ويبقى >> لا خيار لنا <<. ومن أجل تقوم البنات
(وعمرهن 15 سنة) بمغادرة أكواخهن بدون كهرباء ليقبن يعمل في بلد بعيدة لدى
عائلات لا يفهمن لغتها ولا ثقافتها ولا ثقافتها المنزلية. تُفقد السيطرة على الوضع
باستمرار لأنهن مجهولات بالنسبة للشغول المنزلية، مثالاً. في حالة أن تنسي إلغاء
مفتاح الغاز مرة أخرى. ويبقى أيضاً >> لا خيار لنا >> حتى ولو تُضمن ضرباً
مبرحاً يومياً، وعلى الرغم من ذلك لاتهن. أغلبية من الخدمات أكبر في السن
بقليل وقلم أزواجهن يهجروهن ولديهن الأطفال. تقول الخدمات: >> في حالة أن
تقوم بالهرموب لا يكتسبن فلسات طيلة شهر وكيف تزود أطفالنا بطعام؟!<<
>> لا خيار لنا >> تقول الخدمات في بلدان الأصلية أيضاً في خلال توقعهن
لعدم لا يفهمن ولا يستطيعن قرائه. كثيراً من يقوم الواحد بخداع البنات ويكتب
عليهن، حتى ولو يقين بإطلاع على ذلك فهي متعاونات بحصول على جواز سفر
مزيج. ثم هم مسجنون من خلال ثلاثة شهد في منشأة ناجي مهرب الأشخاص
الذي يحاول أن يكتشف من هي البنت يمكنه أن يجبر على الدعارة. ولتلك
الممارسات لا تمتثغط اهتماماً إلا بكثير، وليع المال دوراً مهمام من جديد. تقوم
الخدمات بإرسال أموال إلى بلدانهن الأصلية ومن أجل لا يمكن الاستغلال عنهن
للنمو الاقتصادي في تلك البلدان. إضافة إلى ذلك يحقق مهربي الأشخاص إرباحاً
باحظة عن طريق الممارسات هذه وهم يستطيعون أن يقوموا بتوصيف قديمة لكل واحد
يتبعهم بتهمة تهريب الأشخاص أو الذي يقوم بشكوى ضدهم من جهة الثروة
ومن جهة أخرى الفتر وهكذا تسبب وضعية رديئة وتكون الحالة مرارة متفجراً.
هل للثقافة السعودية أو الإماراتية علاقة بذلك؟ نعم جزئياً، في أغلبية الحال وجه
تهمة إلى دين الإسلام ولكن من يقوم بتدريب قواتن الشرعية الإسلامية وجد أن لا
توجد فيها قوانين سهلة كثيرة بالنسبة للخدمات. هناك بعض القوانين أقل
سبيك آخر لعدم طلب حقوقهن هو نظام التأشيرات. إن رخصة الإقامة لعاملين
مهاجرين مروحة بكفيلة وهو غالباً ما يقوم المال الخاص بهم. عند انتهاء عقد
عمل، لأي سيب ما، تقوم التأشيرة بالانتهاء أيضاً. وفي حالة لا يوجد أي قانون
يحافظ على طرد العمل، يمكن لرب العمل أن يقوم بترحيل المستخدم في أي
وقت بريده. إضافة إلى ذلك إذ تقوم الخادمة بتهريب من بيت بيتها للعمل فتعتبر
تلك البنت مجرماً حتى ولو قام ربا للعمل بضريما. إن العمل يلعب دوراً من
جدير في كل ذلك، لا تتمتع الحكومات الدكتاتورية بشعبية كبيرة جداً ولكن
تستطيع أن تقوم بارتياج الشعب عن طريق المعيشة في طرف. لتحويل تلك العيشة
يمكنها استعمال إيرادات النفط طبعاً. لكن يظهر أن نظام التأشيرات يئون عليها
استغلال العمال الأجانبين بسهولة. هكذا يمكن للشعب ازدياد ثروته دون أن تقوم
الحكومة باستعمال إيرادات النفط. تفضل العائلة الملكية في السعودية أن تصرف
تلك الإيرادات في شراء الأسلحة وفي الخلاصات وفي شراء البيت في الليفي أو في
الخارج. إن في الإمارات العربية المتحدة تناقص الكمامات من النفط بسرعة ولكن
العمال المهاجرين الأجانبين (ومنهم من السكان 90% تقريباً) يزودون لأغلبية
الإماراتيين بحياة متفرقة. يلعب النفط دوراً عن طريق أخرى كذلك. كانت لدى
الطبيعة الحاكمة في أوروبا دوافع كافية لفعل عمل إيجابي بالنسبة للطبقات
السفلية، وكان العمل هذا طبعاً في مصلحتها. في كثير من الأحيان كنت الطبيعة
الكافحة تحول إلى عصابات من اللصوص، أو إلى الشيهوين أو إلى المرشي
المصابين بالسل، وكان في كل ذلك خطر للميسوريين. كان هذه العوامل تؤثر في
إنشاء نظاماً القانوني والمجتمع الغني فقط. كانت هذه العوامل غير منطقة في
الخليج العربي. أغلى العمال مهاجريون، فيسبب نظام التأشيرات هذا يمكن
للحاكمين طرد كل عامل متزوج مباشرة. ويقوم الحاكمون بتدد لي كل عامل سابق
بعام جديد مباشرة. في رأينا المرتبات منخفضة، راتب الخادمة ب 200 دولار
شهرياً فقط، ولكن تصف العالم (ثلاثة مليارات شخص تقريباً) يعيش على أقل من
$20 يومياً. وهناك الكفاية من البدلاء، وفي حالة تهديد تمرد يتم الحجز
لإنشاء نظام قانوني عن طريقة سريعة حيث ذلك ليس في مصلحتها. في أوروبا قد كان رؤوس الوزراء دائماً بحاجة إلى مزيد من الأموال لتمويل الجهود الإداري الذي يتكثر بسرعة ومن أجل الحروب بسبب استمرار غلائها. حصلوا على ذلك الأموال - كضرائب - من الطبقة الوسطى التي ظهرت حينئذ وكذلك من الطبقة السفلى في وقت لاحق. نتيجة لذلك الضرائب قام الشعب بوضع بعض الشروط بنسبه إلى إيقاف المال هذا. وهكذا نشأت في الغرب دولة القانون بجانب نظام الضرائب. أما الدولة في الجزيرة العربية فتم إنشاؤها في الواقع بعد اكتشاف النفط ومنذ هذا الوقت كانتا الحكومتان تتبعان بموجب مالي مستقل. وفعلنا ما أرادنا ولم قابتنا بإعطائها أولية لنشأة نظام قانوني. نتيجة لذلك لا يوجد هناك دولة تنسى بها {

">" دولة قانون

> أي نظام به القواعد الواضحة الصالحة لكل سكانها والذي تم تطبيقه على مستوى متساوٍ. مثلًا في مجالان: الخليجي يمكن أن يعرض عقوبات شديدة على الخادمات من أجل غلق علاقاتهم غير الشرعية مع الرجال، وبينما في حالة أن يقوم أمير أو ضابط بإجراة سؤ معلمة شديدة لا يعاقب عليهم القانون في أغلبية الحال. لعدم كفاية نظام قانوني لاحق الناس يقوم باستعانة بنظام آخر لدفاعهم الشخصي عند المشاكل. توجد في المملكة العربية السعودية والإمارات المتحدة ثلاثة نظم، أي النظام الفقيهي، الرشوة ونظم المحسوبة. لدى الخدمات المشاكل كثيرة ومن بينها عدم حضور عائلاتهم بجارون وعدم وجود نقود في جيبهم إلا بقليل، ولا يعرفن بكبار المدينة أيضاً. فلذا يقيم بعضهم في كل نزاع بالكاد. يكون روب العمل على علم بأنه يمكن أن يخرج من طرف معين بلا خسائر تذكر ويقوم بعض أرباب العمل باستغلال هذا الوضع. ولكن الخدمات مدرك للأوضاعين أيضاً ولاذهن إلى القاضي، ولو كان ذهابهما إلى مسجح، فقد الدوافع يمكن العثور عليها محددة. لا يوجد هناك أحد يقوم ببيان للنساء، وهن في أكثرية الحال صغار السن وقيل ذلك على أن لم يسمح لررب العمل أن يضربها وأن يسجنها وأن يجرد جواز السفر منها.
النفط، اللعنة السوداء
ملخص لصحفيين ومهتمين آخرين من غير العالماء

تصف رسالة الدكتوراه هذه النتائج لبحث قانوني اجتماعي عن السالة ما هي العوامل التي تؤثر على النزاعات بين الخادمات وأربابهن للعمل في المملكة العربية السعودية والإمارات المتحدة. عدد الخادمات يصل إلى مليوني خادمة تقريباً وهم عمالات مهاجرات ومن بينهن من أصل فلبنسي، وفلبيني، وثائبة، وندونيسي وهندي وصوبالي. إنهن يتنازعن مع أربابهن للعمل غالباً. يدور هذا الكتاب حول السالة ما هو بسبب هذه النزاعات. قامت الباحثة ببحث ميداني شامل في هتل البلدان العربية وكذلك في البلدان الأصلية أي الفلبين وإندونيسيا. لم تتحدث الباحثة مع الخادمات وأرباب العمل فقط بل أيضاً بوجب المواطنين، القضاة، الدبلوماسيين والناشطين. قامت الباحثة بتسجيل كل المعلومات ومن ثم تنظيفها. تبين منها شيئاً فشيئاً بأن النفط يلعب دوراً مركزاً في هذه النزاعات وذلك عن طرق متعددة.

أولاً: كان بسبب النفط التغيرات الاجتماعية بسرعة لا مثيل لها. حيث كانت البلدان العربية مكونة في الخمسينات - في الغالب - من مجتمعات فلاحية صغيرة وبسيطة وتجار، فالأمر توجد هناك مجتمعات صناعية فيها مدن عامة بالصروخ. كانت تلك التغيرات تسبب من الانتقادات في الجم وقواعد الأخلاق فلا أحد لا يزال يعرف كيف أن يقوم بتصرف بأي كيف أن يسلك سلوكاً جيداً وما هي اللباقة النفسية. فتنشأ نزاعات كثيرة متنوعة نتيجة لذلك.

ثانياً: قد سببت سرعة التغيرات نتيجة أخرى، من قبل كانت العلاقة الاجتماعية تعمل بطريقة جيدة في القرى كمحافظة على آلية نظام العاينة ولكن الآن لا فيها الكفاية للمحافظة. ليس من الضروري للمدن الكبيرة إنشاء جهاز شرطة وجهاز شرطة قضائية فقط، بل هي تحتاج إلى القضاة والمحامين والقوانين وإمكانات الطعن ووسطاء قانونيين أيضاً، ونصف قرن قليل جداً ولا يكفي لتنفيذ كل تلك المشروعات. إضافة إلى ذلك ليس لدى الحكومات كثير من الأسباب

Summary, Conclusions and Recommendations