

KALAYAAN

justice for migrant domestic workers

Slavery by another name: the tied migrant domestic worker visa

“Modern day slavery comes in many forms ... we have to have a really concerted approach....to make sure that we look at the rights of those who are affected and take a criminal approach to those who are the traffickers and above all call it what it is: slavery.” Prime Minister David Cameron speaking at the Hidden Slavery exhibition, April 2013ⁱ

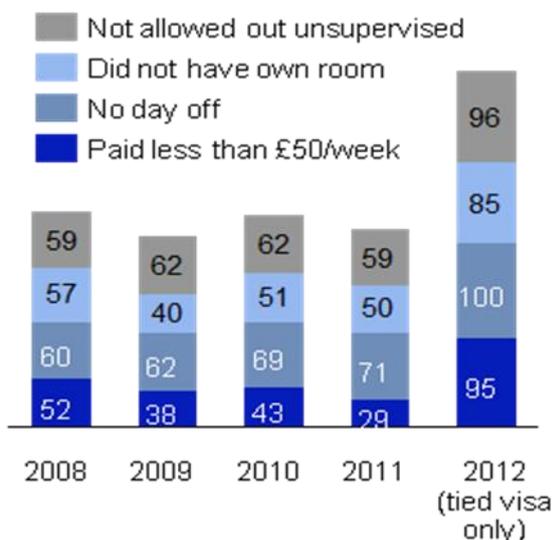
Until 2012, the UK Government had a good record of protecting migrant domestic workers against the exploitations so prevalent in private householdsⁱⁱ. This protection ended on 6 April 2012, when migrant domestic workers were prohibited from changing employers or renewing their visa beyond 6 months. The motive behind the changes was to reduce net migration to the UKⁱⁱⁱ. There was no regard for impact on the migrant domestic workers, mostly women, who have been shown time and time again to be vulnerable to the most shocking abuse within the UK.

Migrant domestic workers come to Kalayaan for advice and support, usually having fled abusive conditions of employment. We record their reports of the treatment they experienced. Workers coming to Kalayaan on the new tied migrant domestic worker visa^{iv} have reported markedly worse treatment than those who registered with us during the same time period but who entered the UK on the original migrant domestic worker visa prior to the changes:

- All the workers on the tied visa reported that they were paid less than £100/ week, as opposed to 60% of those on the original visa;
- 62% of those on the tied visa were paid no salary at all, compared with 14% on the original visa;
- 85% did not have their own room so slept with the children or in the kitchen or lounge compared with 31% on the original visa.

‘Domestic servitude often involves people working in a household where they are ill-treated, humiliated and subjected to exhausting working hours. It occurs when domestic workers have their rights violated as they are forced to live and work under unbearable conditions for little or no pay - until they escape or are rescued. A common indicator is withholding of passports or information about their rights as workers or visitors in the UK’.

The UK Border Agency instructions to its frontline staff in identifying victims of trafficking ⁷



Comparing the records under the tied visa with those collected from workers on the original visa during the previous four years, it is clear that that abuse has increased profoundly.

On the left hand side is a chart showing percentage of workers registering at Kalayaan reporting abuse. It is clear that the treatment of migrant domestic workers has worsened with removal of their rights.

Justice now out of reach

Legal aid cuts mean that even workers who have experienced serious breaches of their rights are finding it almost impossible to get legal representation.

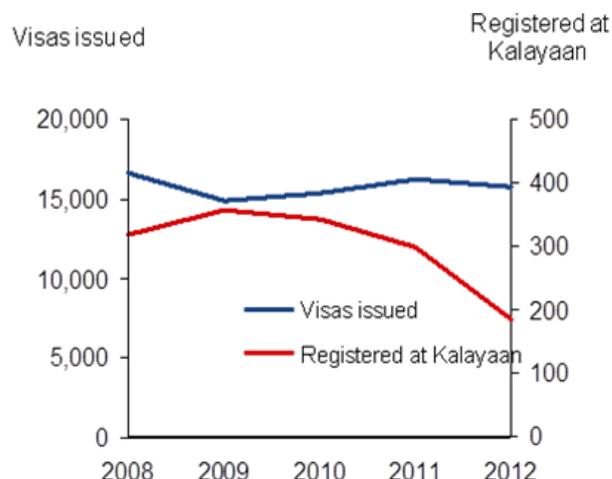
For migrant domestic workers who have been trafficked, a referral into the Government's National Referral Mechanism (NRM) is an option but a positive identification as trafficked does nothing to improve their personal situation, secure redress for substantial abuse and unpaid wages or provide them with any meaningful support beyond a possible 45 days reflection and recovery period.

Reporting their treatment to the police is rarely an option either. The focus of the authorities is on immigration enforcement^v. Workers whose immigration status prohibits them from leaving an employer are often too scared to approach the police to report the crimes committed against them by that employer as they believe that, having broken the terms of their immigration status in escaping abuse, it is them who will be treated as the criminal.

Enduring abuse or driven underground

A disturbingly low number of workers on the tied migrant domestic worker visa have come to Kalayaan for help and support. We usually see around 300 new workers in any given year. Since the introduction of the tied visa we saw 156 on the original visa (who had entered prior to the change but had taken some time to come to us) and only 29 on the tied visa.

In 2012, 15,745 Overseas Domestic Worker visas were issued^{vi} which is very much in line with numbers issued in previous years. As numbers entering the UK remain stable, this suggests that workers either fear the consequences (or hopelessness) of escaping and seeking help and are enduring shocking and sometimes criminal levels of abuse or are escaping and are disappearing underground, almost certainly to further exploitation.



The rights in the original visa must be reinstated

The evidence collected from migrant domestic workers coming to Kalayaan in the year since migrant domestic workers have been tied to employers fuels our worst fears. In tying workers to their employers, all protections have been removed; workers can in no way challenge their conditions of employment, which have worsened correspondingly. In addition, the dramatic reduction in numbers coming to Kalayaan for advice and support demonstrates just how vulnerable the act of criminalising domestic workers for escaping abuse makes them.

We know these workers are vulnerable. In tying them to their employers, we are fuelling slavery rather than fighting it.

The original migrant domestic worker visa

Case study: 'Maria' (not her real name) accompanied her Saudi employers to the UK to look after their young son as well do all the cooking and cleaning in their smart apartment in central London. Her employers were accustomed to having several 'staff' and would call Maria at any time for a small task such as bringing them a drink from the kitchen. Maria slept in a small 'study' off the reception room on bedding which she rolled away during the day. She kept all her belongings in a bag which she kept under the washing machine. Maria's employers did not pay her at all in the UK, saying that they were deducting the flight and visa costs from her salary. She became desperate as she could not contact her family who she knew were dependent upon her remittances. A neighbour became concerned about Maria, contacted Kalayaan and helped her escape. We were able to support Maria to get her passport back and find a good job. Maria now has a good job as a nanny in the UK and a valid visa.

The original migrant domestic worker visa was introduced in 1998 in response to the widespread and shocking levels of documented abuse of migrant domestic workers by their employers. Before this time, migrant domestic workers fleeing exploitation had no legal status in the UK and no access to justice.

The introduction of the original migrant domestic worker visa (or Overseas Domestic Worker visa) was in recognition that without legal status, domestic workers who fled employers not only had no chance of justice, but also that they would be driven underground to further abuse. The visa provided domestic workers with an immigration status which was dependent upon there being a demand for their labour and on the worker being in work but which allowed them to change employers. This provided some bargaining power and a way for workers to escape abuse without themselves being criminalised. The visa had strict requirements; workers were limited to one full time job as a domestic worker in a private household, had no recourse to public funds (so there was no cost to the state) and had to demonstrate evidence of this employment annually in order to renew their visa. It did however provide a basic level of dignity and fairness to migrant domestic workers, recognising them as workers and providing a means for those who were exploited or abused to leave and seek assistance or help and move on.

After the introduction of the visa in 1998, levels of reported abuse decreased^{vii} but migrant domestic workers remained vulnerable to frequently shocking exploitation. Such exploitation was evidenced not only in reports to Kalayaan but also in Employment Tribunals and in recognition by the UK Government's own National Referral Mechanism of workers on the visa as trafficked for domestic servitude^{viii}. As recommended by the Home Affairs Select Committee: *"to retain the Migrant domestic worker visa and the protections it offers to workers is the single most important issue in preventing the forced labour and trafficking of such workers."*^{ix}

The tied migrant domestic worker visa

Case Study: 'Rosinda' worked for her employers for 3 years before accompanying them to the UK. She often woke with the baby at 5am and would frequently not sleep until after midnight when the employers had gone to bed and she had cleaned up. She shared a room with a 1 year old baby, was never allowed out, had no day off or holidays. She ate leftovers in the kitchen and was often shouted at and threatened. Her employers kept her passport and she knew no-one in the UK. After 3 months in the UK Rosinda found her passport in a pile of documents while cleaning and took this opportunity to run away. She arrived at Kalayaan scared and tearful with a small bag of belongings. Rosinda has since had a positive Reasonable Grounds Decision under the NRM as a victim of trafficking but remains in limbo, vulnerable and dependent upon the charity of others.

On 6th April 2012, the tied migrant domestic worker visa took effect. It limits its holder to a maximum of six months in the UK, with no extensions beyond this time, and prohibits changing employer whilst in the UK, so tying the worker to the employer and effectively preventing the worker from challenging any abusive treatment they receive from the employer or enforcing their most basic of rights (such as time off, contact with their family, or payment of a wage).

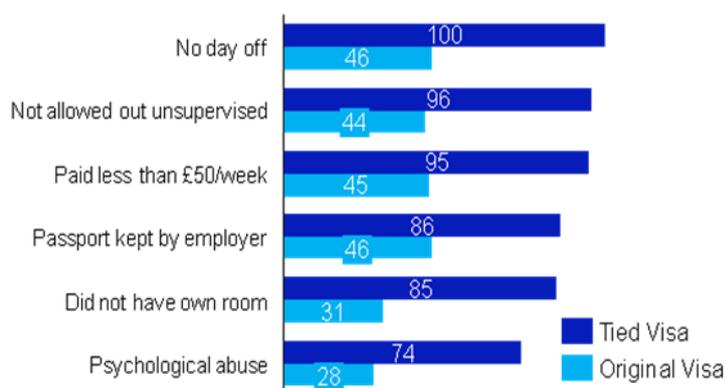
It is unsurprising that treatment reported by workers on the tied visa to Kalayaan is worse than that reported by workers who had some rights. 86% report that their passport and biometric residence permit was kept from them, 40% higher than reports by those on the original visa. Reports of being unable to leave the house unsupervised are 52% higher on the tied visa at a shocking 96%.

The original migrant domestic worker visa provides a proven solution which has been proven to prevent trafficking and other exploitation of migrant domestic workers in the UK. For those who were exploited in spite of the protections, it allowed for recourse to justice.

As a country which has stated and legal commitments to combat slavery and trafficking it is important that we reinstate the protections urgently. Otherwise we remain guilty of knowingly increasing the vulnerability of a group of mostly female workers, shown time and time again to be already vulnerable to exploitation.

Abuse reported by domestic workers registering at Kalayaan

Apr-12 to Apr-13 (percent of those registering)



For more information please contact Kate Roberts, Community Advocate, Kalayaan on 020 7243 2942 or kate@kalayaan.org.uk

ⁱ <https://www.gov.uk/government/news/hidden-nature-of-human-trafficking-revealed> accessed 28.4.13

ⁱⁱ Draft ILO Multilateral Framework on Labour Migration Non binding principles and guidelines for a rights- based approach to labour migration, Geneva, 31 Oct- 2 Nov 2005. Annex II 'Examples of best practise, VI Prevention of and protection against abusive migration practises', pt 82

ⁱⁱⁱ In fact the contribution that migrant domestic workers make to net migration is about 1000 people a year, or 0.5% of net migration generally. The majority enter and leave with their employers. For calculations see It's a numbers game... could we PLEASE use the right ones? Jenny Moss, Migration Pulse 18.8.2011 <http://www.migrantsrights.org.uk/migration-pulse/2011/it-s-numbers-game-could-we-please-use-right-ones> accessed 5.5.13

^{iv} Known officially as the Overseas Domestic Worker (ODW) visa

^v It Happens Here: Equipping the United Kingdom to fight modern slavery. The Centre for Social Justice, 2013

^{vi} FOI response from the Home Office dated 10.4.13. FOI Reference: 26515

^{vii} Lalani, M. Ending the abuse: policies that work to protect migrant domestic workers

<http://www.kalayaan.org.uk/documents/Kalayaan%20Report%20final.pdf> (accessed 1.5.13)

^{viii} 15% of referrals to UKHTC between Oct and Dec 2012 were for domestic servitude <http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics> accessed 30.4.13

^{ix} Home Affairs Select Committee. The Trade in Human Beings: Human Trafficking in the UK. Sixth report of Session 2008-09. Volume I. House of Commons.p26