

12 YEARS OF MODERN SLAVERY:

the smokescreen used to deflect
state accountability for migrant
domestic workers



I
SUPPORT
DOMESTIC
WORKERS
RIGHTS.
DO YOU?

Kalayaan

Justice for migrant domestic workers



ACKNOWLEDGMENTS

Kalayaan was established in 1987 and is the leading UK charity offering advice, advocacy and support services to migrant domestic workers. Our expertise on issues affecting and experienced by migrant domestic workers in the UK has been widely recognised at both a national and international level.

Kalayaan is the only organisation that systematically records and monitors the experiences of those who arrive in the UK on the Overseas Domestic Worker visa, as well as those arriving to work for diplomats. We endeavour to use this data source to amplify the voices of workers and their needs when pushing for system change.

This report forms part of our **Stolen Rights** project which aims to engage and inform public debate on the issues experienced by migrant domestic workers and make evidence-based recommendations to improve working conditions, hold employers accountable and challenge the structural systems which allow abuse to happen.

This report was written by Avril Sharp of Kalayaan. Our thanks go to Matt Reynolds, PhD Researcher at the London School of Economics and Political Science for their data analysis, and to Zoe Harper and Zoe Gardner for their time in reviewing earlier drafts.

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Designed by Fiona Tarbet.

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A NOTE FROM THE AUTHOR



This report is for migrant domestic workers in the UK. It is designed to assist with their individual as well as collective advocacy when continuing their campaign to see their rights restored.

Migrant domestic workers are overwhelmingly female and account for 73% of migrants working in private households globally.¹ Working in foreign lands under laws set by foreign governments, some of these rules are extreme, making these workers who are already inherently vulnerable, even more exposed to exploitative working practices.

These workers carry out essential work. They enable households and communities across the UK and globally to carry out their daily lives, helping parents, the elderly, the disabled and many more. Their work enables other work to take place and is often described as the backbone of society.

Despite their crucial role, this workforce is often stigmatised, discriminated against and their work demeaned and devalued. In the UK, migrant domestic workers are considered low- skilled and seemingly not worthy of the rights that other migrant workers enjoy, including rights that would ensure their safety at work.

For the past 12 years, migrant domestic workers have been subjected to exploitation, trapped working for abusive employers and left with no options to seek redress or safety. Unless their treatment meets the legal definition of trafficking or modern slavery, these workers fall into a gap in the UK's protection measures where they are entirely hidden from view and at high risk of being preyed upon by unscrupulous employers looking to exploit their drive to provide for their loved ones.

This report aims to scrutinise and dismantle the myths the previous Government relied on when they defeated calls made by workers and their supporters to have rights at work to ensure their safety. In so doing we endeavour to demonstrate clearly and unequivocally how the legislative and policy framework has put workers at risk for the past 12 years.

I hope this report will serve to assist workers in their tireless campaigning to have their rights as workers fully restored. Kalayaan will continue to work alongside you until they are.

Everyone should be safe in their workplaces. That must be a universal right for everyone.

Avril Sharp



“The problem about exploitative domestic work is bigger than heartless employers. We have a system that doesn't value domestic work as work and we want everybody to value and recognise domestic workers as workers”²

Marissa Begonia, 2020

Founding Member and Director of The Voice of Domestic Workers.

ERS WITHOUT RIGHTS
MEN TO ABUSE
RANT DOMESTIC WORKERS
GHTS BACK
LAYAAN



Workers and supporters speaking with Baroness Lister on International Women's Day 2022 about Amendment 70A to the Nationality and Borders Bill.

PHOTOGRAPHY: RACHEL MAN



BOYCOTT FOR DOMESTIC WORKERS' RIGHTS

**GIVE
BACK
OUR
STOLEN
RIGHTS**

#RESTOREOURRIGHTS

The Voice of
Domestic Workers



CONTENTS

EXECUTIVE SUMMARY AND KALAYAAN'S ONE RECOMMENDATION	7
BACKGROUND	9
FROM RIGHTS TO SLAVERY: THE OVERSEAS DOMESTIC WORKER VISA THROUGH THE YEARS	13
THE 8 MYTHS FUELLING DOMESTIC WORKER EXPLOITATION	17
1. There is insufficient data to show widespread mistreatment of workers	18
2. The policy intention of the visa remains paramount to other considerations	19
3. Workers are provided with information on their rights and where to seek advice should they need to	21
4. Workers and employers are subject to UK employment laws	24
5. Workers change employers for reasons other than abuse	25
6. Workers are safe to report abusive employers	27
7. The National Referral Mechanism protects abused workers	29
8. Visa renewals increase the risk of exploitation	32
JENNY'S STORY	35
THE PROVEN SOLUTION TO SAFEGUARD <u>ALL WORKERS</u>	37
REFERENCES	39
Appendix 1 – Entry clearance data for domestic worker visa applicants	43
Appendix 2 – Legal tests for trafficking, slavery, servitude and forced and compulsory labour	44
Appendix 3 – Leaflet for persons coming to the UK as an overseas domestic worker	45

EXECUTIVE SUMMARY AND KALAYAAN'S ONE RECOMMENDATION

Kalayaan works on the assumption that no amount of abuse should be tolerated, permitted to persist or go unchallenged. Key to this is addressing the systemic drivers of exploitation, including the legal structures that make people vulnerable to abuse. Whilst acknowledging that exploitation is multifaceted and abusive employers must be held accountable, **our focus in this report is demonstrating the role and legal duty the state has to ensure that our legal systems are compatible with our positive obligations to protect and safeguard all workers.**

The UK Government has repeatedly acknowledged the vulnerabilities faced by migrant domestic workers over the years, but their concern has been restricted to after-the-event responses that focus measures to rescue workers who have experienced extreme abuse, rather than address the ways in which the legislative and policy framework facilitates their abuse and excludes them from certain fundamental protections as workers in their own right.

Since 2012 and against the backdrop of the UK's hostile environment for migrants, Government policy has seen domestic workers stripped of their labour law rights, immigration enforcement prioritised, and the protections of this workforce placed within a trafficking framework. This has meant workers have had to demonstrate their treatment has deteriorated to the point of slavery before they are able to seek redress. This reactive approach does nothing to prevent abuse escalating, places an evidential burden on workers and obfuscates the role the state plays in handing more control to employers.

The visa changes introduced in 2012 under David Cameron formed part of that Government's objective to reduce net immigration to the UK to under 100,000 people. It sought to achieve this by reducing the rights of migrants on various visa pathways, including domestic workers. Ultimately, this objective failed. The demand for domestic workers has remained consistent and the number of visas being issued remains equally significant. By reducing the rights of domestic workers, the Government did not remove the demand for

domestic workers' labour, and so did not achieve the aim of reducing their number. However, by using a reduction in rights as the method, the move did produce a significant increase in rates of worker exploitation.

Evidence from workers, from Kalayaan and other front-line organisations has continuously demonstrated that restrictions on the ability of workers to challenge abusive employers only results in levels of abuse increasing. **This evidence has been consistently disregarded for the last 12 years.** This must be considered alongside the fact successive Conservative administrations have at the same time refused or rejected measures which would have provided the state with evidence and knowledge of the working conditions faced by this workforce.

This report provides evidence compiled by Kalayaan of the abuse experienced by migrant domestic workers in the UK over the last 12 years. It also scrutinises and dismantles the **8 key myths** that have been relied on when rejecting calls to reinstate labour law rights for workers, and demonstrates why concessions that have been introduced since 2012 have always fallen short of the unconditional protections that all workers are entitled to and were provided for under the visa regime prior to 2012.

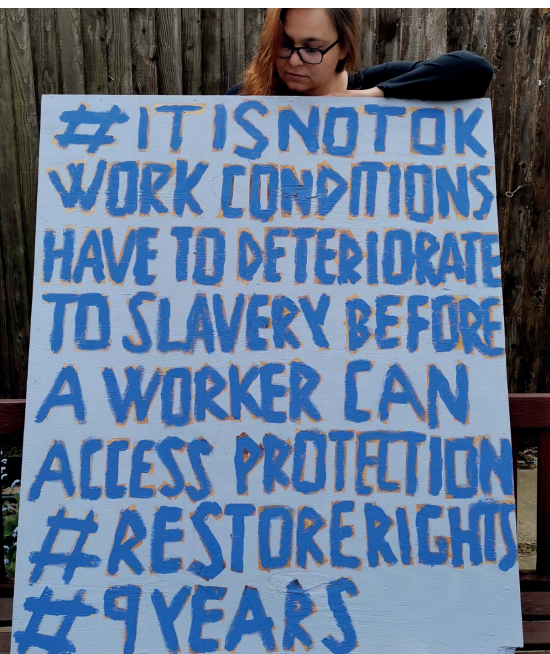
Ultimately, the report finds that the myths relied upon by Government are a smokescreen for the state's failure to ensure our legal system does not facilitate the abuse and exploitation of this workforce.

Kalayaan urges the incoming Government to consider the available evidence and reinstate the pre-2012 visa regime so that all migrant domestic workers are protected at work and able to challenge abuse when it arises.

We hope this report will assist in discussions with parliamentarians and policy makers as the campaign to restore rights continues.



“Our focus in this report is demonstrating the role and legal duty the state has to ensure that our legal systems are compatible with our positive obligations to protect and safeguard all workers.”



Workers and their supporters campaigning for rights over the years.

BACKGROUND

Who are migrant domestic workers?

Migrant domestic workers represent 7.7% of a global estimate of 150.3 million migrant workers. Disaggregated by sex, this share is even higher, representing 12.7% or 8.45 million of the 66.6 million female migrant workers worldwide.³ Recognised globally as a workforce vulnerable to abuse and exploitation, this workforce is isolated working behind closed doors, away from regulatory oversight and often without knowledge of their legal rights or where they may access support and assistance. The power balance in favour of employers cannot be overstated.

In the UK, approximately 20,000 applications are made for migrant domestic workers to accompany or join their employer in the UK each year. This predominately female workforce provides care for young children, the elderly and disabled. They provide a range of services including cooking, cleaning, gardening and chauffeuring. Despite the key role they play in households around the world, this work is often characterised by long working hours and low pay that often falls below the national minimum wage.

Although vulnerabilities can be pre-existing (socio-economic factors for example) they can also be compounded and created by the state. In respect of migrant domestic workers, the UK's policy and legislative framework has done so by removing hard-won, labour law rights in the name of immigration enforcement and restricting support and redress to those workers who have experienced severe abuse amounting to trafficking or modern slavery crimes.

The systemic underfunding of labour inspectorates and absence of safe reporting pathways for migrants are also key drivers of exploitation for at-risk workers but these are not explored in detail in this report.⁴

“The single most important issue in preventing the forced labour and trafficking of such workers.”

How did the current visa come about?

In April 2012, despite vehement and widespread opposition, the then Government made drastic changes to the terms of the Overseas Domestic Worker visa. This replaced a visa regime in place from 1998 that permitted workers the right to change employers, registering any such change with the Home Office, and the right to renew their visa if they could demonstrate their labour as a domestic worker was still required. Such safeguards were instrumental in preventing abuse escalating and enabled workers to access reporting mechanisms to hold employers accountable whilst in the safety of alternative employment. Workers also had the right to apply to have their spouses, partners and minor children join them in the UK and after five years of continuous employment, the right to apply to put down permanent roots and settle in the UK. The 2009 Home Affairs Select Committee Inquiry into Trafficking found that this visa regime and the protection it offered to workers was **the single most important issue in preventing the forced labour and trafficking of such workers.**⁵

These same rights were stripped from workers in 2012 when the Government claimed they were restoring the visa to its original purpose in allowing visitors and diplomats to be accompanied by their domestic staff but not to provide permanent access to the UK for unskilled workers.⁶ Characterising domestic work as low skilled and therefore unworthy of rights enjoyed by migrants in other occupations considered high skill, devalues the important and crucial contribution made by this workforce to families and communities across the UK. It further fails to recognise that the skills migrant domestic workers provide could respond to post-Brexit labour shortages in the UK, including the social care sector.⁷

In response to criticism that the 2012 changes would institutionalise the abuse of workers by tying them to their employers, the Government claimed that there were other ways of providing protection from abusive employers, such as through the National Referral Mechanism (NRM), the UK system introduced in 2009 to formally identify and provide support to survivors of trafficking, and later extended to cover instances of slavery, servitude and forced and

compulsory labour in 2015 with the passing of the Modern Slavery Act.

Government data tells us that from 2005 to 2022, the number of visas issued to migrant domestic workers has remained consistent at around 20,000 per year⁸ so rather than reducing this number, the only thing that has been achieved has been to strip this workforce of their rights and make them highly vulnerable to abuse. Once workers arrive in the UK, there is no monitoring of their working conditions by any labour inspectorate or other UK agency, so the full extent of the abuse experienced by this workforce is unclear. An independent review into the Overseas Domestic Worker visa in 2015 urged the Government to make serious inroads into this data deficit, with its recommendations designed to assist with this,⁹ however Kalayaan understands no such work has been undertaken to date.

Other sources of Government data are limited in what they tell us of the experiences of workers. Whilst interrogation of NRM data reveals some insights, it is restricted to those workers whose treatment reaches a certain threshold. It also only tells us of those who come to the attention of the authorities, who correctly identify them as survivors, and those survivors who then agree and provide their consent to a referral.¹⁰ Entry and exit data is also limited as it does not reveal whether a worker experienced any abuse whilst at work in the UK. For example, repeat visa applications and successive trips to the UK cannot on their own suggest that the visa is working as intended and that a worker is being treated fairly and well by their employer. Although the independent review found that the available data represents an incomplete picture of the extent of abuse experienced by workers on the visa, the qualitative data that does exist should be treated as the best available.¹¹

A growing body of evidence of abuse

From 6 April 2008 to 6 April 2024, Kalayaan registered 2,080 workers¹². Each worker accessing our service completes a registration process which includes an assessment of their working conditions abroad and in the UK. The same process is followed for each worker so that Kalayaan advisors can advise them on their immigration

rights and any potential remedies available to them if they have experienced breaches of their labour law rights. **Kalayaan believes this to be the largest body of evidence available to inform understanding of the experiences of migrant domestic workers at work in the UK.**

The evidence is damning. It demonstrates that instances of abuse rose significantly following changes to the visa made in 2012 which restricted the ability of workers to change employers without restriction. Further changes to the visa terms introduced in 2016 have made little difference.

Numerous attempts have been made by workers and their supporters over the past 12 years to reverse these changes. Parliamentarians have been lobbied, petitions have been signed, and workers have bravely spoken out. Civil society organisations have engaged with various government-stakeholder groups and a number of international monitoring mechanisms have expressed concern about the UK's legislative framework and how it puts workers at unacceptable risk. All attempts to restore rights have so far been rejected.

This report has undertaken a literature review of parliamentary debates, statements and public responses over the past 12 years and identified 8 key myths the Government rely on when rejecting calls to reinstate rights to workers. Each myth has been debunked, having been examined in detail and considered against the legal frameworks to which the UK is signatory, together with the available evidence.

In light of this, Kalayaan urges the incoming Government to take immediate steps to amend the immigration rules and reinstate the rights provided for under the pre-2012 visa regime:

- The unconditional right to change employer
- The right to renew their domestic worker visa annually, subject to ongoing employment
- The right to be joined by spouses, partners and children under 18 and
- After five years of continuous work as a domestic worker, the right to apply to settle in the UK, together with any family members who have joined them.



Workers and supporters give thanks to MPs and Peers outside Westminster in 2015 for championing worker rights during the passage of the Modern Slavery Bill



FROM RIGHTS TO SLAVERY: THE OVERSEAS DOMESTIC WORKER VISA THROUGH THE YEARS

1979-1998

From 1979 – 1998 an informal system operated leaving abused workers in limbo. Workers arriving in the UK received a stamp in their passport saying they had permission to work for their named employer. If they later fled abuse their status in the UK was not secure, leaving them unable to access reporting mechanisms for fear of immigration repercussions.

2012

In April 2012, these rights were stripped away under David Cameron's Government.¹⁴ Workers were admitted on a non-renewable six-month visa, tied to the employer they had accompanied to the UK and denied the right to change employer, even in cases of abuse. The Government held that such changes were necessary to bring the visa in line with its strategy for prioritising entry for the brightest and best skilled migrants and restricting eligibility for permanent residence. It also claimed that workers changed employers for reasons other than abuse¹⁵ and there were other means of protection for workers, including the National Referral Mechanism (NRM) for identifying trafficking survivors, introduced three years prior.

1998

In 1998 following a 10-year campaign, the last Labour Government introduced the original Overseas Domestic Worker visa, recognising domestic workers in their own right with their own immigration status independent of their employer.

Under the terms of the original visa, workers were permitted the right to change employer and renew their visa based on ongoing employment. Any change of employer and address had to be registered with the Home Office. The visa was subject to the worker being entirely self-sufficient and having no recourse to public funds. Workers could also apply to be joined by their spouses, partners and minor children and after five years of continuous work, apply to settle in the UK permanently. This regime was recognised internationally as good practice by the International Labour Organisation and the United Nations Special Rapporteur on the Human Rights of Migrants.¹³

In 2015, the Modern Slavery Act was passed but the opportunity to reform the tied visa was lost. Despite being presented with evidence that reported abuse under the tied visa had increased exponentially¹⁶ and the findings of two parliamentary committees that the moral case for revisiting the reversal of the 2012 changes was *'urgent and overwhelming'*,¹⁷ the Government defeated amendments to the bill to abolish the visa tie and restore the pre-2012 visa regime. Instead a specific provision was added to the bill which permitted workers conclusively recognised through the NRM to apply for further leave to remain in the UK, as a domestic worker for a maximum of six months without recourse to public funds.¹⁸ This marked a downgrade from the 12 months discretionary leave automatically considered for trafficking survivors at the time, which came with the possibility of further extensions of leave and recourse to public funds. More importantly, this provision did nothing to prevent or protect against the trafficking and exploitation of workers with the tied visa regime left intact.

In December 2015, an independent review into the domestic worker visa was published.¹⁹ Prompted by parliamentary debates during the passage of the Modern Slavery Act, the Government commissioned a review specifically to evaluate whether the terms of the visa facilitated the abuse and exploitation of workers. The review was evidence based and looked at the full spectrum of abuse experienced by workers in the UK, including treatment that does not amount to trafficking or slavery. The review's author, James Ewins KC, found that the imposition of the visa tie 'did nothing but to impose an unacceptable increase in the risk of abuse which was incompatible with the reasonable protection of workers in the UK.'²⁰ He also found that workers who had the safety and security of alternative employment were more likely to pursue action against their former abusive employers.²¹

THE REVIEW MADE TWO KEY RECOMMENDATIONS:

1) To remove the visa tie and reinstate the right for workers to change employer and apply for visa extensions totalling 2.5 years in the UK, to give them a real and practical route out of exploitation without jeopardising their immigration status and livelihood.

2.5 years was considered the minimum amount of time required to enable workers to meaningfully exercise their right to change employer. The review stressed that workers must not be put under any undue pressure to accept unsafe alternative employment, given that the underlying rationale for changing employer is to give workers a route out of abusive employment, of which safe re-employment is an essential part²². The review also set out why the NRM does

not serve the needs of workers who have experienced or been threatened with abuse.²³

The review did not disagree that unlimited extensions and the right to apply for settlement is the most comprehensive means of alleviating the vulnerability of abused workers but restricted its recommendations to what is necessary to protect their fundamental rights at work in the UK. The experience of recruitment agencies was instructive on this and explained that the commercial reality of an employer paying an agency fee and taking a risk hiring an abused worker without references would need to be provided a period of employment longer than six months. The recruitment agencies were clear that placing such workers for short periods is impossible.²⁴

Since the review found it would be impractical and invidious to discriminate between seriously abused, mildly abused, and non-abused workers, the review found that such rights must be granted to **all workers** in pursuit of the minimum steps necessary to protect their fundamental rights at work.²⁵

Whilst acknowledging an unintended consequence of this may be that non-abused workers may choose to avail themselves of the right to leave their employer, this was of 'limited detriment compared to the benefit of the central intended consequence.' There was also the real possibility that many would choose not to, owing to the good relationship they have with their employer.²⁶

The review recommended workers register any change of employer with the Home Office with the option of giving reasons for the change which would enable the Government to have evidence to inform their understanding of the motivation of workers in doing so.²⁷

2) The second key recommendation addressed systemic failures in providing workers with information on their rights during the visa application process and after their arrival in the UK.

The review found that the essential changes referred to above would only be of practical help if workers were empowered and enabled to avail themselves of such rights, therefore it was recommended that mandatory group information meetings be introduced for workers who remain in the UK for more than 42 days. This would mean abused workers could be identified, even self-identify themselves, and take practical steps to leave with assistance in doing so, rather than having to rely on chance encounters with good Samaritans.

It was recommended this service be run independently of the Home Office and funded by an increase in the visa fee.

MARCH 2016

In March 2016, amendments were tabled to the Immigration Act which would have seen the review's recommendations implemented.²⁸ The amendment was passed by peers in the House of Lords but later defeated when it returned to the House of Commons.²⁹

IN MARCH 2016, THE GOVERNMENT RESPONDED TO THE REVIEW'S RECOMMENDATIONS.³⁰

The Government accepted workers should have an immediate escape route from abuse so the right to change employer was reinstated, without any requirement to notify the Home Office.

The Government did not accept that workers should have the right to renew their visa. In coming to this decision, the Government consulted with the **Anti-Slavery Commissioner** who was of the view that if workers had the right to renew their visa, there was the risk abuse would go undetected, perpetuating a revolving door of abuse. This has meant that since April 2016, workers have been allowed to change employer but only whilst their six-month visa remains valid.

The Government accepted more needed to be done to ensure workers are provided with information on their rights in the UK, so committed to introducing information meetings.

The Government introduced other measures in addition to the above, but these were restricted to those workers whose treatment amounts to trafficking or slavery and who enter the NRM. They included:

- Granting an extension of leave beyond a worker's six-month visa with permission to continue working as a domestic worker pending their claims being decided (applicable only in cases where their six-month visa remained valid at the outset of their NRM journey)³¹
- Upon being conclusively recognised as a survivor, having the right to apply for a domestic worker visa for a maximum of two years, up from six months when the measure was first introduced in 2015.

JUNE 2018

In June 2018, the Government launched a procurement exercise to find a provider to run information meetings. Kalayaan voiced a number of concerns with the requirements, chiefly that they would not be compulsory and no checks would be made on a worker invited but who failed to attend. We also raised concern the requirements were weighted heavily in favour of organisations with larger infrastructures, rather than demonstrable experience in supporting and advising vulnerable individuals.³²

MARCH 2021

In March 2021, the Government responded to a petition signed by 12,726 members of the public calling for the reinstatement of the pre-2012 visa regime.³³ Their response confirmed they were not going to do so. They claimed that workers and employers are subject to all the responsibilities and protections offered by UK employment law and relied upon the existence of the route for workers recognised through the NRM to apply for leave in the UK for a further two years.

APRIL 2021

In April 2021, the Government confirmed two bids were received to run the information meetings but they did not meet requirements.³⁴ They did not explain why this was. We understand this commitment has since been abandoned altogether, despite the Government's earlier acknowledgement that workers are not informed of their rights in the UK and where to get assistance from, either during the visa application process or after their arrival in the UK.

MAY 2021

In May 2021, three Special Rapporteurs at the United Nations sent a communication to the Government expressing their concern with the 2012 and 2016 changes made to the visa.³⁵ They found that the right to change employer at any point in time and for any reason, while being able to apply for an extension of stay would ‘contribute directly and significantly to the prevention and protection from exploitation and abuse of workers.’

MARCH 2022

In March 2022, an amendment was tabled to the Nationality and Borders Act which would have seen rights restored to workers ten years after they were stripped of them.³⁷ Peers in the House of Lords explained how the 2016 changes to the visa had made no difference to the abuse experienced by workers and stressed again the need for workers to have rights to challenge abuse before it escalates.

In responding to the amendment, the Government did acquiesce that ‘not all exploited workers are victims of modern slavery’ and agreed that Home Office policy officials would meet with NGO practitioners to hear directly from those who encounter and support domestic workers, ‘including those who fall between the cracks of labour abuse and modern slavery.’ The amendment was reluctantly withdrawn on assurance that the Government would consider all evidence when developing proposals to improve and modernise the visa route going forward.³⁸

The Home Office has since confirmed to Kalayaan that restoring the pre-2012 visa regime is not an option that will be considered. No further information about future proposals or engagement with workers or practitioners has been provided since 2022. Despite the evidence being clear that reported abuse is higher in the absence of rights that keep workers safe, the Government refuses to meaningfully engage with this, nor provide us with reasons why not.

JULY 2021

In July 2021, the Government responded to the Special Rapporteurs.³⁶ Their response set out the measures introduced following the independent review in 2016 but did not elaborate why the two bids received to run information meetings were unsuccessful. Instead, the Government stated that workers are provided with an information leaflet during the visa application process setting out the employment protections available to workers within the UK and possible sources of help. The response did not acknowledge the finding made in the independent review that these leaflets are not systematically issued which had prompted the recommendation for mandatory information meetings once a worker had arrived in the UK.

JUNE 2022

In June 2022, the Special Rapporteurs sent a follow up communication to the Government.³⁹ In this they expressed concern that the Government had failed to address the core points made in their original communication. Notably these were:

- Not all abuse experienced by workers amounts to trafficking or slavery leaving some unprotected
- Claimed safeguards during the visa application process remained ineffective and
- The reasons for the unsuccessful bids to run information meetings had not been disclosed.
- Reference was also made to the fact there is no monitoring of working conditions once workers arrive in the UK.

The Special Rapporteurs urged the Government to reconsider their position not to consider the restoration of the pre-2012 visa route as an option. At time of publication, a response to the Special Rapporteurs remains outstanding.

THE 8 MYTHS FUELLING DOMESTIC WORKER EXPLOITATION

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MYTH 1

THERE IS INSUFFICIENT DATA TO SHOW WIDESPREAD MISTREATMENT OF WORKERS

From 6 April 2008 to 6 April 2024, Kalayaan registered 2,080 workers who arrived on the Overseas Domestic Worker visa to work for a private individual (1,829 women and 251 men). Each of these workers were asked a set of routine questions as to their working conditions in the UK. This is what they told us.

- 14% of workers issued a visa prior to 6 April 2012 presented with **indicators of trafficking**. This rose to 40% of the workers issued a visa after 6 April 2012 and 41% of the workers issued a visa after 6 April 2016.
- 47% of workers issued a visa prior to 6 April 2012 **did not have access to their passport in the UK**. This rose to 73% of workers issued a visa after 6 April 2012 and 6 April 2016 respectively.
- 47% of workers issued a visa prior to 6 April 2012 **were not allowed out of their employer's property alone**, compared with 69% of workers issued a visa after 6 April 2012 and 6 April 2016 respectively.
- 52% of workers issued a visa prior to 6 April 2012 had **no day off in the UK**. This rose to 70% of workers issued a visa after 6 April 2012 and 66% of workers issued a visa after 6 April 2016.
- 17% of workers issued a visa prior to 6 April 2012 had **irregular food**. This rose to 42% of workers issued a visa after 6 April 2012 and 61% of workers issued a visa after 6 April 2016.
- 38% of workers issued a visa prior to 6 April 2012 **did not have their own bedroom or private space**. This rose to 64% of workers issued a visa after 6 April 2012 and 53% of workers issued a visa after 6 April 2016.
- 24% of workers issued a visa prior to 6 April 2012 were **not paid regularly**. This rose to 39% of workers issued a visa after 6 April 2012 and 31% of workers issued a visa after 6 April 2016.
- **Physical abuse** was reported in 12% of cases where workers were issued a visa prior to 6 April 2012, compared with 20% for workers issued a visa after 6 April 2012 and 26% issued a visa after 6 April 2016.
- **Psychological abuse** was reported in 44% of cases where workers were issued a visa prior to 6 April 2012, compared with 64% of workers issued a visa after 6 April 2012 and 58% of workers issued a visa after 6 April 2016.

In all types of abuse collated by Kalayaan, it is reported higher when the worker was issued a visa after 6 April 2012, when the tied visa regime took effect, with levels remaining consistently high following changes made in April 2016.

MYTH 2

THE POLICY INTENTION OF THE VISA REMAINS PARAMOUNT TO OTHER CONSIDERATIONS

“It has been suggested by noble Lords that being able to change employer is of little use to those already close to their visa expiry date. We understand, of course, that it takes time to find work, but we must remind noble Lords that it is not the purpose of the domestic worker visa to enable migrant domestic workers to establish themselves in the labour market. This is about shifting the balance of power towards the worker by making it clear that their status in the UK is not exclusively dependent on the employer they arrived with.”

Lord Sharpe, Nationality and Borders Bill debates, 8 March 2022⁴⁰

The purpose of the visa route for domestic workers is not in dispute. For those workers who are content in their employment and have their fundamental rights upheld, the visa works as intended. The visa does not work when workers experience abuse or threats of abuse whilst in the UK as they are denied an effective and accessible escape route.

Since 2016, workers have been able to change their employer in the UK but only during the validity of their visa, which remains capped at six months. It is, generally, outside of the control of workers as to when they travel to the UK, as this is dictated by their employer. This means that they have less, sometimes significantly less, than six months remaining on their visa when they arrive in the UK.

Workers report to Kalayaan having little to no control over the visa application process. During their journey to the UK, through immigration control and after their arrival, 73% of workers reported not having access to their passport containing their visa or any information about their rights in the UK. Research produced by Kalayaan in 2019 found that on average workers take 29 days to leave an abusive employer in the UK, and then a further 88 days before they learn of Kalayaan through community networks.⁴¹

We are often the first place where workers receive trusted and regulated advice on what their options and entitlements are in the UK. Only 18% of eligible workers knew they had the right to change employer, having been given information during the visa application process.

13% received an information leaflet

19% read their contract before signing it

8% still hold a copy of their contract

Even in the event a worker leaves their employer with possession of their passport, with a visa that is still valid, and they are aware of their rights in the UK, they have only a few months or weeks left before their visa expires, making them highly undesirable to prospective employers. As was highlighted



PHOTOGRAPHY: CAMILA ALMEIDA

in the independent review, the evidence from recruitment agencies is clear that placing workers in this position is impossible. The review also pointed out that ‘the Government concedes that having acceded to the wants/needs of certain employers and allowed them to bring their employees to the UK, there are circumstances when its responsibilities to such employees outweigh the original rationale for entry, and justify a different basis for the employee to remain in the UK.’ This is evident as it formed the basis of the provision in the Modern Slavery Act specifically for workers conclusively recognised through the NRM.⁴²

The right to change employer and the time needed to do so safely is crucial for workers to be able to free themselves from abusive employment. It is not about establishing themselves in the labour market. In the absence of a renewable visa, workers find themselves either trapped working for the employer they accompanied to the UK, or leave and are then prey to those looking to exploit their insecure status. Whilst this continues, worker status does in essence remain dependent on the employer they accompanied to the UK because the right to change employer is not effective in practice.

MYTH 3

WORKERS ARE PROVIDED WITH INFORMATION ON THEIR RIGHTS AND WHERE TO SEEK ADVICE SHOULD THEY NEED TO

“This Government remains committed to ensuring the legislative and administrative framework protecting overseas domestic workers from trafficking is practical and effective. We continue to closely monitor the available mechanisms which ensure domestic workers both receive the necessary information and understand where to seek advice should they need it”

Kevin Foster, Letter to Kalayaan, 10 June 2021 ⁴³

Kalayaan is not aware of any continued monitoring being carried out by the Government to ensure that workers both receive information and understand where they can access help should they need to. The online visa application represents the first contact workers have with the UK authorities. Applications are considered in line with the immigration rules which the Government claim have been strengthened over the past 12 years in order to improve protections for workers and prevent the importation of exploitative practices. Such requirements include:

- **Applicants having worked for their employer for the 12 months prior to their application, supported with evidence such as contracts and pay slips, to demonstrate a genuine pre-existing relationship.**
- **Providing a written statement, setting out the terms and conditions of their employment in the UK, signed by the worker and their employer.**
- **The decision maker being satisfied the worker will be paid in accordance with the National Minimum Wage throughout their time in the UK.**

These measures are limited in their practical effect. Many workers report to Kalayaan that they have little to no control or knowledge over their visa application and do not know what information was provided as it was handled by their

employer or an agency they instruct. Workers trapped in abusive employment have little choice in signing documents, especially when they have families who are dependent on their continued remittances. There is also the issue for those workers who are illiterate or do not understand English or the language of the country they migrate to the UK from. Only 19% of workers issued a visa after 6 April 2016 read their contract before being made to sign it as part of their visa application.

After the online application is submitted, workers are required to attend a Visa Application Centre (VAC) to submit their documents and provide their biometrics. VACs are run by commercial partners and have no part in the decision-making process which remains with the Home Office. Workers are meant to be seen on their own, separate to their employer and provided an information leaflet which informs them of their rights in the UK and who they can contact should they experience abuse – the text used in the information leaflet is reproduced at Appendix 3.

The independent review in 2015 recommended that these safeguards be expressly stated in the UK’s contract with commercial partners and rigorously and independently monitored, yet we have found no evidence to suggest there have been any changes to the way in which information is provided to workers. This is notable given that the Government reneged on their commitment to introduce information meetings, a safeguard they accepted was ultimately essential

given the procedural failings identified in the review to provide workers with information prior to their arrival.

Since abandoning this commitment, the Government has resumed reliance on the provision of information leaflets at VAC abroad, however data collected by Kalayaan has consistently demonstrated for years that workers are accompanied to these appointments and the information leaflets are not systematically issued.

EXPERIENCES APPLYING FOR A VISA TO COME TO THE UK: ⁴⁴

- Only 36% of workers attended an interview alone, separate to their employer or a representative their employer instructed.
- Only 13% of workers received an information leaflet informing them of their rights as a worker in the UK and where they may seek help and assistance if they needed it.
- Only 18% of workers were aware prior to their arrival that they had the right to change employers in the UK.

Even if workers did receive the information leaflet, the independent review in 2015 found that the ‘simple provision of written information in a foreign country is not infallible, and is far from sufficient. It may not be understood; it may not be retained; and it may be of no practical use if the overseas domestic worker is denied access to the relevant sources of help by telephone, internet or visiting in person upon arrival in the UK.’

Kalayaan agrees. Even if workers did receive, understand and retain the information stated on the leaflet, it is of limited use given that workers are effectively denied the right to safely change employer and any support is contingent on the worker having experienced treatment amounting to trafficking or modern slavery.

THE VISA APPLICATION CENTRES ABROAD

Of those individuals who registered at Kalayaan and who were issued a visa after 6 April 2016, they travelled to the UK from the following countries:

COUNTRY	% OF CLIENTS	NUMBER OF VACS	VAC LOCATION(S) ⁴⁵
QATAR	26%	1	1
SAUDI ARABIA	24%	10	10
UNITED ARAB EMIRATES	21%	8	8
KUWAIT	8%	1	1
BAHRAIN	5%	1	1
HONG KONG	5%	2	2
JORDAN	2%	1	1
OMAN	2%	1	1
INDIA	2%	12	12
NIGERIA	2%	5	5



Workers meet with MPs at a Parliamentary Drop-In at the Houses of Parliament on International Domestic Workers Day 2023.

MYTH 4

WORKERS AND EMPLOYERS ARE SUBJECT TO UK EMPLOYMENT LAWS

“Both ODW and Visitor visas are valid for a maximum period of six months, and are issued on the basis both parties intend to leave the UK within this time, in line with the temporary nature of their visa. During their time in the UK, employers and migrant domestic workers are subject to all of the responsibilities and protections offered by UK employment law.”

Kevin Foster, Letter to Kalayaan, 10 June 2021⁴⁶

Migrant domestic workers are not subject to all of the responsibilities and protections offered by UK employment law and are explicitly excluded from a number of statutory provisions. This includes health and safety legislation and the Working Time Regulations which limits the maximum hours worked each week at 48. The short term nature of the visa also means that workers are effectively excluded from bringing claims before employment tribunals, as were those who were unable to pay tribunal fees between 2013 and 2017.



Following a legal challenge brought by UNISON, the Supreme Court ruled that the Government had acted unlawfully and unconstitutionally by introducing fees.⁴⁷

Until recently, migrant domestic workers were even denied the right to receive the national minimum wage on the grounds they were treated as a member of the family. An exemption contained in the National Minimum Wage Regulations 2015 was regularly exploited by abusive employers in response to claims brought by aggrieved workers for failure to pay their wages. A case brought by a worker, Mrs Puthenveetil, successfully argued at the Employment Tribunal that the exemption was unlawful and indirectly discriminatory on grounds of sex given that domestic workers are overwhelmingly female.⁴⁸

As a result of the judgement, the Government asked the Low Pay Commission to seek further evidence as to the impact of the exemption and make recommendations for its amendment or removal. The Commission found that the exemption had become a ‘loophole for the exploitation of live-in domestic workers’ and recommended it be removed in its entirety.⁴⁹

Following sustained pressure, the Government took measures to implement their March 2022 commitment to scrap the exemption with regulations laid in Parliament to remove them in April 2024.⁵⁰

Ultimately, the issue of access to redress is still an issue for migrant domestic workers whilst they remain excluded from legislative provisions designed to safeguard workers.

MYTH 5

WORKERS CHANGE EMPLOYERS FOR REASONS OTHER THAN ABUSE

“ODWs will no longer be able to change their employer once they have entered the UK. This has been allowed to give ODWs a degree of protection from abusive employers. However, evidence shows that many ODWs change employer for other reasons and we do not consider that an ability to change employer is the only way to provide protection. Over the period 2005- 2009, 60% of ODWs who changed employer, changed for reasons other than abuse. Stakeholders have indicated a desire to change employers for reasons such as widening skills, which is contrary to the original aim of the policy...”

The Government is also introducing new protection strategy, comprising strengthened pre-entry requirements, information on and access to protections while in the UK and assistance to return home...

Stakeholders have expressed concerns about ODWs being trapped in abusive conditions if they are no longer allowed to change employer. However, evidence gathered during the consultation suggests that up to 60% of employer changes are not related to abusive employment conditions. There are also a number of mechanisms in place which help ODWs experiencing abuse through their employment. The National Referral Mechanism exists to identify and support victims of trafficking; there is protection in law against conditions of slavery and the backstop of domestic workers being able to return to their country of origin. Further to this, the policy proposal also contains an intention to introduce a new protection strategy. As a result of these mechanisms the Government believes the risk of abuse to ODWs will not be increased from current levels.”

Home Office, Impact Assessment, Changes to Tier 5 of the Points Based System and Overseas Domestic Worker routes, 15 March 2012 ⁵¹

Putting aside criticism of the consultation procedure⁵², it is unclear where the Government’s suggestion that 60% of employer changes are unrelated to abuse comes from.

The Government’s consultation about proposed changes to employment-related settlement ran from 9 June 2011 – 9 September 2011. 12,499 responses were received (11,493 through an online multiple-choice-question survey, the remainder by email and post) as well as a large number of additional or supplementary comments. Seven out of 32 questions of the online survey were aimed specifically at changes to the visa route for domestic workers employed by private individuals and diplomats. The Government’s summary document sets out their analysis of answers received to each question on the online survey, followed by some analysis of written comments

received. Nowhere in this summary document does it state the reasons why workers change employer, or how evidence gathered during the consultation demonstrated that 60% of workers who changed employers between 2005 and 2009 did so for reasons other than abuse.⁵³

Kalayaan provided written evidence to this consultation, some of which is quoted in the Government’s summary document.⁵⁴ Included in our evidence was reference to a report Kalayaan produced in May 2011 which found that 40% of workers who reported a change of employer to the Home Office between January 2003 to August 2010 cited abuse or exploitation as the reason. In our report, we explained that it was likely the actual figure would be much higher than this given that many workers prefer not to reveal their personal experiences to the Home



Office.⁵⁵ If the 60% figure relied upon by the Government is based on inverting Kalayaan's evidence that 40% of workers cited abuse as their reason for changing employer, this is misleading, unreliable and a wholly inappropriate way of producing evidence to support such a significant change in policy.⁵⁶

Irrespective of where this figure comes from, it is now outdated, and the Government have no updated evidence they can rely on. This is because for the past 12 years, there has been no central collating or monitoring of the reasons why workers leave the original employer they accompany to the UK, despite the Government's eminent ability to do so.

From April 2012 – April 2016, workers were prohibited from changing employers and since April 2016, although workers are permitted to change employers, they are not required to notify the Home Office.

Despite the Government committing to make serious inroads

into this data deficit in 2016⁵⁷, Kalayaan understands that no such work has been completed to date. Information meetings have been abandoned altogether and the Government has so far rejected calls to permit workers to change employers and renew their visa, registering any changes of employer with the Home Office. In rejecting these recommendations, not only are workers not protected or safeguarded from abuse, but the Government has denied themselves crucial data which would have helped inform their understanding of the reasons why workers change employer. Interrogation of NRM cases and outcomes, and the use of entry and exit data cannot and should not serve as an adequate substitute for this given their respective limitations, as set out above.

In light of this, we urge the Government not to disregard the available, up-to-date evidence presented in this report, as well as evidence gathered by other front-line organisations. As shown above, the instances of reported abuse in 2016 have remained consistent with what was reported after the changes brought in, in 2012.

MYTH 6

WORKERS ARE SAFE TO REPORT ABUSIVE EMPLOYERS

“...The Government’s primary aim is to ensure that where abuse and exploitation takes place, it is brought to light so that victims can be supported and action taken against perpetrators. The National Referral Mechanism (NRM) has been put in place for this purpose and, as with any other victims of slavery our aim must be to be create an environment in which ODWs who are victims of abuse are encouraged to report the abuse and to access support.

The Government’s concern is that if ODWs were able to change employers and significantly prolong their stay, irrespective of whether they have reported this abuse and whether there is evidence that such abuse has taken place, they may be less likely to report abuse. This may perpetuate a revolving door of abuse in which perpetrators remain unidentified and free to bring other domestic workers to the United Kingdom with impunity.”

James Brokenshire, Ministerial Statement, 7 March 2016 ⁵⁸

If the Government is serious about creating an environment for workers to come forward and report abuse, it must give priority to and engage with the needs of this workforce so that they may feel safe enough to support any civil or criminal action against their former employers. This is essential given that the adequate protection of abused workers precedes any action being taken against their former employers.

The overwhelming majority of workers that register at Kalayaan tell us that they would want to take action and bring a case against their former employer but require the safety and security of alternative employment in order they can continue providing for their families and remit money home. Such security could be provided for by restoring the right of workers to renew their visa, giving them the time needed to make the right to change employer meaningful in practice. The same conclusion was reached by the independent review after hearing from abused workers, finding that their evidence was ‘instructive, reassuring and highly persuasive.’ ⁵⁹

Despite the clear evidence from workers, the Government has continued to place reliance on the NRM as the appropriate vehicle in which the state can provide support and ensure action is taken against perpetrators. Such an approach is

problematic on numerous grounds:

1. The NRM was not designed specifically for assisting workers who have experienced abuse whilst at work in the UK. The NRM only assists those whose treatment amounts to trafficking or modern slavery, meaning that other forms of abuse and labour law breaches are not recorded in any way. This gap in protection has recently been acknowledged by the Government⁶⁰ but left unaddressed, and means that their concerns of abuse going unreported and perpetrators recycling their abuse is a reality. This group of workers are left entirely hidden from view, living outside the protection of the law and remain at risk of further harm from those looking to exploit their insecure status in the UK and their drive and desperation to continue working to support loved ones back home.
2. Those cases that are suitable for a NRM referral, the provision of support is conditional on a worker finding a First Responder Organisation with capacity in a system that is overloaded and having to turn people away. ⁶¹ Workers are also tasked with providing sufficient evidence of their treatment in order to meet the threshold for an initial NRM decision. ⁶²
3. Even once a worker has passed these hurdles and is in the

NRM, their ability to continue working lawfully whilst their case is considered by the NRM hinges on whether their original six-month visa remains valid at the point in which they receive the initial NRM decision.⁶³ Research by Kalayaan in 2019 demonstrated why the requirement to have a valid visa at the outset of a worker's journey through the NRM is arbitrary and fails to recognise the barriers workers face in coming to the attention of the authorities sooner. Without lawful permission to work in the NRM, these workers are drawn into destitution and pressurised into entering informal and exploitative work to survive.⁶⁴

Ultimately, the NRM does not address the needs of workers who have experienced abuse, even in cases where their treatment amounts to trafficking or modern slavery.

If the Government is concerned that abuse may go unreported, this risk would be removed by re-introducing the requirement to notify the Home Office of any change of employer, such as was the process workers had to follow prior to April 2012. The Government cannot raise a purported problem and at the same time ignore a solution that has previously worked well (and provided data to inform understanding of the reasons why a worker chose to exercise this right – as noted above). In 2015, the independent review found little resistance to this very proposal with the Government acknowledging that registering any change of employer could mitigate the possibility of the worker moving into another abusive relationship.⁶⁵

Despite being a proven solution, the Government has twice defeated amendments to two separate immigration bills passing through parliament which would have seen the requirement to notify the Home Office of any change of employer reintroduced:

1. In 2016, Kalayaan supported an amendment to the Immigration Act which would have given effect to the recommendations made in the independent review, including the requirement to notify any change of employer. At the time this was defeated by the Government on the basis of advice from the Anti-Slavery Commissioner who advised against permitting visa renewals.

2. In 2022 during the passage of the Nationality and Borders Act, the Government defeated an amendment to restore the pre-2012 visa regime which included the requirement to notify any change of employer. At Committee Stage in the House of Lords, the Minister for the Home Department said they do not expect domestic workers to register a change of employer with the Home Office because

they want a worker 'to be able to leave as soon as their mind is made up to do so, so we must avoid anything that may act as a barrier to exercising that right. Imposing an extra condition now risks undermining changes that have been made for the better.'⁶⁶ Such a response is confusing if it is the Government's primary aim to catch perpetrators which they cannot do without a worker disclosing they have been abused. The Government has also been provided with no evidence that the requirement to notify a change of employer has ever stood as a barrier.

The Government's stance on taking action once abuse and exploitation has taken place does not absolve its duty to adopt measures to prevent trafficking to begin with.

The European Court of Human Rights has been clear that states need to ensure a combination of measures to [1] prevent trafficking, [2] protect victims and [3] punish traffickers. Only a combination of all three measures is effective in the fight against trafficking. The above ministerial statement from 2016 addresses two out of three measures but is silent on the requirement to have in place a legislative and administrative framework which prohibits trafficking, with measures that are not only written into law, but can be effectively accessed in practice. Whilst the current visa regime hinders the ability of workers to safely change employer by limiting the time they have to do so, and restricts support to those who meet the threshold for a NRM referral, the UK's efforts to combat trafficking on this visa route will always remain ineffective and in breach of the Government's absolute duty under Article 4 of the European Convention on Human Rights.



The Big Issue's report in 2023 to mark the 11th anniversary of the visa rule changes.

MYTH 7

THE NATIONAL REFERRAL MECHANISM PROTECTS ABUSED WORKERS

“The Government recognises the potential vulnerability of migrant domestic workers and does not intend for any domestic worker, who is subjected to forced labour or abuse, or indeed otherwise, to become undocumented. This is why a dedicated process exists for victims of modern slavery who entered the UK as a domestic worker. This process offers those who have fallen into this vulnerable position, permission to stay in the UK for up to two additional years. This is in addition to the support provided by the Single Competent Authority through the National Referral Mechanism.”

Government response to parliamentary petition, 5 March 2021⁶⁷

Not all abuse experienced by migrant domestic workers amounts to trafficking or modern slavery. Those who experience other forms of abuse and labour law breaches are therefore not protected by the NRM and fall into a gap in protection where they are at risk of further harm.

In 2022, during debates of the Nationality and Borders Act, the Government appeared to publicly recognise this, acquiescing

that ‘not all exploited workers are victims of modern slavery’ and committed to consider all evidence when improving the visa.⁶⁸ Since then, the Government has confirmed to Kalayaan that reinstating the pre-2012 visa regime is not an option that will be considered.

Access to the National Referral Mechanism or NRM is via a First Responder Organisation, designated by the Government as





having the necessary expertise to identify and support survivors of trafficking and modern slavery. First Responders include both statutory and non-statutory organisations, including Kalayaan who has held this role since 2009 when the NRM was first established. First Responders are tasked with carrying out an assessment with the individual they are supporting to determine whether their case could be referred to the NRM. This assessment must consider whether the individual has been subjected to treatment amounting to trafficking, slavery, servitude, or forced and compulsory labour, as well as cases where exploitation has not taken place, but the intent to exploit, the purpose, was there.⁶⁹ Where treatment does not meet the legal definition, the individual should not be considered eligible for a NRM referral. (In such cases where a referral is still made, this will be met with a negative NRM decision from the Home Office and the individual denied support). Workers who do not meet the threshold but who have nonetheless experienced violations of their labour law rights, fall into a gap in protection acknowledged and left unaddressed by the Government.

In 2022, the Minister for the Home Department acknowledged that ‘provisions are limited to those in the NRM system, but this package is designed to strike the right balance between ensuring that those who find themselves in an abusive employment situation are able to escape it by finding alternative employment, and encouraging them to report that abuse through the appropriate mechanism.’⁷⁰ The Government has ultimately failed in this objective: workers cannot find alternative employment without sufficient time to do so, which would be provided for if the right to renew

their visa was reinstated. Without this employment-security, workers will not report their former employers. This is true not only in cases where treatment does not meet the threshold for a NRM referral, but also in cases concerning workers in the NRM framework with an expired visa, who are prohibited from working whilst their claims are considered.

Ultimately, the availability of the NRM and the role the state plays in rescuing workers once their treatment has sufficiently deteriorated deliberately ignores the need to safeguard workers by providing them with rights to challenge exploitation early on, and prevent labour law breaches escalating to more severe forms of abuse. Whilst our legal framework leaves in place a regime that allows labour law breaches to go undetected (in the absence of any monitoring) and unchallenged (given a lack of enforceable rights), the state is failing in its positive obligations to protect all workers from abuse.

The prioritisation of protections, rights and resources for the most severe violations of worker rights to the exclusion of lower-level workplace rights has resulted in the state creating a hierarchy of needs and a population of undocumented workers, hidden entirely from view. This group of workers are at heightened risk of further harm including being trafficked or enslaved, by those looking to exploit their insecure status. Such approach is entirely at odds with Government strategy to maintain the integrity of the immigration system as well as preventing and combatting trafficking and other forms of violence against women.



MYTH 8

VISA RENEWALS INCREASE THE RISK OF EXPLOITATION

“Kevin Hyland, the Independent Anti-Slavery Commissioner, has set out a clear view on the time period that should apply to the duration of the visa. He said that annual extensions to all overseas domestic workers will significantly increase the risk of exploitation and create an environment in which criminals could operate. Such cases had been happening prior to the 2012 change in visa rules.”

James Brokenshire, Immigration Bill debates, 25 April 2016 ⁷¹

When the Government commissioned an independent review to look at the visa terms, they stated their intention to implements its recommendations. ⁷² It was therefore a peculiar move to ignore the findings of the review and instead prefer the view of the Anti-Slavery Commissioner when considering the duration of a worker’s visa.

The independent review was comprehensive and evidence based, with its recommendations carefully constructed so that when taken altogether, would ensure the minimum levels of protection all workers are entitled to receive whilst at work in the UK. With regards the visa term’s duration, James Ewins KC determined that in order to make the right to change employer accessible in practice, workers would need to be provided



PHOTOGRAPHY: RACHEL MAN

with sufficient time so that they were not placed under any undue pressure to accept unsafe alternative employment. On that basis he recommended the right to renew the visa for up to two years beyond the initial six month term.⁷³

Mr Ewins' extensive assessment demonstrated an intrinsic link between workers having the right to change employer and the right to renew their visa. Mr Hyland seemingly viewed these as two distinct issues to be addressed. In his evidence, Mr Hyland agreed that the visa tie increased the risk of exploitation and found that workers should be given the right to change employer. This he said, would 'empower those who are abused to come forward and report the crimes against them, whether it is exploitation that equates to modern slavery or other types of abuse.' This appears to place greater emphasis on the need for abuse to be reported, without due regard for understanding how exactly to empower workers so that they feel safe in order to do so. Indeed, there is no express reference in Mr Hyland's evidence as to how workers fleeing abuse may be best assisted to find alternative employment.⁷⁴

With regard the duration of the visa term, Mr Hyland's recommendation seems to be informed through his experiences as a former police officer, working on cases concerning workers who had experienced abuse and who were admitted to the UK under the rules prior to the 2012 visa changes. He cites a particular case where 'victims were exchanged between criminals for a fee and exploitation continued whilst

the domestic worker had a right to legally reside in the UK.' It is unclear from his evidence how many cases he worked on when forming his view, but if this was based on a handful of serious cases, this should not have been allowed to jeopardise the effectiveness of the recommendation to ensure all workers are able to leave abusive employers by granting them the time necessary to find safe re-employment elsewhere. Mr Hyland's evidence cites his concern about abuse going unreported but is silent on the suggestion of registering any such change of employer so that the authorities may have information to consider any appropriate action.

Kalayaan does not dispute that abuse took place prior to 2012, however the evidence is clear: reported abuse is significantly lower when workers had rights that were provided for under the pre-2012 visa regime. Every measure of abuse and mistreatment (see above evidence) has got worse since 2012 when rights were removed. The fact that abuse took place prior to 2012 is not a reason to deny workers basic rights which have been proven to significantly improve their situation, both in terms of preventing abuse and making escaping and seeking help possible. These core rights should have been strengthened and built upon, not stripped away from workers in their entirety leaving them at heightened risk of abuse. Much commentary has been made in not looking back to a system that did not work well⁷⁵ but this is misleading and simply cannot stand when the evidence tells us the system we have now is significantly worse than before.

“Data from specialist modern slavery charities demonstrate how the exploitation of overseas domestic workers has increased since the changes to visas were introduced in 2012 and again in 2016. Under the current rules, there is a real fear amongst exploited workers that seeking help from the UK authorities will impact on their ability to continue to remain and work in the UK. It is important to recognise that this fear is not from threats or misinformation from their employers, but because of the current visa rules. I am convinced the current policy is a significant reason why victims do not come forward and report crimes. I base this on my experience both as a former police officer as well as my current roles within the anti-trafficking sector.”

Phil Brewer, 2024

Specialist Advisor at the Human Trafficking Foundation and former lead of the Metropolitan Police's Trafficking and Kidnap Unit



I
SUPPORT
DOMESTIC
WORKERS
RIGHTS.
DO YOU?

FOLLOW US @KALAYAAN

PHOTOGRAPHY: CAMILA ALMEIDA

JENNY'S STORY

Jenny's story is real, but her name has been changed to protect her identity. Her story was read aloud in the House of Lords during Committee Stage of the Nationality and Borders Bill in 2022 when Peers tabled an amendment which would have seen rights restored to workers a decade after they were stripped from them.⁷⁶ Jenny's story demonstrates how the UK's legal structures facilitated her exploitation and left her without redress, at risk of further harm.

"Jenny is from the Philippines. She comes from a poor family but, having won a scholarship to train as a teacher, she was unable to finish her training for various reasons. She later married and gave birth to a daughter who caught an aggressive form of pneumonia, which needed specialist costly private treatment. Jenny and her husband had to borrow money to pay for it. Their joint income could not cover the loan repayments, which prompted Jenny to look for work abroad.

Jenny moved to Lebanon to work as a cleaner. Her employer gave birth to a third child; Jenny was instructed to look after the baby as well as continue her cleaning duties, which was not in her contract. She worked longer hours than expected and was on the go and on call for much of the day. She had wanted to return home at the end of her first contract but was persuaded to stay when the family relocated to London. She was offered shorter working hours and pay at the national minimum wage.

Jenny arrived in the UK last year on a visa. In contravention of UK published policy, she was issued no information on her rights as a worker in the UK, either during the visa application process or on arrival. **She worked the same long hours as before and, although she was paid a little more than in Lebanon, her hourly rate was less than half the national minimum wage.** Her employer

told her that she would be arrested if she left. Nevertheless, she did leave because she was exhausted from her long working hours for pay less than she had been promised.

Jenny approached Kalayaan when her visa had two weeks before it expired, having only just heard of the organisation. Kalayaan explained to her that her visa was non-renewable and that while she had permission to work in the UK, it would only be while her visa remained valid—for the next two weeks—after which she would be subject to the UK's hostile/compliant environment for migrants. On the basis of Kalayaan's assessment, it did not consider Jenny to be a victim of trafficking or slavery, so could not refer her to the NRM.

It is worth noting here that even cases that Kalayaan has judged appropriate for NRM referral are frequently turned down on the grounds that, while the working conditions may have breached employment terms, they do not constitute trafficking or slavery. **Yet calls for the reinstatement of the original ODW visa are repeatedly met with the response that workers who have suffered abuse can avail themselves of the NRM.**

Despite experiencing labour law violations, Jenny's right to change employer was in practice of no use to her, given that she was not allowed to renew her visa. Had she entered the UK on the original kind of ODW visa, she would have remained visible to the authorities by renewing her visa annually, while contributing in taxes and visa renewal fees. Jenny's case underlines how unhelpful it is to require maltreated migrant domestic workers to fit themselves into the slavery or trafficking frame, and how their rights would be better protected through the restoration of the original ODW visa."

BARONESS LISTER, 10 FEBRUARY 2022



NO RETURN TO SLAVERY



3974/DP/08/11

Dear Prime Minister,

You have been in office for just over one year and your government is already trying to take away the basic rights of migrant domestic workers.

From 1980-1997, due to inhuman treatment, over 4,000 migrant domestic workers escaped their abusive employers. Many suffered from physical and sexual abuse, non-payment or underpayment of wages, long hours of work and sleep deprivation. In 1998, a lifeline was thrown to overseas domestic workers in the form of the domestic workers visa giving them basic rights.

Under the proposals in the current consultation, this will be reversed. If migrant domestic workers leave an abusive employer, they will lose their immigration status and have no rights in the UK and unscrupulous employers will abuse and exploit them with impunity.

The irony is that in June 2011 the International Labour Organisation (ILO) passed Convention 189 – Decent Work for Domestic Workers. However, the UK government refused to sign the Convention and instead threatened to reintroduce a system of slavery for migrant domestic workers in the UK. This is truly shameful as one of the reasons given for not signing was that the UK had the best protections already in place for migrant domestic workers.

I ask you to make sure that the overseas domestic worker visa is retained and that the same position will apply to migrant domestic workers in diplomatic households.

Yours sincerely

AFFIX
POSTAGE
HERE

Rt Hon David Cameron MP
Prime Minister
10 Downing Street
London
SW1A 2AA





THE PROVEN SOLUTION TO SAFEGUARD ALL WORKERS

The Government must no longer seek to hide behind myths that are not rooted in evidence, and which do not meet the needs of workers. We urge the incoming Government to restore the pre- 2012 visa regime with rights to ensure the safety and dignity of all workers whilst at work in the UK.

THIS IS THE ONLY RECOMMENDATION WE WILL BE MAKING IN THIS REPORT.

The people that Kalayaan has supported over the past 35 years all tell us that they identify as workers and are proud to be able to support their loved ones back home. Their requests are simple. They are not seeking Government assistance or benefits. They do not want to be considered as slaves, as victims, or family members but as workers. Workers who contribute economically, socially and culturally and are as deserving of protection as any other worker in the UK.

If the Government is serious in their stated ambitions in wanting to prevent the importation of exploitative practices and combat trafficking of this workforce, it must consider the available evidence which tells us that reported abuse is significantly higher when workers do not have rights to challenge abusive employers.

The Government's continued reliance on the NRM as the appropriate vehicle to support abused workers and catch perpetrators is misleading, inaccurate and unhelpful. Not all abuse experienced by migrant domestic workers amounts to trafficking or modern slavery. Those who experience other forms of abuse and labour law breaches, such as wage theft, unpaid overtime and lack of sick days, are not protected at all and fall into a gap in protection acknowledged but

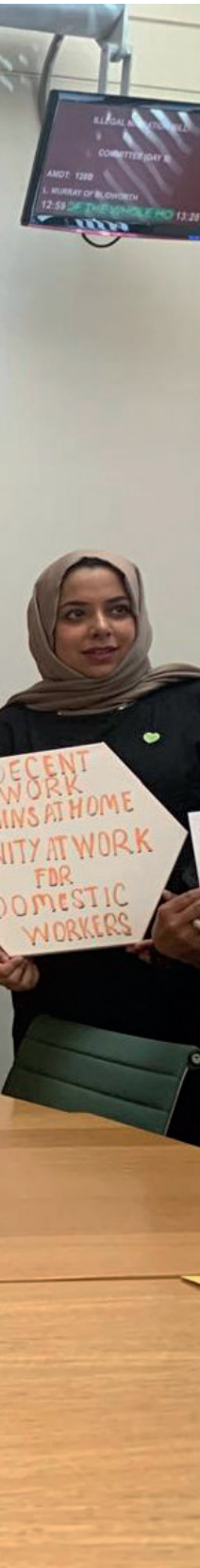
left unresolved by the Government.

Whilst the NRM appears to be at breaking point for numerous reasons,⁷⁷ it is not the solution to force vulnerable individuals into a system not centred on their needs, especially when there is a solution proven to drive down abuse and prevent matters from escalating.

The original Overseas Domestic Worker visa and the protections it offers to workers mean that workers can challenge abuse when it arises and, if necessary, withdraw their labour, find alternative employment and consider their options in taking action against their former employers. The safety of workers must be the paramount consideration if they are to feel able to pursue action.

Despite having the ability to collate and monitor data on the reasons why workers may choose to leave the original employer they accompanied to the UK, previous Governments have consistently defeated or ignored the suggestion of re-introducing the requirement to notify the Home Office of any employer changes. So long as current policy remains reactive and the state waits before taking action and only when working conditions have deteriorated to the point of slavery, the UK will continue to breach its responsibilities and positive obligations under Article 4 of the European Convention on Human Rights.

Kalayaan urges the incoming Government to reinstate rights for migrant domestic workers, as were provided for with the pre-2012 visa regime, to ensure their safety and dignity in their workplaces and that their ability to seek redress will be protected.



REFERENCES

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APPENDIX 1

Numbers of main applicants (no dependents) applying for leave to enter as an Overseas Domestic Worker

YEAR	NUMBERS OF APPLICANTS
2005	20,020
2006	22,102
2007	20,724
2008	20,135
2009	19,249
2010	19,687
2011	19,813
2012	18,926
2013	19,634
2014	19,427
2015	21,412
2016	22,547
2017	22,336
2018	22,807
2019	22,877
2020	6,825
2021	10,473
2022	20,015

SOURCE: GOV.UK, National Statistics, How many people come to the UK each year (including visitors)? 24 November 2022: <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-september-2022/how-many-people-come-to-the-uk-each-year-including-visitors>

APPENDIX 2

TYPE OF MODERN SLAVERY	LEGAL TEST (FOR ADULTS)
<p style="text-align: center;"><u>TRAFFICKING</u></p>	<p>Trafficking consists of 3 basic components: action, means and purpose of exploitation. All 3 components must be present in adult cases.</p> <p>ACTION: recruitment, transportation, transfer, harbouring or receipt, which includes an element of movement whether national or cross border; which is achieved by a</p> <p>MEANS: threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability; for the purpose of...</p> <p>EXPLOITATION: for example, sexual exploitation, forced labour or domestic servitude, slavery, financial exploitation, removal of organs</p>
<p style="text-align: center;"><u>SLAVERY, SERVITUDE AND FORCED OR COMPULSORY LABOUR</u></p>	<p>For an individual to be a victim of slavery, servitude and forced or compulsory labour where the victims have not been trafficked, they must have been subject to a means, or threat of penalty through which that service was derived.</p> <p>MEANS: threat of penalty – for example, threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability</p> <p>SERVICE: as a result of the means, an individual provides a service for benefit, for example, begging, sexual services, manual labour, or domestic service</p>

APPENDIX 3

LEAFLET FOR PERSONS COMING TO THE UK AS AN OVERSEAS DOMESTIC WORKER

You have applied for a visa to come to the UK as an overseas domestic worker. This allows you to work in the private home of a visitor to the UK or in the private home of a diplomat who is posted to the UK.

The UK has laws which may differ from the country you live in now. Your employer must follow UK law when you are working for them in the UK.

You and your employer must have agreed what work you will do in the UK. You must have agreed your pay and working hours. You will have also agreed your role and duties, which could include looking after children, cooking or cleaning.

You must have both signed a document showing what you have agreed. This must be submitted with your visa application and your employer should have given you a copy to keep.

You will get your passport back when your visa application is decided. You should keep your passport with you when you go to the UK. Your employer is not allowed to take it from you in the UK. It contains your visa and is your identification. If your employer does prevent you from having access to your passport while you are in the UK, you can report this to the police.

WHEN YOU ARRIVE IN THE UK

When you get to the UK you will see a Border Force officer. The officer will check the visa in your passport and might ask you about your reasons for coming to the UK and how long you will stay. If the officer is satisfied that there have been no changes in your circumstances or your reason for coming to the UK since you obtained your visa, you will be allowed to enter the UK.

YOUR STAY IN THE UK

You will be coming to the UK, either to work in the home of a visitor to the UK or in the home of a diplomat. If your employer is visiting the UK, you must travel with them, their husband, wife or child.

You are permitted to take new employment with a different employer once you are in the UK but you can only work as a domestic worker in a private household and you cannot stay more than 6 months. You will not need permission from UK Visas and Immigration to change employer.

If you are working in the home of a diplomat in the UK, you must travel with or join them there – your visa will initially be for 24 months but you may apply to stay longer, if your employer is still in the UK and you are still working for them.

You are allowed to change employer once you are in the UK but you can only work for someone as a domestic worker in their private household. You will not need permission to change employment and you can stay until the end of your visa – if your new employer is not a diplomat you will not be able to stay longer in this category.

Further information is available on domestic workers in a private household.

YOUR EMPLOYMENT RIGHTS IN THE UK

Like any other worker in the UK, you will have employment rights while you are working in the UK. This is very important because the rules could be different to the country you live in now.

The UK has a National Minimum Wage and by law your employer must pay you at least the minimum. The amount changes every year and you can **check the National Minimum Wage rate** – the only deductions that your employer may make from your salary (other than tax and National Insurance as appropriate) are for accommodation where your employer provides this to you.

The maximum your employer can take from your salary is currently £7 per day or £49.00 a week – you must still be left with at least the National Minimum Wage after any such deductions have been made. You must be given regular payslips that show any deductions for tax and National Insurance, if you are required to pay it.

If your employer does not pay you the National Minimum Wage, they will be breaking the law – you can report them if they do not agree to increase your pay. The UK's Immigration Rules require that your employer must confirm in writing that they will not seek to claim any exemption from paying the National Minimum Wage.

Under UK law, you have the following entitlements to time off while you are working in the UK. You must be given:

- an uninterrupted 20 minute rest break if you work more than 6 hours in a day
- 11 hours of rest between working days
- at least 1 full day off each week, or 2 full days every 2 weeks
- at least 5.6 weeks' paid holiday per year (pro-rated as appropriate)

More information can be found on rest breaks at work and holiday entitlement. You should be given your own private room which includes a bed and a door you can lock from the inside. You should not be made to sleep on the floor, in a room which is not a bedroom, or sleep in the same room as their children.

If you need more information, advice, or help if you are in difficulty

Do not be afraid to ask for help in the UK. Everyone in the UK has the right to be treated respectfully. Violence towards anyone is illegal and if you think you have been the victim of a crime you can go to your local police station or in an emergency call 999.

There are organisations in the UK who you can speak to in confidence and who will try to talk to you in a language you can understand. They do not work for any government or police and will not tell your employer what you say. It does not matter which country you are from or what religion you are.

THESE ORGANISATIONS INCLUDE:

Kalayaan

St Francis Centre 1
3 Hippodrome Place
London W11 4SF
Phone: 0207 243 2942 or 0044 207 243 2942 if you are using an international mobile phone

The Salvation Army

Phone: 0300 3038151 open all day and night
If you are using an international mobile phone:
0044 300 3038151

The Modern Slavery Helpline

Phone: 0800 0121 700 or 0044 800 0121 700 if you are using an international mobile phone

The UK does not tolerate the abuse and exploitation of those who come here to work. The UK has laws which help people who may be the victims of slavery or human trafficking. This is called NRM or National Referral Mechanism. If you give your permission, NRM will look at your case. If there are reasonable grounds to believe you are a victim of trafficking you can stay in the UK and carry on working as a domestic worker. You do not have to work if you are not able and you can ask for help which includes accommodation.

If you are subsequently found to have been the victim of slavery or human trafficking, you will be able to apply to extend your stay in UK as a domestic worker for a period of 2 years.

If you want to leave and go home

If you want to leave your job and go home you can contact your country's embassy or high commission in the UK.

Alternatively, you can contact the Home Office voluntary returns service on 0300 004 0202 (or 0044 300 004 0202). They are open Monday to Friday, between the hours of 9am to 5:30pm.

More information about the Home Office voluntary returns service is available.

You can get help to pay for your flights if you wish to go home.

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Justice for migrant domestic workers

