



May 2018

Kalayaan and Anti-Slavery International submission to the UN Special Rapporteur on Contemporary forms of Slavery

Questionnaire on Domestic Servitude of Migrant Domestic Workers

Question 1

Please provide information on your organisation and its work with migrant domestic workers who became victims of contemporary forms of slavery, including the countries in which you work on this issue.

Kalayaan is the leading UK charity offering advice, advocacy and support services to migrant domestic workers who have been brought to the UK by their employer to undertake domestic work in their private household; typically drivers, gardeners, cleaners, nannies, cooks, and/or carers for their employer or a member of their employers' family. We predominantly work with those individuals who enter the UK on the overseas domestic worker visa. Kalayaan is the only specialist advice organisation working with migrant domestic workers in the UK.

Kalayaan's expertise on issues affecting and experienced by migrant domestic workers, and on the issue of trafficking for the purpose of domestic servitude, is widely recognised. Kalayaan is a member of the Anti-trafficking Monitoring Group, a coalition of thirteen NGOs that produces a shadow monitoring report measuring the Government's actions against their commitments under the Council of Europe Convention on Action against Trafficking. Kalayaan has delivered training to the police and to the UK Human Trafficking Centre (now Modern Slavery Human Trafficking Unit) on issues relating to migrant domestic workers. Kalayaan has provided expertise on migrant domestic workers at an international level; we were a Titular delegate of the UK Trades Union Congress in the 'decent work for domestic workers' committee of the United Nations International Labour Conference and have been invited to speak about migrant domestic workers by a number of British and International groups, such as the British Group of the International Parliamentarians Union, at the International Organisation of Migration Conference in 2009, and the German Institute of Human Rights Conference on Diplomat's domestic workers.

Kalayaan has given evidence on the issue of migrant domestic workers to the All Party Parliamentary Group on Trafficking Inquiry into Data collection, The Modern Day Slavery Bill evidence review chaired by Frank Field MP, the Joint Committee on the Draft Modern Slavery Bill, the Public Bills Committee on the Modern Slavery Bill, and the Independent Review of the Overseas Domestic Worker Visa. Kalayaan contributed to the Ministry of Justice consultation on

the provision of legal aid for victims pursuing compensation, the Independent Chief Inspector of Borders and Immigration's inspection into the identification of migrant domestic workers as potential victims at the UK Border and the Department for Work and Pensions inquiry on support for recognised victims of modern slavery. Kalayaan also co-authored a report with the Human Trafficking Foundation calling for long term support to facilitate the recovery and reintegration of survivors and prevent re-exploitation.

Kalayaan is a government designated 'First Responder' in terms of the National Referral Mechanism (NRM). We have extensive experience of identifying victims of trafficking for domestic servitude having held this status since the NRM was established in 2009. Previous to this we participated in the Home Office pilot for identifying victims of trafficking for forced labour ('Operation Tolerance').

This response is submitted jointly with Anti-Slavery International. Anti-Slavery International, founded in 1839, is committed to eradicating all forms of slavery throughout the world including forced labour, bonded labour, trafficking of human beings, descent-based slavery, forced marriage and the worst forms of child labour. Anti-Slavery International works at the local, national and international levels to eradicate slavery. Our current approaches include enabling people to leave slavery, through exemplar frontline projects with partner agencies; helping people to recover from slavery, with frontline work ensuring people make lasting successful lives now free from slavery; supporting the empowerment of people to be better protected from slavery; and using this knowledge base to inform, influence and inspire change through advocacy and lobbying within countries for legislation, policy and practice that prevent and eradicate slavery; international policy work and campaigning; and raising the profile and understanding of slavery through media work and supporter campaigns. In the UK, we host the Anti-Trafficking Monitoring Group (mentioned above).

Question 2

Please characterise the legal and/or policy frameworks relevant to the protection of migrant domestic workers subject to contemporary forms of slavery, as well as any global trends you would like to highlight. Please include information about provisions criminalising contemporary forms of slavery, those that might establish distinct rights and/or restrictions for domestic workers, including migrant domestic workers (in regards to, for instance, salary, working hours, freedom of movement, freedom of association, limited freedom to change employers, etc.), as well as measures to identify and support migrant domestic workers who are or were victims of contemporary forms of slavery.

A. Legal and policy framework – protection of migrant domestic workers

In July 1998, following a ten year campaign by NGOs, charities, trade unions and Churches, the UK Government introduced the Overseas Domestic Worker visa, in recognition of the vulnerability of migrant domestic workers to abuse and exploitation. This visa was recognised internationally as good practice by the International Labour Organisation and the United Nations Special Rapporteur on the Human Rights of Migrants. Prior to 1998, workers arrived in the UK under a concession which failed to recognise them as workers but solely helped facilitate

the entry and stay of their wealthy employers to the UK. Workers who faced abuse and fled exploitation became undocumented, criminalised and driven underground at risk of further abuse.

From 1998 – 2012 migrant domestic workers coming to the UK were able to apply for annual extensions of their visa, so long as they were in full time employment as a domestic worker. Crucially, they had the right to withdraw their labour and change employer, giving them some bargaining power to challenge mistreatment, negotiate better terms and conditions of employment and escape abuse if necessary. Keeping workers documented meant they stayed visible and able to report crimes against them to the police and take cases to the employment tribunal, providing a real deterrent against abuse. In 2009 the Home Affairs Select Committee in its inquiry into trafficking said that retaining the visa was ‘the single most important issue in preventing the forced labour and trafficking of such workers’¹.

Despite strong opposition and warnings it would institutionalise abuse, the government made significant changes to the domestic worker visa in April 2012². The changes meant that migrant domestic workers coming to the UK were tied to their employer for a maximum of six months, with no right to renewal or extension beyond this time. It prohibited workers from changing employers in the UK and effectively prevented them from challenging any abusive treatment they received from their employer. If a worker did leave their employer, they were in breach of the terms of their visa and at risk of deportation. Data collected by Kalayaan showed that the changes led to greater levels of abuse³. The ‘tied visa’ was widely criticised by politicians, academics, domestic worker organisations, NGOs, and trade unions.

The introduction of the draft Modern Slavery Bill provided an opportunity to reinstate the protections of the original domestic worker visa. Two parliamentary committees during the passage of the bill found the imposition of the visa tie dramatically increased workers’ vulnerability to abuse and exploitation and called on the government to reinstate the pre-2012 protections. Unconvinced by the evidence, the government defeated amendments introduced to the bill, maintained the visa tie and provided instead for 6 months leave to remain for a migrant domestic worker accepted as a victim of trafficking (less than what was already offered to a victim granted a residence permit). There is no element of prevention in section 53 of the Modern Slavery Act 2015⁴ which places the onus on abused and terrified workers, criminalised by the act of escaping, to approach the authorities to ask for protection and assistance. This response also offers no protection to workers who suffer serious abuse – for example, are raped by their employer – but who have not been trafficked or enslaved.

Parliamentary debates during the Modern Slavery Act 2015 prompted the government to commission an independent review of the Overseas Domestic Worker Visa to assess how far the then-existing arrangements for migrant domestic workers were effective in protecting them from

¹ House of Commons Home Affairs Select Committee, *The Trade in Human Beings: Human Trafficking in the UK*, Sixth Report of Session 2008-2009, Volume 1, 6 May 2009, p26

² <https://www.gov.uk/government/speeches/immigration-employment-related-settlement-overseas-domestic-workers-tier-5-of-the-points-based-system-and-visitors-wms>

³ <http://www.kalayaan.org.uk/wp-content/uploads/2014/09/Kalayaan-2nd-Reading-Modern-Slavery-Bill.pdf>

⁴ <http://www.legislation.gov.uk/ukpga/2015/30/section/53/enacted>

abuse⁵. The review looked at the full spectrum of abuse suffered by workers and found that ‘the existence of a tie to a specific employer and the absence of a universal right to change employer and apply for extensions of the visa was **incompatible with the reasonable protection of overseas domestic workers while in the UK**’. The review recommended that workers have the right to change employer *and* apply for annual extensions as a domestic worker for up to two years. This right was not contingent on claiming or proving any form of abuse but was deemed **the minimum required to give effective protection to those workers who are victims of abuse**. In making this conjoined recommendation, the review found that ‘victims need the freedom to change employment, which in turn requires that they stay for long enough to be able to find safe alternative employment’. The review later goes on to explain ‘the underlying rationale of a right to change employer is to give the overseas domestic worker a safe way out of an abusive situation, of which safe re-employment is an essential part. In order to make the right to change employer effective in practice, the duration of any extensions must be of sufficient length to give the overseas domestic worker both sufficient incentive and reasonable prospects of finding such alternative employment.’

The review also identified procedural failings in providing workers with information on their employment and immigration rights before arriving in the UK, so recommended the introduction of group information meetings for workers who remained in the UK for more than 42 days to ensure that they were aware of their right to withdraw their labour and change employer if they were in an abusive working relationship. The review recommended attendance at these meetings be a mandatory condition of both the employer’s and worker’s visa and set out why a voluntary system would be wholly inadequate.

In March 2016 the government responded to the review and accepted that workers should be given an immediate escape route from abuse and permitted to change employers but only during the term of their visa. They also amended the immigration rules to increase the length of visa granted to a recognised victim of trafficking from 6 months to 2 years and committed to implementing information sessions, although have since stated they cannot make attendance compulsory. Kalayaan has been told that the Home Office will trial pilot sessions that will start in the summer of 2018⁶.

In practice, workers who leave their employer have just a few months or weeks remaining on their visa in which to find alternative work, and have to do so without references. It is extremely difficult for workers to find alternative work and change employer in this short time frame. They are left with the choice to remain in an exploitative situation, risk entering into new, potentially precarious employment, or be unemployed without recourse to public funds, leaving them at risk of destitution and further re-exploitation. The right to change employer in the first six months will not lead to workers having greater confidence in reporting their employers to the authorities and will not enable them to safely enter into a new working relationship. It will strengthen the hand of the exploitative employer who will know it is unlikely workers will change employers given the difficulties in finding work in such a short period.

⁵ <https://www.gov.uk/government/publications/overseas-domestic-workers-visa-independent-review>

⁶ <http://www.kalayaan.org.uk/news/kalayaan-and-experts-publish-minimum-standards-for-odw-information-meetings/>

The government remain of the view that the National Referral Mechanism is the vehicle to report abuse and for victims to access support. They remain concerned that if workers change employer without reporting their employer, this may lead to a revolving door of abuse. This concern was addressed in the independent review which suggested that any change of employer be registered with the Home Office who could pass the information to the police to consider commencing an investigation. This recommendation would have alleviated the evidential burden placed on victims by entering into the NRM, universally accepted to be difficult to provide in cases when the offences took place behind closed doors and there is little evidence available.

B. Provisions criminalising contemporary forms of slavery

In 2015, the Modern Slavery Act, Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland), and the Human Trafficking and Exploitation (Scotland) Act came into force. The three Acts introduced new criminal offences for human trafficking, slavery, servitude, and forced and compulsory labour, replacing earlier offences that were dispersed across a number of different laws.

In addition, new civil penalties were introduced designed to provide the courts with additional measures to prevent future offences. The Modern Slavery Act introduced the Slavery and Trafficking Prevention Order [STPO] and Slavery and Trafficking Risk Order [STRO], and the Scotland Act introduced the Trafficking and Exploitation Prevention Order [TEPO] and Trafficking and Exploitation Risk Order [TERO]. The Northern Ireland Act includes only a Slavery and Trafficking Prevention Order [STPO] and did not introduce a Risk Order.

C. Measures to identify and support migrant domestic workers who are or were victims of contemporary forms of slavery

The National Referral Mechanism (NRM) is the government framework used for identifying and providing support to victims of trafficking and modern slavery, including migrant domestic workers who arrived in the UK on a domestic worker visa. Reforms to the NRM were announced in October 2017⁷ following a pilot scheme testing a new approach to decision making and support for victims during and after the identification process. The reforms include the creation of a single, expert unit in the Home Office to handle all cases (replacing the National Crime Agency and UK Visas and Immigration), quality assurance panels to review negative conclusive grounds decisions and an increase in the length of time recognised victims receive support to exit the process.

It is deeply disappointing that the government has ignored the recommendations of a review in 2014⁸ and calls from NGOs and charities supporting victims, to remove responsibility for the NRM from the Home Office and establish multi-disciplinary expert panels to make decisions. Instead the panels will now only have a role to play in reviewing negative conclusive grounds

⁷ See <https://www.gov.uk/government/news/modern-slavery-taskforce-agrees-new-measures-to-support-victims> and <https://www.gov.uk/government/news/modern-slavery-victims-to-receive-longer-period-of-support>

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<http://webarchive.nationalarchives.gov.uk/20141202113228/https://nrm.homeoffice.gov.uk/documents/2014/11/nrm-final-report.pdf>

decisions. The panels will not review negative reasonable grounds decisions, (the initial decision) leaving victims at risk that erroneous and unlawful decisions will go unchallenged. Access to support and legal aid for immigration advice is contingent on receiving a positive reasonable grounds decision, meaning there is a real danger that victims who have fled or escaped their trafficker, entered the NRM but received a negative reasonable grounds decision, will face destitution and further exploitation. Whilst an increase in the length of move on support is welcomed (14 days increased to 45 days), this is still not enough time to ensure recognised victims are adequately supported and referral pathways are made to appropriate services to help victims rebuild their lives after they exit the NRM.

The risk of being forced into exploitative working and living arrangements is compounded for migrant domestic workers who are accepted as trafficked but not granted discretionary leave to remain.⁹ Section 53 of the Modern Slavery Act states that provision must be made for a migrant domestic worker to apply for further leave to remain as a recognised victim of trafficking, however this leave is restricted to work as a domestic worker in a private household without recourse to public funds. An application for further leave needs to be made within 28 days of being formally recognised and documentary evidence provided on how the domestic worker will maintain and accommodate themselves without recourse to public funds. This will be impossible for those residing in safe house accommodation, who have not had permission to work whilst they are waiting for their trafficking claim to be determined¹⁰ and are then made to leave support services within 45 days of being identified. Additionally, if a domestic worker has an outstanding protection claim, their application for further leave will not be processed until their protection claim is determined first. This leaves recognised victims of trafficking facing an undeterminable length of time waiting, no longer eligible for support as a victim and without permission to work. This is inconsistent with those victims granted discretionary leave to remain who have outstanding protection claims who can otherwise work or access financial support. The concern is that migrant domestic workers, accepted as trafficked but not granted leave, will be pressurised or forced into accepting work offered to them within 45 days to avoid becoming destitute. Equally, there is the concern that domestic workers who cannot find work will become reliant on charitable or community support, leaving them at risk of re-exploitation.

Lord McColl, a Conservative Peer in the House of Lords has introduced a private members bill – the Modern Slavery (Victim Support) Bill - which addresses the issues faced by migrant domestic workers and victims of other forms of exploitation who are recognised as trafficked but not granted leave to remain. The bill, currently supported by 23 groups including NGOs, charities and UK businesses¹¹, guarantees leave to remain and specialist support tailored to individual need for 12 months for all recognised victims. The bill specifies the minimum

⁹ A grant of discretionary leave will be considered where victims have been conclusively identified and their stay is necessary on account of (1) their personal situation (2) if it is unreasonable for them to pursue a claim for compensation outside of the UK and / or (3) if they are assisting with police enquiries.

¹⁰ The Immigration (Variation of Leave) Order 2016 provides permission to work only to domestic workers issued a positive reasonable grounds decision during the currency of their original 6 month visa on which they were admitted to the UK. If they are referred to the NRM after their visa expires, they do not have permission to work whilst their trafficking claim is being considered and are reliant on destitution based support under the Victim Care Contract, administered by the Salvation Army and their sub-contractors in England and Wales.

¹¹ <https://freeforgood.org.uk/supporters/>

standards of support that victims must receive to ensure no one falls through the gaps at risk of further exploitation or harm. The bill has passed through the House of Lords successfully and will be championed by Frank Field MP in the House of Commons.

Question 3

Please describe the main challenges and barriers identified in the country or countries in which your organisation works to ensuring the human rights of migrant domestic workers victims of contemporary forms of slavery. Please also specify any global trends that you are aware of.

Workers who register at Kalayaan provide an account of their experiences working abroad as a domestic worker, the process in applying for their visa to come to the UK and how they are treated after they arrive in the UK. The government has repeatedly stated that safeguards are in place for workers as part of the visa application process, including the requirement to be seen alone and that they receive an information leaflet setting out their rights in the UK and who they can contact should they experience abuse. Kalayaan's evidence would dispute these safeguards are operating effectively. Of those workers who registered with Kalayaan between 1 April 2016 and 31 March 2017:

- 63% of workers issued a domestic worker visa before 6 April 2016 were accompanied to an interview with their employer
- 73% of workers issued a domestic worker visa between 6 April 2012 and 6 April 2016 were accompanied to an interview with their employer
- 65% of workers issued a domestic worker visa after 6 April 2016 were accompanied to an interview with their employer
- 83% of workers issued a domestic worker visa before April 2012 were not issued any information regarding their rights in the UK
- 94% of workers issued a domestic worker visa between 6 April 2012 and 6 April 2016 were not issued any information regarding their rights in the UK
- 94% of workers issued a domestic worker visa after 6 April 2016 were not issued any information regarding their rights in the UK

Workers coming to Kalayaan do not know the terms of their visa. For those issued a visa under the current regime¹², they do not know they have the right to leave an abusive employer. Many report to Kalayaan if they had known their rights, they would have exercised them a lot earlier and not stayed with their employer and endured abuse. Only 17% of workers who arrived on a visa after 6 April 2016 had possession of their passport when they registered at Kalayaan.

Without proof of their leave to remain and permission to work, workers are left in a very precarious position. Without recourse to public funds and without knowing whether or not they have valid leave to remain, they are resigned to having to accept any work offered to them or face becoming destitute. This leaves them at risk of going from one exploitative employer to another which undermines the underlying rationale for being able to change employer: to give workers a safe way out of an abusive situation and find safe re-employment. Some unscrupulous

¹² For workers issued a domestic worker visa after 6 April 2016

employers exploit this vulnerability and offer exploitative work by telling workers they are taking a risk in hiring them without their documents and others refuse to hire with the introduction of the offence of illegal working in the Immigration Act 2016.

Kalayaan considers it vital that workers can quickly and safely find out when their visas expire to ensure they are kept safe and not put at risk. Kalayaan has previously spoken with the Home Office about establishing a system to access this information, rather than having to make applications for disclosure under the Data Protection Act 1998 which can take 40+ days to receive, during which time a worker remains at risk. (This issue is now compounded by the inclusion of an immigration exception to the Data Protection Bill 2017, currently in the final stages of becoming law, which hands the government the power to deny migrants access to their data if they consider it is for the maintenance of effective immigration control.¹³) In response the Home Office has told Kalayaan that workers should report stolen passports to the police, approach their embassy for a replacement emergency document and then apply for a replacement vignette from UK Visas and Immigration. This response fails to acknowledge that workers are too fearful to approach the authorities. They are lied to by their employers that they will not be helped or believed should they report what has happened to them. Several embassies require a fee to apply for a replacement passport which many workers cannot afford and the processing time can take several months at which time workers remain at risk.

In partnership with a number of experts and front line practitioners, Kalayaan has produced recommendations for the pilot information sessions due to start summer 2018. As part of this work, we have included recommendations on the robust mechanisms that must be put in place at Visa Application Centres abroad to ensure workers are seen alone and that they are given information on their rights, including when their visa expires¹⁴.

Question 4

A. Please elaborate on any specific violence, threats of violence, abuse or harassment faced by migrant women and girls who are in situation of domestic servitude.

B. Please elaborate on any other human rights violation faced by migrant women and girls who are in situation of domestic servitude (including, for example, their right to health, water, housing, freedom of movement, freedom of association, etc.).

When Kalayaan registers workers, in addition to collecting personal information we assess the working conditions they faced with the employer that brought them to the UK. From 1 April 2016 – 31 March 2017 we registered 100 new workers. Workers reported prolonged periods of physical, psychological and in some cases sexual abuse carried out by their employers. Workers reported instances where they were hit, kicked and spat at. They describe being grabbed by their clothes and having their hair pulled. They are regularly shouted and screamed at, insulted and sworn at, denied adequate food, received low or no pay and have restrictions placed on their

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<https://www.libertyhumanrights.org.uk/sites/default/files/Libertys%20Abridged%20Briefing%20on%20the%20Immigration%20Control%20Exemption%20in%20the%20Data%20Protection%20Bill%202017.pdf>

¹⁴ <http://www.kalayaan.org.uk/wp-content/uploads/2014/09/Minimum-standards-for-ODW-information-meetings-15-03-2018.pdf>

movement and contact with others. Many report how they are threatened by their employers that they will be handed to the authorities and deported.

Under the amended visa regime in place since 6 April 2016, rates of abuse have been consistent with and in some cases higher than those who arrived in the UK on the ‘tied visa’:

Abuse reported to Kalayaan	Original ODW visa (1998 – 2012)	Tied visa (2012 – 2016)	Post April 2016
Physical abuse	1 (n = 29) 3%	6 (n = 14) 42%	4 (n = 15) 26%
Psychological abuse	12 (n = 30) 40%	17 (n = 19) 89%	12 (n = 14) 85%
Sexual abuse	0 (n = 20) 0%	1 (n = 9) 11%	1 (n = 14) 7%
No regular food	5 (n = 32) 16%	11 (n = 18) 61%	10 (n = 16) 63%
No bedroom / private space	13 (n = 36) 36%	12 (n = 20) 60%	12 (n = 17) 71%
No bed	6 (n = 33) 18%	8 (n = 18) 44%	6 (n = 16) 38%
No day off	11 (n = 33) 33%	11 (n = 16) 69%	9 (n = 14) 64%
Worked over 15 hours a day	7 (n = 29) 24%	12 (n = 18) 67%	11 (n = 13) 85%
On call	9 (n = 26) 35%	10 (n = 14) 71%	7 (n = 10) 70%
Not allowed out	13 (n = 35) 37%	14 (n = 21) 67%	13 (n = 16) 81%
Weekly salary			
£0	2 (n = 14) 14%	7 (n = 18) 39%	5 (n = 15) 33%
Less than £50	0 (n = 14) 0%	2 (n = 18) 11%	0 (n = 15) 0%
Less than £100	2 (n = 14) 14%	2 (n = 18) 11%	4 (n = 15) 27%
£150 or above	10 (n = 14) 71%	4 (n = 18) 22%	2 (n = 15) 13%
Passport kept from worker	12 (n = 34) 35%	12 (n = 17) 71%	15 (n = 18) 83%
Presence of trafficking indicators	13 (n = 37) 35%	15 (n = 22) 68%	12 (n = 18) 67%

Question 5

Please elaborate on the challenges faced by migrant women and girls who are at the risk of or who are already under conditions of domestic servitude to obtain protection against their human rights violations.

As noted above, information leaflets are rarely issued to workers attending Visa Application Centres and in the cases where they are, they are often handed to the employer who is present for the interview. There appears to be no oversight of companies staffing visa application centres abroad and ensuring that robust safeguarding measures are adhered to for vulnerable workers. Workers typically arrive in the UK having spent years working for abusive employers in countries operating the kafala system and who they are bound to accompany to the UK. Workers often report having no control over the process to apply for their domestic worker visa and are not told they are going to the UK until they are required to give their biometrics at the application centre. They do not have access to nor can review their contract of employment which often incorrectly

states their pay, working hours and job responsibilities. They are often coached by their employer on what to say to ensure they are issued with a visa and are threatened if they do not comply.

Once a worker arrives in the UK, they are again isolated and kept hidden behind closed doors working for their employer. If they are permitted outside it is typically to accompany their employer to wait on them. They do not have access to their passport and having not been given any information on their rights prior to their arrival, do not know what rights they have or where they can go to receive help. The majority of workers who register at Kalayaan escape and then approach strangers or churches to ask for assistance – often offering to work in return for shelter and food. As many escape without their passport and do not know the terms of their visa, they assume they are ‘illegal’ and cannot approach the authorities for help without fear of being detained and removed from the UK.

Question 6

Please elaborate on the specific situation of migrant women and girls in domestic servitude, taking into consideration factors that might contribute to their increased vulnerability to contemporary forms of slavery, including poverty, identification to minority groups, indigenous people, age, and caste.

Migrant domestic workers, as victims of trafficking and modern slavery are especially vulnerable on account of their impoverished backgrounds. Many workers we support have not completed their education and report working from a young age to support their families to access basic necessities including food and shelter. Many workers coming to Kalayaan describe how they have ‘sacrificed’ themselves for the wellbeing of their wider family. They do not self-protect in the way that someone with more choices would expect. Many explain that they are prepared to put up with practically any amount of mistreatment if they can provide for their children and ensure that the same won’t happen to them. Some who register with Kalayaan do not identify themselves as victims of exploitation and abuse as they have come to see how they have been treated as normal. For others, they are afraid of anyone in authority and as a result face obstacles to coming forward, or disclosing their experiences at all.

Question 7

Please detail any examples of good practice in relation to protecting, identifying and rescuing migrant women and girls in situation of domestic servitude. This might include actions and initiatives taken by governments, civil society organizations, international organizations, media outlets, employers, individuals, survivors, etc.

With regards prevention, the original domestic worker visa introduced in 1998 was in response to the documented abuses experienced by workers who came to the UK under a concession that failed to recognise them as workers. Kalayaan’s own research demonstrates there was a marked decrease in the rates of abuse being recorded with the protections the visa provided to workers. The right to change employer provided for under the visa was cited by the International Labour

Organization as an example of best practice¹⁵ as did two parliamentary committees that scrutinized the Modern Slavery Bill.

The current visa regime,¹⁶ which is not renewable against the explicit recommendations of the independent review, undermines the ability of workers to change employer leaving them at risk of further exploitation and harm. They do not know their rights when they arrive in the UK and only learn much later once they seek advice from Kalayaan or another trusted advice agency. Many escape without possession of their passport which holds their visa so have no way of proving their legal right to work to a prospective employer. Applications for disclosure under the Data Protection Act 1998 currently take 40+ days to process during which time a worker has no recourse to public funds and faces either entering into insecure potentially exploitative work to survive or homelessness and destitution. For those who do have possession of their passport, they report struggling to find an employer willing to hire them for the time that is remaining on their visa. This is clearly not what was envisaged by the independent review which had as its primary consideration the welfare, protection, rescue, relief and recovery of workers.

If the Modern Slavery (Victim Support) Bill, currently before the House of Commons, was to become law, it would provide the support that victims of domestic servitude require to be able to recover from the ordeal of being trafficked. It guarantees that support is provided from point of referral to the NRM and creates a statutory duty for all confirmed victims to be granted leave for at least 12 months with access to support to facilitate their recovery and rehabilitation, thereby ensuring continuing of care and a period of stability. It would ensure that workers who have been accepted as trafficked, are not placed in positions of destitution or danger, but are provided support and protection and a reasonable chance to look for decent work. At present time, Section 53 of the Modern Slavery Act leaves workers at risk of becoming homeless and destitute once exited from the NRM, or for those with outstanding protection claims, institutionalises their poverty and dependency on the state or charitable support by denying them permission to work.

In April 2017, the Co-operative launched Bright Futures which provides a pathway back to paid employment for survivors of trafficking¹⁷. The work model, the first of its kind in the UK, offers paid work placements leading to non-competitive job interviews which the Coop hopes will facilitate a route to wider integration into society. Kalayaan has supported one of our clients into the scheme and intends to speak with other survivors who have permission to work in the UK.

Question 8

Please describe any challenges identified in ensuring that migrant women and girls who are survivors of domestic servitude have access to justice?

Please refer to the 2017 joint submission of the Anti Trafficking Monitoring Group and Human Trafficking Foundation to the UN Special Rapporteur on Access to Justice and Remedy (question

¹⁵ http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_146243.pdf

¹⁶ Applicable to workers issued a domestic worker visa after 6 April 2016

¹⁷

https://assets.ctfassets.net/5ywmq66472jr/LZjcr3eQCscSOQgiUkieu/bba0597251a796fd3883f4f0e13b54b7/Bright_Future_Report.pdf

2C).¹⁸ Since that submission, the Supreme Court has ruled the government's introduction of fees to bringing a claim before the employment tribunal was unlawful and unconstitutional.

Question 9

Please describe any projects delivered by your organisation or other civil society organisations to ensure protection of the human rights of migrant domestic workers victims of contemporary forms of slavery.

Kalayaan provides individual advice, advocacy and support services to migrant domestic workers. We run seminars for organisations and community groups on immigration updates and protection for workers and training on how to identify the signs of domestic servitude. We have also developed a new outreach model with some materials on our services to disseminate in community centres and public places across the UK to raise awareness of our work.¹⁹

Question 10

Please provide any research, data or other information that your organisation has produced or is aware of relating to the protection of domestic workers victims of contemporary forms of slavery.

In March 2018, Kalayaan produced some minimum standards²⁰ for the scope and delivery of the proposed 6 month pilot for information meetings, scheduled to be running in summer 2018. These standards were drafted in consultation with migrant domestic workers and advocates providing them with direct support, together with an advisory group made up of individuals with relevant expertise.

The standards include and build upon recommendations made in the independent review to improve the delivery of information during the application process as well highlight opportunities to remind and restate information at the UK border. Based on the experiences disclosed to Kalayaan by migrant domestic workers, it is clear that the review's recommendations on the application process have not been fully implemented, leaving workers vulnerable and at risk of being exploited in the UK.

These standards have been shared with the Home Office as part of their consultation for the information meetings however they have yet to confirm if they will implement all / part of them.

Thank you for your cooperation. Please feel free to include any additional pertinent information on access to justice and remedy that you think would help the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.

¹⁸ <http://www.kalayaan.org.uk/wp-content/uploads/2014/09/ATMG-HTF-submission-to-Special-Rap-Contemporary-Slavery-Justice-Remedies-Final.pdf>

¹⁹ <http://www.kalayaan.org.uk/uncategorized/help-us-reach-out-to-more-migrant-domestic-workers/>

²⁰ Ibid 14