

TACKLING MODERN SLAVERY – HOW OVERSEAS DOMESTIC WORKERS ARE STILL BEING IGNORED

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The passing of the Modern Slavery Act in 2015 saw a marked improvement in the framework of legislation tackling slavery in the UK. There are now tougher penalties for traffickers and an introduction of a new system requiring large companies to publish details of forced labour in their supply chains.

However, the Government's progress belies its disregard for some of the most vulnerable people working in the UK. Given the chance to enhance the protection of migrant domestic workers in the Modern Slavery Act, the Government neglected to do so and maintained the absence of labour protections and anti-slavery law. Tied visas, which bind overseas domestic workers to their employers, worsen the situation for a group already at risk of exploitation. This article will first demonstrate why overseas domestic workers are at particular risk and then discuss how current legislation further worsens their situation.

Why are domestic workers so at risk?

The vulnerability of domestic workers derives to a large extent from the conditions in which they work. Most domestic workers live at their employers' private residences which increases their risk for two reasons. Firstly, they work, and almost always live, away from the public eye, so any abuse is easily hidden. The lack of access to the outside world also increases their isolation and reduces access to information which could help them.

Secondly, the private home is an area in which the state has historically been reluctant to intervene. The longstanding principle of the inviolability of the home means that labour inspection for domestic workers has never been legislated for in this country. However, this could be subject to change. The newly appointed Independent Anti-Slavery Commissioner, Kevin Hyland¹, recently suggested there were plans to introduce 'spot checks' on foreign nationals who employ overseas domestic workers². If this plan does materialise, it would be a welcome improvement. However, as will be shown below, there are other, more important measures which need to be taken in order to stop the problems at their source.

Domestic Workers Convention

The lack of will to tackle abuse of overseas domestic workers was clear when the Government refused to ratify the Domestic Workers Convention in 2011. The treaty

¹ The role was created by the Modern Slavery Act 2015, a move which has been widely praised.

² Evening Standard, 09/11/15. Available at: <http://www.standard.co.uk/news/uk/wealthy-foreigners-face-spot-checks-on-domestic-staff-to-stamp-out-slavery-a3109971.html> (last accessed 05/01/16).

includes civil, social and labour rights and in its preamble recognises the 'special conditions under which domestic work is carried out'³ and, therefore, the need to afford domestic workers extra protections. At the time, the UK's position was that it did not consider it 'appropriate, or practical' to extend criminal health and safety legislation to private households⁴. Again this demonstrates the questionable preference given to the inviolability of the home over the protection of vulnerable employees.

The UK's failure to ratify the Convention is troubling both symbolically, in that it is neglecting a category of the most vulnerable workers, and practically as it prevents the improvement of the framework of laws that regulate the sector.

Tied visas

In its attempts to control immigration in 2012, the Government re-introduced a visa regime for overseas domestic workers which tied them to their employers. The system allows overseas domestic workers entry to the UK only if accompanied by their employer and in any case for a maximum of six months. Crucially, the major change to the previous system was that they were no longer allowed to change employer once in the country. This element of the visa makes it 'strikingly similar'⁵ to the much criticised *Kafala* immigration system, favoured in various Gulf States, which regularly leads to labour and human rights abuses.

The dangers of tied visas are twofold. Firstly, not being allowed to change employers weakens the bargaining position of the worker and makes it difficult for them to escape abusive employers. Secondly, and most importantly, tying their immigration status to their employer makes their presence in this country dependent on their continued employment. This means that migrant domestic workers who find themselves in abusive employment relationships are often reluctant to seek help from authorities for fear of deportation. The result is that they either remain in slave-like conditions or they flee and become undocumented migrants in the process. Upon doing so, their risk of falling into similarly exploitative situations is greatly increased.

Prior to the changes, the so-called '1998 visa', which allowed overseas domestic workers to change employers, had been cited internationally as best practice by the UN Special Rapporteur on the Human Rights of Migrants⁶. The Government

³ International Labour Organisation, Domestic Workers Convention, 2011.

⁴ International Labour Conference Record of Proceedings, 15 June 2011 25(rev), p22.

⁵ Demetriou, 'Tied Visas' and Inadequate Labour Protections: A formula for abuse and exploitation of migrant domestic workers in the United Kingdom, *Anti Trafficking Review*, Issue 5, September 2015, p75.

⁶ UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Addendum : Mission to the United Kingdom of Great Britain and Northern Ireland*, 16 March, available at: <http://www.refworld.org/docid/4c0623e92.html> (last accessed 05/01/16).

recognising that domestic workers were more prone to abuse⁷ and that their changes could compound the threat, responded by introducing a number of safeguards. These include requiring evidence that the employment relationship pre-exists entry into the UK by at least 12 months, presentation of written terms of employment and that information about their rights is given to the workers upon their arrival in the UK.

The first two safeguards are ineffective as an abusive relationship could exist before entry into this country and there is no way to tell if the terms of employment will be adhered to once behind closed doors. More shockingly, research carried out by the Centre for Social Justice showed that the information letter given to overseas domestic workers contains no information about the protections offered if they are victims of modern slavery and in some cases the letter is not even issued⁸. As such, key information like the right to minimum wage, the right to keep one's passport and the process for seeking help is not always passed on to the workers. Given the tied visa looks set to remain, the safeguards for protection of overseas domestic workers must be improved.

Conclusion

The nature of their work means that overseas domestic workers are particularly prone to falling into modern slavery. As such, the Government should go above and beyond in its attempts to protect them. This clearly does not happen in the UK as evidenced by the failure to ratify the Domestic Workers Convention and the continued use of the tied visa system. While the Government has recently made strides in its efforts to eradicate modern slavery, it must be stressed that these efforts have not been extended to overseas domestic workers. The institutional failure to change the legislation means they remain some of the most vulnerable workers.

⁷ Statement by Home Secretary Teresa May, Written Ministerial Statements, 29 February 2012, Column 35WS

⁸ Centre for Social Justice, 'It Happens Here', March 2013, available at [http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ_Slavery_Full_Report_WEB\(5\).pdf](http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/CSJ_Slavery_Full_Report_WEB(5).pdf) (last accessed 05/01/16), p 94.