



HUMAN
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HIDDEN AWAY

Abuses against Migrant Domestic Workers in the UK



Hidden Away

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Summary

In London they just locked me at home.... I ate after they finished, the leftovers.... When I ran away I was sleeping in the park because I didn't know anybody here.... I felt like a beggar.

—Sarah S., a Filipina domestic worker on a new tied visa, London, December 18, 2013.

Working and often living in other people's homes, migrant domestic workers are among the most vulnerable workers, at risk of abuse and exploitation that often happens behind closed doors, making it difficult for them to seek help, and for people on the outside to see what is happening.

Every year, around 15,000 migrant domestic workers, many of them women from Asia and Africa, travel to the UK with their employers to look after their children, care for their elderly parents, clean their houses, and cook for them.

This report documents the abuses and exploitation faced by these migrant domestic workers who travel to the UK with their employers and the challenges they can experience when seeking redress. This report does not, however, address issues faced by migrant domestic workers who arrived in the UK by other means, for instance as asylum seekers, spouses or who are European Economic Area nationals.

While the category of domestic workers in private households as defined by the Home Office also includes drivers and gardeners, the domestic workers interviewed for this report worked inside their employers' homes as cleaners, nannies, cooks, and/or cared for their employer or a member of their employers' family.

The report also sets out relevant domestic, European, and international law, which is supposed to safeguard the rights of migrant domestic workers in the UK.

The report finds that some employers subject domestic workers to abusive living and working conditions, including forced labour. Safeguards are inadequate to prevent abuses; to allow those who are abused to escape and find protection; or to hold those responsible to account.

The report also describes how two developments since April 2012 have undermined the British government's obligations under national, international, and European human rights law to protect migrant domestic workers from employer abuse and provide them with ways to access justice. The first development is a new "tied visa" that eliminates migrant domestic workers' right to change employer and find other full-time work—often the most feasible way to escape abusive situations; the second development is budget cuts that have limited the ability of migrant domestic workers to seek help, including from employment tribunals.

Under the old (pre-April 2012) visa regime, the charity Kalayaan (the main organization providing assistance to migrant domestic workers in the UK), self-help groups, or other domestic workers were able to provide some assistance to abused workers who sought help because workers did not lose their immigration status by escaping from their employer and they could continue to work legally in the UK, if they found another job. Under the current system, however, there is little that charities and support groups can do for migrant domestic workers unless they are the victims of trafficking and are ready to go through the National Referral Mechanism (established to support victims of trafficking) system once they have escaped from their employer.

Experience from the UK and other countries indicates that the ability to change employers is one of the most practical and efficient ways for domestic workers to escape abusive situations.

Migrant domestic workers who work for diplomats are a particularly vulnerable group because their employers' diplomatic immunity means they are not subject to national legislation. Before the visa changes, migrant domestic workers working for a diplomat could work for another diplomat in the same mission. Now they can only work for one diplomat and must leave the UK before their employer, or at the same time.

In June 2011, the UK was one of only nine states that did not vote in favor of the International Labour Organization's Domestic Workers Convention—a groundbreaking international treaty that went into force in September 2013 and recognizes domestic workers' rights to the same labour protections as other workers. The UK partly justified its decision by saying domestic legal protections are sufficient. At that time, migrant domestic workers had the right to change employer, a key protection for them to escape from

abusive employers. But even though it removed that right in April 2012, at its Universal Periodic Review at the United Nations (UN) Human Rights Council in September 2012, the UK rejected recommendations by other states to ratify the Domestic Workers Convention. The UK government claims that safeguards are in place to ensure migrant domestic workers are not abused by their employers. These include requiring that a worker has been with their employer for at least a year before going to the UK, and requiring that both employee and employer sign a declaration of the terms and conditions of their UK employment, theoretically preventing abusive relationships being imported to the UK.

This report shows that these protections are not adequate given migrant domestic workers' lack of mobility and rights, particularly since the new tied visa was introduced. For example, some workers said their employer told them to sign a document with false information about their salary, time off, and working hours.

Findings

Interviewees described a wide range of criminal abuses including forced labour; verbal, physical, and psychological abuse; and confinement. Interviewees described employers locking them in the house and giving them only leftover food. They also described having to share a room with children or sleep in the living or storage room, being denied a mobile phone, and having to speak to family in secret or with their employer present.

The report also documents labour abuses such as excessive working hours, denial of time off, low salaries, and late or non-payment of salaries. The majority of those Human Rights Watch interviewed for this report said they were paid wages which were well below the UK minimum wage.

Ira A., a 38-year-old Filipina, went to the UK in June 2013 with her employers to look after their baby while he was hospitalized. While her promised wage was GB£350¹ per week, her employers only gave her £135 after one month in London and, deprived of food or toiletries, she had to use the baby's soap and make sanitary towels from his diapers.

¹ At time of writing, the British Pound was worth US\$1.66.

Many interviewees described having their passport confiscated: 23 of 33 migrant domestic workers interviewed said their employer withheld their passport. Maria D., a Filipina domestic worker who went to the UK with her employers from Kuwait in June 2012, said her employers seized her passport in Kuwait and she only learned that she had a six-month visa as an overseas domestic worker when they handed her passport to her on the plane to the UK.

While some migrant domestic workers manage to escape and get help from other domestic workers of their nationality or from charities or support groups, many do not come into contact with those groups and do not know people they can turn to for help—in part due to insufficient information about their rights and relevant laws, and the lack of a mechanism by which they can signal abuse to the authorities without fearing deportation or reprisals from employers.

Elissa D., an Indonesian domestic worker on a visa issued under the new rules who ran away from her Saudi employers, said she wandered for hours before finally meeting another Indonesian domestic worker at a bus stop who helped her. “I had no friends in London.... I was hoping I would meet another Indonesian who could help, who I could talk to. I left at 8 p.m. I only met the other Indonesian at 10 a.m. I just went around with no direction.”

Under the new “tied” visa, implemented in April 2012, migrant domestic workers are now effectively “tied” to their employer and risk becoming undocumented, removal from the UK, and exploitation if they leave an abusive situation. Several migrant domestic workers who had escaped cited fear of police discovering their undocumented status as the main reason they did not file a complaint. But even lack of medical care and fear of police are not enough to compel most migrant domestic workers to return home voluntarily given the pressure they face to support dependents. Meanwhile, abusive employers have even greater scope to mistreat and exploit domestic workers, knowing they cannot leave without becoming undocumented.

Cuts in legal aid since April 2013 for employment and immigration disputes have also hampered the ability of migrant domestic workers to seek redress. The new cuts limit such aid to trafficking victims, but exclude migrant domestic workers who face abuses such as unpaid wages, excessive work hours, or forced labour as defined under international law.

Often, the abuses that Human Rights Watch documented began before migrant domestic workers and their employers arrived in the United Kingdom—mostly in Gulf countries where the highly exploitative *kafala* (sponsorship) system ties migrant workers to employers by denying them the right to change jobs or sometimes leave the country without employer permission.

The abuses that many interviewees described before arrival, and which Human Rights Watch has extensively documented in other reports, then continued in the absence of checks by British authorities to ensure employers were complying with UK law. Cherryloi M., a Filipina domestic worker who arrived in the UK in May 2013 with her employers, said they had deprived her of adequate food in Qatar before arrival. “I sat with them in restaurants [in London], looking at them eating. It was the same treatment here,” she said.

Obligations

Human Rights Watch does not claim that all employers mistreat their domestic workers; indeed, it has interviewed domestic workers who were satisfied with their employment conditions. Nor does it dispute the UK government’s right to control its borders. But immigration control cannot override its duty to protect abused and exploited individuals.

The UK has ratified several European and international treaties that obligate it to protect migrant domestic workers from forced labour and exploitation by both agents of the state and private individuals, including employers. These include, the European Convention on Human Rights (ECHR), the European Social Charter, the UN International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Labour Organization’s (ILO) Forced Labour Convention.

UK domestic law also prohibits forced labour and provides certain guarantees for fair working conditions. The Human Rights Act prohibits forced labour and the Coroners and Justice Act 2009 criminalizes slavery, servitude, and forced or compulsory labour. Kidnapping and false imprisonment are offenses under UK common law. Under Working Time Regulations, workers—including domestic workers—are entitled to uninterrupted time off, paid leave, and at least one day off a week.

The UK should ratify the ILO Domestic Workers Convention and grant domestic workers the same rights and protections as other workers. It should also allow all migrant domestic workers to change employer, whether they work in private or diplomatic households—which the ILO and the UN special rapporteur on the human rights of migrants have referred to as a best practice for protecting and preventing abusive migration. The government should also request that other governments waive the immunity of diplomats from prosecution when a domestic worker filed a complaint in cases where there is prima facie evidence that would warrant investigation by the police.

When issuing visas to the UK, British embassy staff, not private contractors, should meet migrant domestic workers individually (and with an interpreter if necessary), to ensure they are fully aware of their rights in the UK, including to keep their passport with them at all times, the national minimum wage, and time off. UK border officials should also interview domestic workers and give them information, in writing and orally, about their rights in the UK.

In December 2013, the home secretary presented a draft bill on modern slavery that consolidates legislation on the crimes that constitute modern slavery—slavery, servitude, forced labour, and human trafficking. It also increases penalties for those guilty of such crimes and creates an anti-slavery commissioner. The government should see the draft bill as a chance to take additional steps beyond enhanced criminal penalties to strengthen protections for migrant domestic workers, a group that the bill does not specifically mention, but which is vulnerable to abuses that can amount to modern slavery as defined by the UK government.

Recommendations

To the UK Government

- Ratify the ILO Domestic Worker Convention and bring national laws and practices into compliance.
- Require the Foreign and Commonwealth Office to request foreign governments to waive the diplomatic immunity for diplomats subject to a complaint of criminal abuse by domestic workers, in cases where there is prima facie evidence that would warrant investigation by the police.
- Establish a code of conduct governing employment of migrant domestic workers by foreign diplomats while in the UK to ensure they comply with UK law and provide fair living and working conditions for their employees.
- Ratify and implement the Council of Europe convention on combating and preventing violence against women and domestic violence.
- Ratify the revised European Social Charter.
- Ratify the Optional Protocol to the International Convention on Economic Social and Cultural Rights (ICESCR); give ICESCR full legal effect in UK domestic law; ensure effective remedies are available for victims of all violations of economic, social, and cultural rights.

To the UK Parliament

- Include a provision in the Modern Slavery Bill amending immigration rules to allow migrant domestic workers, including those working in diplomatic households, to change employer and to renew their visa until they have been in the UK for up to five years. This need not necessarily include the restoration of a route to permanent residence in the UK.
- Enact legislation to criminalize the confiscation or retention of domestic workers' passports by their employer.
- Amend the Health and Safety at Work Act so as to include domestic workers, including those working in diplomatic households, in its scope. Revise the Working Time Regulations so as to include domestic work in the scope of the provisions on the maximum weekly working time, length of night work, and provision of adequate rest

breaks for employees whose pattern of work is such as to put their health and safety at risk.

To the Home Secretary

- Amend the visa rules to allow all migrant domestic workers, including those working in diplomatic households, to change employer.
- Set up and publicize a telephone hotline that domestic workers can use to get information and assistance in a variety of languages.
- In the new Modern Slavery Action Plan announced by the Home Secretary in December 2013, make it a requirement that UK embassy staff, not just private contractors, meet with each domestic worker applying for visas in private and explain their rights in the UK and how and where they can access help if they are mistreated in the UK. The Modern Slavery Action Plan should also require that Border Agency officials interview domestic workers separately on entry to the UK, with the aid of an interpreter if needed, inform them of their rights, and check that they are holding their passport and are aware that they, not their employer, should keep their identity documents. The Modern Slavery Action Plan should also introduce a system of mandatory orientation sessions for migrant domestic workers shortly after their arrival in the UK, to inform them of their rights and where they can access help. There should be separate sessions for employers when the visa is issued and upon arrival in the UK to ensure they are aware of their obligations under UK law.

To the Secretary of State for Justice

- Grant migrant domestic workers, as a group of workers who are particularly vulnerable to abuse and exploitation, access to legal aid (including for immigration and employment claims) regardless of whether they have been, or claim to have been, trafficked.
- Extend the exceptions to the residence test for legal aid to include victims of forced labour as well as victims of human trafficking.

To the Department of Business, Innovation and Skills

- Require employers of domestic workers to keep written records showing that their wages are being paid regularly and in accordance with the National Minimum Wage.

To the Police

- Ensure police officers are made aware of the circumstances of migrant domestic workers and trained to respond appropriately and effectively to criminal abuse against migrant domestic workers, including confiscation of their identity documents.

To British Embassies

- Ensure embassy staff (not just private contractors working for UK Visas and Immigration) interview applicants for Overseas Domestic Worker visas in private, with an interpreter if necessary, and provide them with essential information related to their work and rights in the UK, including explicitly what the National Minimum Wage is, their entitlement to time off and paid leave, the kind of abuses to which they may be exposed, and how they can access help if needed.
- Inform employers, separately, of their obligations in the UK and of the rights of domestic workers, and where they can seek help locally if they are experiencing problems.
- Share employment and contact details with the Home Office and the Department of Business, Innovation and Skills in the UK, to allow for the monitoring of employers' compliance with the signed conditions of employment.

Methodology

Human Rights Watch conducted research for this report between July 2013 and February 2014. A female Human Rights Watch researcher interviewed 33 migrant domestic workers in London. Interviews were conducted in English or Arabic, in some cases with the help of another female domestic worker. In one case a female volunteer interpreted in Indonesian.

All but one of the migrant domestic workers interviewed by Human Rights Watch were woman. The majority (seventeen) were from the Philippines, five from Morocco, six from India, two from Nigeria, one from Sri Lanka, one from Indonesia, and one from Uganda. Fifteen went to work in the UK as domestic workers since the change in the visa rules, including one in a diplomatic household. Fourteen went to the UK on old Overseas Domestic Worker visas in private households and four on old Overseas Domestic Worker visas in diplomatic households.

The interview subjects in this report do not represent a random sample of migrant domestic workers in the UK. This study is based on qualitative rather than quantitative research methods. The majority of those interviewed by Human Rights Watch had fled from their employer and sought help from charities, self-help groups, or other domestic workers and reported a form of mistreatment. While we do not claim all migrant domestic workers in the UK are abused by their employers, interviewees from different countries who had worked for different employers at different times described similar experiences. Secondary sources are also consistent with this finding. The totality of this research shows a pattern of abuse and exploitation migrant domestic workers can face at the hands of their employers and a lack of safeguards to effectively protect them from such treatment and allow them to seek redress.

While the visa rules have changed, the statements of migrant domestic workers who were or had been on the old visa highlighted abuses that were consistent with those described by migrant workers on the new visa, indicating the problematic nature of the lack of safeguards against abuse by employers.

Of the migrant domestic workers who arrived since the change in the visa rules, five had worked for their employer in Qatar immediately before going to the UK, three in Saudi

Arabia, three in the United Arab Emirates (UAE), one in Kuwait, one in Oman, one in Singapore, and one in Hong Kong. All except for one had left their employer at the time of the interview.

Of the migrant domestic workers on old visas who were working at the time of the interview, the majority were working for another employer. They had initially come to the UK from a number of countries including India, the UAE, Saudi Arabia, Kuwait, and Uganda. One domestic worker was still working for the same employer.

Human Rights Watch was in contact with interviewees through Kalayaan, the main charity assisting migrant domestic workers in the UK, through self-help groups of domestic workers, or through other domestic workers. Human Rights Watch also interviewed representatives of other rights groups that help domestic workers and lawyers working on cases of domestic workers.

In most cases pseudonyms have been used to protect the domestic workers' anonymity. Human Rights Watch explained the purpose of the research to all interviewees, obtained informed consent, and did not provide any form of compensation. One interviewee was reimbursed for her travel costs to the place of the interview.

Human Rights Watch also met with officials at the Ministry of Justice and the Home Office, the consul general of Morocco, and a representative of the Embassy of Indonesia. We made a number of attempts to speak with the Metropolitan Police, but received no response to our meeting requests.

While some domestic workers interviewed by Human Rights Watch had made applications through the National Referral Mechanism (NRM) for victims of trafficking, the focus of the research was to assess the UK's compliance with its human rights obligations with regards to forced labour and exploitation of migrant domestic workers independently of whether they have been trafficked into the UK. In UK law, trafficking is a criminal offense which involves the transportation of a person (into or within the UK) in order to exploit that person by using force, threats, or deception. Exploitation is defined under UK law as including sexual and labour exploitation.

I. Background

Migrant Domestic Workers in the UK

Many migrant domestic workers enter the UK on an “Overseas Domestic Worker visa” with their employers to cook, clean, and care for them and their children during their stay. Over 13,000 Overseas Domestic Worker visas were issued in the first three quarters of 2013, and over 15,000 in 2012. The figure has not varied significantly in recent years.²

Many of them are women from Asian countries such as the Philippines, India, Sri Lanka, Indonesia, and African countries such as Nigeria and Morocco. The Overseas Domestic Worker visa requires domestic workers to have been employed for at least a year by their employer before traveling to the UK. Under the rules in place since April 2012, their employer must only be on a temporary visit to the UK. While there are other migrant domestic workers who may have the right to work in the UK on another basis, for instance as refugees, or who entered the UK on spouse visas, this report focuses on domestic workers who entered the UK on specific visas to accompany their employer to the UK and who have proven to be particularly vulnerable to abuse given their dependence on their employer for their immigration status, their work, and often their home.

Most of the migrant domestic workers interviewed by Human Rights Watch, in particular those entering under the new visa rules, worked for their employer in Gulf countries (Qatar, Saudi Arabia, the United Arab Emirates, Oman, and Kuwait) and accompanied their employers while they were on holiday in the UK or receiving medical treatment. Many domestic workers interviewed by Human Rights Watch described their employers as wealthy, living or staying in London’s affluent neighborhoods, though some had worked for their employer in other parts of the UK.

The majority of migrant domestic workers interviewed by Human Rights Watch said they decided to seek work outside their country to be able to send their children to school, to support their elderly parents and/or other relatives, and some said they were the only provider for several members of their family.

² Home Office, Tables for “Immigration statistics, July to September 2013”, November 28, 2013, <https://www.gov.uk/government/publications/tables-for-immigration-statistics-july-to-september-2013> (accessed February 2014).

As the primary reason for migrant domestic workers to work abroad is to support their families financially, it is common for them to send most, if not all, their wages home, and in some cases their employers sent the money directly to their home country.³ While some told Human Rights Watch they consented to this arrangement, given the restrictions their employers placed on their movements, they had little choice in practice if they wanted to send money home. In such cases domestic workers are left without British pounds and unable to buy anything for themselves, including personal items, telephone cards to call their families, and without money for transport if they decide to run away.

Like other workers in the UK, domestic workers, including migrant domestic workers, are entitled to the National Minimum Wage, breaks during the working day, time off, and paid leave. However, the UK Working Time Regulations, which incorporate the EU Working Time Directive into UK law, exclude domestic workers both from the limitation of working time to 48 hours per week and from the limitation of night work to eight hours for each 24 hours.⁴ The Working Time Regulations also exempt employers of domestic workers from providing them with adequate rest breaks if their pattern of work puts their health and safety at risk.⁵

UK law also exempts employers of domestic workers from their duty to ensure the health, safety, and welfare at work of their employees.⁶ Domestic workers can bring a claim against their employer before an employment tribunal for lack of payment of their wages, for instance, or for unfair dismissal. But given their undocumented status once they leave their employer and government budget cuts that have effectively cut off legal aid for all employment cases, it is particularly difficult for migrant domestic workers under the new tied visa to seek redress before an employment tribunal. Two migrant domestic workers interviewed by Human Rights Watch who were in the UK on the old, pre-2012 Overseas Domestic Worker visa had their claims settled before they were heard by an employment tribunal.

³ The majority of the domestic workers interviewed by Human Rights Watch for this research said they went to work as domestic workers to support their families.

⁴ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time. Article 17 of the Directive allows EU Member States to derogate from certain provisions, including those on maximum weekly working time and length of night work when, “on account of the specific characteristics of the activity concerned, the duration of the working time is not measured and/or predetermined or can be determined by the workers themselves.”

⁵ The Working Time Regulations of 1998, regulations 4 (maximum weekly working time), 6 (length of night work) and 8 (pattern of work).

⁶ Health and Safety at Work etc. Act 1974, section 51.

Changes to Visa Rules: Removal of the Right to Change Employer

They [the employers] told me you can't work for someone else. I saw it in the passport but I can't read English. She always treated me badly, shouting.... Sometimes I slept one or two hours. They stayed up late. They didn't care if I slept or not.... If she had treated me well, I would never have left.

—Zahia M., a Moroccan domestic worker employed by a Saudi family, on a new visa, London, January 19, 2014.

In 1998, following a campaign by nongovernmental organizations (NGOs), charities, and trade unions, the British government gave migrant domestic workers coming to work in private households in the UK the right to change employer if they found full-time work as a domestic worker. Those working in private households who wished to accompany their employer to the UK were granted a visa for up to six months if their employer was a visitor to the UK and up to 12 months if their employer intended to stay in the UK for longer. Migrant domestic workers could extend their visa for 12 months at a time, and work as a domestic worker for another employer if they wished. In such cases, they were required to notify the Home Office but only had to apply to extend their stay in the UK when their visa was reaching the end of its term. They could also apply for permanent residence after being in the UK as a domestic worker for five years.⁷ The domestic worker had to have been working for the same employer for at least one year before their visa application (in other words prior to their entry into the UK).⁸

When in 2006 the British government considered removing the right for migrant domestic workers to change employer in an effort to reduce migration of low skilled workers from outside the European Union (EU), it faced strong opposition from NGOs and trade unions.⁹ In 2008, the government decided to grant two more years under the same system and to conduct research into migrant domestic workers in the UK. In a 2009 report on Human Trafficking in the UK, the House of Commons Home Affairs Committee recognized that to

⁷ UK Home Office, "Domestic Workers in a Private Household visa", undated, <http://www.ukba.homeoffice.gov.uk/visas-immigration/working/othercategories/domesticworkers/before6april/conditions/#header4>, (accessed December 2, 2013).

⁸ House of Commons Library, "Immigration: migrant domestic workers", March 2012, p. 3, <http://www.parliament.uk/briefing-papers/SNo4786>, (accessed December 2, 2013).

⁹ Kalayaan and Oxfam, "The New Bonded Labour? – The impact of proposed changes to the UK immigration system on migrant domestic workers," 2008, <http://www.kalayaan.org.uk/documents/Kalayaan%20Oxfam%20report.pdf> (accessed February 24, 2014).

retain the Migrant Domestic Worker visa in force at the time and the protections it offered was “the single most important issue” preventing the forced labour and trafficking of such workers.”¹⁰

But in June 2011, the British government—already engaged in an effort to reduce net migration to the UK—proposed to remove the right of overseas domestic workers to change employer, restrict their visa to six months if accompanying a visitor, and remove their rights to extend their visa and to apply for settlement in the UK.¹¹ In doing so, the government argued that at a time when it was restricting skilled workers’ migration to the UK, “it would arguably be counter intuitive to retain a route into the UK labour market for low skilled domestic workers via the private household route.”

Kate Roberts, community advocate at Kalayaan, the leading charity working on migrant domestic workers in the UK, told Human Rights Watch that while not all migrant domestic workers in the UK under the old visa rules knew they had the right to change employer, the new tied visa rules send a message to employers that they can continue to control their employee in a manner similar to the “sponsorship” system used in Gulf countries, known as *kafala*, that prevents domestic workers from changing employer and sometimes from leaving the country without their employer’s consent. “If you’re an employer used to the *kafala* system, you’d see it as a continuation of that system,” Roberts said.¹²

The Home Office consultation document on changes to the immigration rules affecting domestic workers suggested that the “key protection” for overseas domestic workers in private households before they enter the UK was establishing that the relationship between the employer and employee was “a genuine and not an abusive one,” for which evidence is required that the domestic worker has worked for that employer for at least one year before applying for their visa to come to the UK and the employer must sign a document setting out the main conditions of employment.¹³

¹⁰ Home Affairs Committee – Sixth Report, “The Trade in Human Beings: Human Trafficking in the UK, session 2008-09,” para 59, undated, <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/23/2306.htm#n114> (accessed December 2, 2013).

¹¹ The proposal also included removing the possibility for overseas domestic workers to sponsor dependents or alternatively the right for their dependents to work in the UK.

¹² Human Rights Watch interview with Kate Roberts, Community Advocate at Kalayaan, London, December 6, 2013.

¹³ Home Office UK Border Agency, “Employment-related settlement, Tier 5 and Overseas Domestic Workers – A consultation,” June 2011, p. 29-30,

Human Rights Watch has interviewed domestic workers who, prior to coming to the UK, worked for their respective employers in the UAE, Oman, India, Nigeria, Qatar, Saudi Arabia, Kuwait, and Uganda. They described being subjected to a variety of abuses and exploitation including physical abuse, restriction of their movements, and being paid very little or not at all to work for extremely long hours often without breaks. Human Rights Watch has also documented serious and widespread abuses against domestic workers in many of those countries including verbal and physical abuse, lack of pay, and confinement to the employer's home, under systems which tie the worker's immigration status to their employer, making it very difficult for them to leave abusive employment situations and where they have little chance of accessing protection or redress.¹⁴

Given the lack of rights and mobility that many domestic workers face in other countries, our research shows that a 12-month employment relationship prior to going to the UK does not establish that the worker was treated well.¹⁵ It is also clear that requiring the employer to sign a statement of conditions of employment, without monitoring employer compliance once in the UK, does not guarantee that such conditions reflect the reality of domestic workers' living and working conditions in the UK.

Ignoring warnings that removing the proposed rules would lead to abuses of domestic workers by their employers, in March 2012, the government changed the rules for overseas domestic workers applying for a visa after April 5, 2012.¹⁶ The changes remove the right for these workers to change employer and to apply for settlement, and limit the visa for those working in private households to a maximum of six months after which it cannot be renewed, and a total of five years for domestic workers in diplomatic households.¹⁷

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269012/employment-related-consultation.pdf (accessed December 2, 2013).

¹⁴ Human Rights Watch, *Proposed Domestic Workers Contract Falls Short: Gulf Countries Should Improve Laws, Ratify Treaty*, November 17, 2013, <http://www.hrw.org/news/2013/11/16/proposed-domestic-workers-contract-falls-short>; *Walls at Every Turn – Abuse of Migrant Domestic Workers through Kuwait's Sponsorship System*, October 2010, <http://www.hrw.org/reports/2010/10/06/walls-every-turn-0>; *As If I am not Human – Abuses against Asian Domestic Workers in Saudi Arabia*, July 2008, <http://www.hrw.org/reports/2008/07/07/if-i-am-not-human-0>.

¹⁵ *Ibid.*

¹⁶ "Domestic workers demonstrate over UK visa changes," BBC News Online, 4 September 2011, <http://www.bbc.co.uk/news/uk-14778107> (accessed 3 December 2013); Kalayaan, "Government proposes return to slavery for migrant domestic workers in the UK", June 2011, <http://www.kalayaan.org.uk/documents/Kalayaan%20briefing%20-%20Government%20proposals%20for%20MDWs%20-%20June%202011.pdf> (accessed December 3, 2013).

¹⁷ Home Office, "Statement of Intent: Changes to Tier 1, Tier 2 and Tier 5 of the Points Based System; Overseas Domestic Workers; And Visitors," February 2012,

Domestic Workers in Diplomatic Households

Migrant domestic workers employed by diplomats are a particular vulnerable group. Firstly, their visa status typically depends on continued employment by the diplomat and they are therefore not free to change employers in case of exploitation. Secondly, diplomatic immunities and privileges shield diplomats from the enforcement of national legislation.

—UN special rapporteur on contemporary forms of slavery, Gulnara Shahinian, *Report on contemporary forms of slavery, including its causes and consequences*.¹⁸

Prior to the April 2012 changes in the visa rules, migrant domestic workers who worked for a diplomat could switch to working for another diplomat in the same mission. For instance if their employer left his or her post, they could remain in the UK and work for their employer's successor. Under the new rules, migrant domestic workers can only work for one diplomat and must leave the UK at the same time as their employer or earlier.¹⁹ They can stay for up to five years in the UK but they can no longer apply for permanent settlement, as they could under the previous visa rules.²⁰

Diplomats and their families enjoy immunity from the jurisdiction of British courts in criminal, administrative, and civil matters.²¹ In its 2011 Trafficking in Persons Report, the US Department of State raised concerns about reports of abuse of domestic workers by diplomats in the UK and the fact that they are often immune from prosecution.²² The 2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117953/tiers125-pbs-overseas-soi.pdf (accessed December 3, 2013).

¹⁸ Report of the special rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, A/HRC/15/20, 18 June 2010, paragraph 57 (this report is not specific to the situation in the UK but on domestic servitude generally).

¹⁹ UK Border Agency (UKBA), "Private servants in diplomatic households: changes affecting diplomatic missions," February 29, 2012, available on Electronic Immigration Network, <http://www.ein.org.uk/news/private-servants-diplomatic-households-changes-affecting-diplomatic-missions> (accessed December 10, 2012).

²⁰ Home Office, Statement of Intent: Changes to Tier 1, Tier 2, and Tier 5 of the points based system; Overseas Domestic Workers, and Visitors, February 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117953/tiers125-pbs-overseas-soi.pdf (accessed December 10, 2013).

²¹ Diplomatic Privileges Act 1964, Schedule 1, Articles 31 and 37.

²² US Department of State, "Trafficking in Persons Report 2011, United Kingdom," June 2011, <http://www.state.gov/j/tip/rls/tiprpt/2011/164233.htm> (accessed December 10, 2013).

Trafficking in Persons report stated that “domestic workers, including in diplomatic households, are particularly vulnerable to trafficking and abuse.”²³

According to Karan Singh, a caseworker at Kalayaan, the level of abuse reported by migrant domestic workers working for diplomats who register with Kalayaan is higher than for those working in private households. “There is a high rate of sexual abuse, verbal, or physical abuse. They’re paid much less or next to nothing,” Singh said.²⁴ He said that Kalayaan sees between 13 and 17 migrant domestic workers from diplomatic households every year, far fewer than those in private households, which may reflect in part the fact that the number of domestic workers entering the UK to work in diplomatic households is much smaller than those working in private households.

It is not clear how many work visas are issued to domestic workers employed by diplomats as the UK government’s official statistics do not distinguish Overseas Domestic Worker visas from those of other workers in the Tier 5 International Agreement Category, which includes other people going to work in the UK on contracts covered by international law.²⁵

To ensure employees of foreign embassies and consulates who employ migrant domestic workers in the UK treat them in accordance with UK law and provide them with fair living and working conditions, the UK government should develop and adopt a code of conduct governing these employment relationships.

A New Bill on Modern Slavery

While the UK government has weakened protections for migrant domestic workers, it says it is committed to addressing what it calls “modern slavery.” Home Secretary Theresa May describes this as a personal priority for her.²⁶ According to the draft Modern Slavery Bill, which May presented in December 2013, modern slavery offences are human trafficking

²³ US Department of State, “Trafficking in Persons Report 2013, United Kingdom,” June 2013, <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215644.htm> (accessed December 10, 2013).

²⁴ Human Rights Watch interview with Karan Singh, Kalayaan, London, December 6, 2013.

²⁵ UK Home Office, “Tier 5 (Temporary Worker – International Agreement visa)”, undated, <http://www.ukba.homeoffice.gov.uk/visas-immigration/working/tier5/internationalagreement/#header1> (accessed February 24, 2014).

²⁶ “Theresa May: Slaves may work in your nail bar too,” The Telegraph Online, November 24, 2013, <http://www.telegraph.co.uk/comment/10470717/Theresa-May-Slaves-may-work-in-your-nail-bar-too.html> (accessed February 24, 2014).

and forced labour, slavery, or servitude. May's commitment to a new law against modern slavery is an opportunity for the UK government to introduce protections for migrant domestic workers who face abuse and mistreatment which can constitute modern slavery as defined by the draft Bill on Modern Slavery.

The draft bill consolidates offenses dealing with human trafficking and forced labour, slavery, and servitude; increases the maximum sentence for modern slavery offences from 14 years to life imprisonment; introduces a number of measures such as an anti-slavery commissioner whom the home secretary will appoint to work with law enforcement bodies on their response to modern slavery; and imposes a duty on public bodies and designated NGOs to report suspected victims of trafficking.²⁷

In December 2013, when Theresa May presented the draft Modern Slavery Bill, she also announced a Modern Slavery Action Plan that would include new nonlegislative measures and policies. Despite evidence that changes in the visa rules had increased migrant domestic workers' risk of abuse, at time of writing there were no indications that reforming the rules for migrant domestic workers to allow them to change employer would be included in May's anti-slavery initiative.

A review panel led by Member of Parliament Frank Field was tasked by Theresa May to produce a report on modern slavery in the UK in order to provide evidence for the new anti-slavery bill. In a report published on December 16, 2013, the panel found that:

Since April 2012, if an employer exploits their domestic worker during their time in the UK, the domestic worker will have three very difficult options: to stay and submit to the abuse involved; to leave the situation and return home; or to leave and remain in the UK as an illegal immigrant. There are distinct issues with the viability of each of these options. The first risks consigning the worker to a situation of modern slavery. The second is often considered unacceptable due to pressures to provide for a family and fears of

²⁷ Home Office, "Draft Modern Slavery Bill," December 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266165/Draft_Modern_Slavery_Bill.pdf (accessed February 24, 2014).

shame upon return. The final option leaves the domestic worker extremely vulnerable, with no recourse to compensation or a safe place to go.²⁸

The panel therefore recommended that the joint committee on the draft modern slavery bill (composed of members of both houses of parliament) consider restoring the right for overseas domestic workers to change employer.

However, May said in a radio interview on the day the Field report was published that sufficient safeguards were already in place under the current immigration rules because migrant domestic workers coming to the UK must have worked for their employer for at least 12 months before applying for their visa for the UK, which has been the government's position since introducing the new tied visa.²⁹ For migrant domestic workers interviewed by Human Rights Watch, whether on the old or the new visa, this requirement did not prevent their abuse or exploitation.

Human Rights Watch has documented serious abuses against migrant domestic workers in the Gulf countries, where most of the interviewees for this report worked before going to the UK, some of them amounting to forced labour or slavery. These abuses include confiscation of passports, failure to pay salaries, excessive working hours with no days off, and confinement to the workplace. Abuses documented by Human Rights Watch also include physical and sexual abuse. In some of these cases the abuse lasted for several years.³⁰

The Immigration Context in the UK

The aim is to create here in Britain a really hostile environment for illegal migration.

²⁸ Report of Modern Slavery Bill Evidence Review, "Establishing Britain as a world leader in the fight against modern slavery," December 16, 2013, p. 55, <http://www.frankfield.com/upload/docs/PDF%20FINAL.pdf> (accessed January 14, 2014).

²⁹ Interview with Theresa May, Home Secretary, on the Today programme on Radio 4, December 16, 2013; Kate Roberts, "Non priority slaves?", Migrant Rights Network Online, December 20, 2013, <http://www.migrantsrights.org.uk/migration-pulse/2013/non-priority-slaves> (accessed February 20, 2014).

³⁰ Human Rights Watch, *Proposed Domestic Workers Contract Falls Short: Gulf Countries Should Improve Laws, Ratify Treaty*, November 17, 2013, <http://www.hrw.org/news/2013/11/16/proposed-domestic-workers-contract-falls-short>; *Walls at Every Turn – Abuse of Migrant Domestic Workers through Kuwait's Sponsorship System*, October 2010, <http://www.hrw.org/reports/2010/10/06/walls-every-turn-0>; *As If I am not Human – Abuses against Asian Domestic Workers in Saudi Arabia*, July 2008, <http://www.hrw.org/reports/2008/07/07/if-i-am-not-human-0>.

—Home Secretary Teresa May, in May 2012.³¹

I feel nervous every time I go out. I hear from friends, from TV, that immigration officers are checking. I'm afraid on the bus, even of Oyster [travel card] checks. You feel like more than a criminal.

—Irene C., a Filipina domestic worker on a new tied visa, who escaped from her employer in August 2012, London, July 26, 2013.

The changes in the visa rules for migrant domestic workers entered into force in an environment of increasing hostility towards migrants, often portrayed negatively in the media.³²

A recent poll suggests that immigration is one of the top concerns of people in the UK.³³ In October 2013, the government proposed a new immigration bill, before parliament at the time of writing, which would make it easier for the government to deport people from the UK, make it illegal for landlords to rent accommodation to people without regular immigration status, and stop people without regular immigration status from opening bank accounts.

For one week in July 2013, vans toured six London boroughs in a government campaign to increase the number of irregular migrants returning home voluntarily. “In the UK illegally? Go home or face arrest,” declared signs fixed to the vans, beside a picture of handcuffs.

Rights groups, politicians, and local authorities fired back, and the government abandoned the scheme.³⁴ Home Secretary Theresa May later acknowledged that the vans were “too much of a blunt instrument.”³⁵

³¹ James Kirkup and Robert Winnett, “Theresa May interview: “We’re going to give illegal migrants a really hostile reception”,” The Telegraph Online, May 25, 2012, <http://www.telegraph.co.uk/news/uknews/immigration/9291483/Theresa-May-interview-Were-going-to-give-illegal-migrants-a-really-hostile-reception.html> (accessed January 16, 2014).

³² The Migration Observatory at the University of Oxford, “Portrayals of Immigrants, Migrants, Asylum Seekers and Refugees in National British Newspapers, 2010 to 2012,” August 2013, <http://www.migrationobservatory.ox.ac.uk/reports/migration-news> (accessed February 1, 2014).

³³ Ipsos MORI study, “Issues Facing Britain,” January 28, 2014, <http://www.ipsos-mori.com/researchpublications/researcharchive/3337/EconomistIpsos-MORI-January-2014-Issues-Index.aspx> (accessed February 1, 2014); YouGov survey, “What we believe about immigration,” November 25, 2013, <http://yougov.co.uk/news/2013/11/25/what-we-believe-about-immigration/> (accessed February 1, 2014).

³⁴ Matthew Taylor, “‘Go Home’ campaign creating climate of fear, say rights groups,” The Guardian, August 8, 2013, <http://www.theguardian.com/uk-news/2013/aug/08/go-home-climate-of-fear-rights-groups> (accessed January 16, 2014).

Holding out against the ILO Domestic Workers Treaty

As well as removing protections domestically, the UK has refused to ratify a groundbreaking international treaty that, while accounting for the unique circumstances of work that takes place in private homes, recognizes the same rights for domestic workers as for other workers.

The convention requires that governments provide domestic workers with similar rights to those enjoyed by other workers, such as limits to working hours, minimum wage, daily and weekly rest periods, and to protect domestic workers from abuse. When the ILO adopted the ILO Convention on Decent Work for Domestic Workers in June 2011, 173 governments voted in favor. The UK was one of only eight countries (including just one other EU country, the Czech Republic) to abstain. The only country to vote against was Swaziland.³⁶

At the ILO conference on the new domestic workers convention in 2011, the UK government delegate claimed that it “already provides comprehensive employment and social protection to domestic workers,” even though the UK’s Health and Safety at Work Act explicitly excludes domestic workers from its scope.³⁷ The UK delegate added that the UK government did not consider it “appropriate or practical to extend criminal, health and safety laws, including inspections, to private households employing domestic workers.”³⁸ He argued that “it would be difficult, for instance, to hold elderly individuals employing carers to the same standards as large companies.”³⁹

The UK government’s flawed interpretation of the Domestic Workers Convention does not acknowledge the flexibility that the treaty provides for governments to tailor health and safety standards appropriately and effectively to the unique circumstances of work taking place in private homes. The treaty does not require governments to impose exactly the

³⁵ “Theresa May says ‘go home’ will not be rolled out across UK,” BBC News Online, October 22, 2013, <http://www.bbc.co.uk/news/uk-politics-24624383> (accessed January 16, 2014).

³⁶ Human Rights Watch, *ILO: New Landmark Treaty to Protect Domestic Workers*, June 16, 2011, <http://www.hrw.org/news/2011/06/16/ilo-new-landmark-treaty-protect-domestic-workers>.

³⁷ Health and Safety at Work etc. Act 1974, Section 51.

³⁸ Lord Hansard, Westminster Hall debate, “Convention on Domestic Workers,” June 29, 2011, Column 269WH, <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110629/halltext/110629h0001.htm> (accessed February 24, 2014).

³⁹ Westminster Hall debate, “Convention on Domestic Workers,” 29 June 2011, <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110629/halltext/110629h0001.htm> (accessed February 24, 2014).

same obligations on private households employing a single domestic worker as it does on large companies employing many workers.⁴⁰

In January 2014, the EU Council of Ministers authorized EU member states to ratify the Domestic Workers Convention, noting that it contributes to the EU's Strategy toward the Eradication of Trafficking in Human Beings.⁴¹ Germany and Italy have ratified the convention and other EU states are in the process of doing so.

Following its Universal Periodic Review in July 2012, the UK rejected recommendations to ratify the convention.⁴² In justifying this rejection, the UK government stated that “whilst the UK supports the principles behind the Domestic Workers Convention by already providing comprehensive employment and social protections to domestic workers, it does not think that ratification of the Convention is appropriate for the UK because of the burdens that implementing the health and safety provisions would impose on UK businesses and citizens.”⁴³

In the House of Lords in June 2013, a representative of the government confirmed its refusal to ratify the convention for the same reasons.⁴⁴

⁴⁰ Article 13 of the ILO Domestic Workers Convention, which provides that “every domestic worker has the right to a safe and healthy working environment,” also states that parties to the Convention “shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers.”

⁴¹ International Labour Organization, Council Decision of 28 January 2014 (Convention No 189) (2014/51/EU), 2011, authorizing Member States to ratify, in the interests of the European Union, the Convention concerning decent work for domestic workers.

⁴² UK views on conclusions and/or recommendations in the report of the Working Group on the Universal Periodic Review, September 17, 2012, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/gbsession1.aspx> (accessed January 16, 2014).

⁴³ The UK's Universal Periodic Review, Annex document, September 2012.

⁴⁴ Lord Hansard, Question on migrant domestic workers, June 3, 2013, Column WA140, <http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/130603wo002.htm#1306037001111> (accessed February 24, 2014).

II. Abuses against Domestic Workers in the UK

Criminal Abuses

Human Rights Watch has documented a range of abuses against migrant domestic workers which constitute criminal offenses under UK law, including forced labour and physical and psychological abuse. The majority of those interviewed who were under the new tied visa said their passport had been confiscated by their employer, which is not specifically criminalized under UK law but constitutes an indicator of forced labour and trafficking.

Forced Labour

Most of the migrant domestic workers interviewed by Human Rights Watch for this research described at least some of the elements that constitute forced labour under international law. Under European and international law, the UK must protect people on its territory from forced labour whether the actions are committed by public officials or private individuals. However, there is no mechanism in place in the UK to check whether employers are respecting the rights of migrant domestic workers and for those working in the UK under the new visa.⁴⁵ The risk of becoming undocumented if they leave their employers can deter them from reporting this treatment to the police.

In 2009, the UK parliament passed the Coroners and Justice Act 2009. The act, which entered into force in April 2010, criminalizes slavery, servitude, and forced or compulsory labour and applies where there is no element of trafficking.⁴⁶ Trafficking people for exploitation, including slavery and forced labour, is a crime under a separate law of 2004.⁴⁷

The Crown Prosecution Service (CPS) has issued guidance on the section of the Coroners and Justice Act which deals with forced labour, slavery, and servitude. It informs

⁴⁵ Human Rights Watch meeting with UK Home Office officials, London, January 29, 2014.

⁴⁶ Section 71 of the Coroners and Justice Act 2009 provides that a person commits an offence of slavery, servitude or forced or compulsory labour if a person (D) “holds another person in slavery or servitude and the circumstances are such that D knows or ought to know that the person is so held” or “(D) requires another person to perform forced or compulsory labour and the circumstances are such that D knows or ought to know that the person is being required to perform such labour.”

⁴⁷ Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 4.

prosecutors that behavior that can indicate that a person may be held in servitude or be a victim of forced or compulsory labour includes:

[...] violence or threats of violence by the employer or the employer's representative; threats against the worker's family; threats to expose the worker to the authorities, for example because of the worker's immigration status or offences they may have committed in the past; the person's documents, such as passports or other identification, being withheld by the employer; restriction of movement; debt bondage; withholding of wages.⁴⁸

The guidance also states that other indicators of forced labour include excessive working hours imposed by the employer, poor accommodation, and isolation from contact with others. Thirty domestic workers interviewed by Human Rights Watch described at least one of those elements.

Andrea N., a Filipina domestic worker, went to London with her employer, a diplomat, and his family from a Gulf country on a new visa. Andrea N. looked after his children, cooked, and cleaned, seven days a week, with no day off. She started at 6 a.m. and worked until 10 or 11 p.m. every night. She said:

Before we came here, the contract said my salary would be £1,000 [per month], but they paid me £200. They locked me up in the house in London and when we went outside sometimes they didn't give me food. I didn't have a sim card, I didn't have money. My boss sent my salary to the Philippines.⁴⁹

Ira A., a 38 year-old domestic worker from the Philippines, decided to work abroad as a domestic worker, due to the difficulty of finding work in the Philippines and the need to support her son, who lives there. For two-and-a-half years, Ira A. worked for her former employers in Saudi Arabia, caring for their baby in a UK hospital. Ira lived in the hospital in the baby's room, working constantly with no day off. She cared for the baby like a nurse, waking every two hours during the night to give him his medicine.

⁴⁸ The Crown Prosecution Service, "Legal Guidance: Slavery, Servitude and Forced or Compulsory Labour," April 2010.

⁴⁹ Human Rights Watch interview with Andrea N. (not her real name), London, September 8, 2013.

She was forbidden by her employers to leave the ward except when her employers visited once per month. Ira's salary was 800 Saudi Riyals (about £130) per month, which her employers sent directly to her family in the Philippines. But they did not pay the money consistently. Ira said her family did not receive any money for the first four months and only received her monthly salary four times in two years. Ira was not allowed to have a mobile phone.

"Every year the boy checked in here at [a London] hospital," Ira A. told Human Rights Watch. "In September 2012, I came with the mother, father, and the boy. We stayed for two-and-a-half months. I stayed in the hospital with the boy and the parents stayed in an apartment. They told me I couldn't speak to nurses. I didn't have pounds."⁵⁰

Many of those interviewed for this report described abusive living conditions, including lack of adequate food and privacy. Some were only given leftovers to eat by their employer, or sometimes not provided with food at all. For those whose employers did not pay them in the UK, this meant they could not buy any food. Many were not provided with their own bedroom. As noted, poor living conditions are recognized, by the ILO and the CPS, as possible indicators of forced labour.

Ana V., a Filipina domestic worker who went to the UK with her employer from Qatar on a new visa, said she lost 4 kilograms in 11 days because her employer's sister, for whom she was caring in London while she received medical treatment, measured the food Ana V. cooked for her and her employer and did not allow her to eat any. Ana V. said that in 11 days she only ate rice four times, and the rest of the time she ate bread and hummus, and sometimes an egg in secret. Ana V. had asked her sister's employer if she could go and buy food for herself from a store nearby, but she did not allow her. Ana V. did not have any British pounds. She only had EUR 190 her female employer had given her in Qatar before she left, but her male employer did not allow her to exchange the money in the UK. Ana V. told Human Rights Watch she slept on the floor in her employer's sister's room and worked from 7 a.m. until 10 p.m. or 12 p.m., with one hour's rest during the day.⁵¹

⁵⁰ Human Rights Watch interview with Ira A. (not her real name), London, October 27, 2013.

⁵¹ Human Rights Watch interview with Ana V. (not her real name), London, January 26, 2014.

Maria D., a Filipina domestic worker who went to work in the UK with her employer from Kuwait, told Human Rights Watch she was expected to eat the leftovers from her employers' meals. She said when they went out to eat in a restaurant there was sometimes only bread for her to eat. Her employers paid her £50 for the three weeks she spent working in London.⁵²

Several migrant domestic workers interviewed by Human Rights Watch said they had to eat quickly before getting back to work. "I had no time to eat," said Sudeewa B., a domestic worker from Sri Lanka.⁵³ "We ate in the kitchen, standing only because it didn't have a table ... quick, and back to work after finishing," said Raquel E.⁵⁴

Six of the domestic workers interviewed by Human Rights Watch who arrived since the visa rules changed said they had their own room in London. Nine said they slept in a storage or utility room, with a child, in the living room, or in a room they shared with their employer. One domestic worker said she had her own room but that she was not allowed to use the heating, and that she suffered from the cold as all she had was a small blanket she had brought from Saudi Arabia.⁵⁵

Verbal, Physical, and Psychological Abuse

Assault and harassment are criminal offenses punishable by imprisonment in the UK. The British government has a duty to protect migrant domestic workers from being abused by their employer and to ensure that they have access to justice if they are.

Comfort S., a domestic worker who arrived in the UK on an old visa, told Human Rights Watch her employer often hit her. "Every little thing, she raised her hand," she said. "She slapped me once when I was holding the baby."⁵⁶ Zahia M., a Moroccan domestic worker on a new tied visa, said her female employer hit her, shouted at her and insulted her while she worked for her in the UK.⁵⁷

⁵² Human Rights Watch interview with Maria D. (not her real name), London, December 8, 2013.

⁵³ Human Rights Watch interview with Sudeewa B., London, December 1, 2013.

⁵⁴ Human Rights Watch interview with Raquel E. (not her real name), London, December 3, 2013.

⁵⁵ Human Rights Watch interview with Zahia M. (not her real name), London, January 19, 2014.

⁵⁶ Human Rights Watch interview with Comfort S. (not her real name), London, October 25, 2013.

⁵⁷ Human Rights Watch interview with Zahia M. (not her real name), January 19, 2014.

Several domestic workers told Human Rights Watch their employers shouted at them, called them abusive names such as “stupid,” “animal,” or “dog,” or threatened to harm them.

Linda S., a Filipina domestic worker whose employer in Qatar brought her to the UK to work as a domestic worker for their adult son, told Human Rights Watch: “Sometimes he was tired and he said, if I made a mistake, [or] there wasn’t a food he liked [because] the market was closed, ‘I can kill you and throw you to the sea.’”⁵⁸

Saleema R., a Filipina domestic worker who came to the UK and worked under the old visa rules for three years before escaping in December 2013, said: “It was very hard. The five children always said ‘give me this,’ ‘give me that.’ Madam and the children shouted, they said ‘you have no brain,’ ‘you’re stupid.’”⁵⁹

Maria D., a Filipina domestic worker who came to the UK with her employer from Kuwait under a new tied visa rules, said her employers’ children threatened her: “The children said if you run away the police will bring you to jail. They scared me already.”⁶⁰

Confinement and Restricted Contact with Others

I decided to leave them.... If I stay here I don’t know what would happen to me because they always locked me in the house. If there’s a fire what will my son’s future be? How will I help my mother?

—Andrea N., a Filipina domestic worker who went to the UK with her employer, a diplomat from a Gulf country, London, September 8, 2013.

Both the UK’s Human Rights Act and the International Covenant on Civil and Political Rights (ICCPR), ratified by the UK, guarantee the right to liberty.⁶¹ False imprisonment and kidnapping, both relevant to forced labour under UK law, are crimes punishable by life imprisonment.

⁵⁸ Human Rights Watch interview with Linda S. (not her real name), London, September 8, 2013.

⁵⁹ Human Rights Watch interview with Saleema R. (not her real name), London, February 9, 2014.

⁶⁰ Human Rights Watch interview with Maria D. (not her real name), December 8, 2013.

⁶¹ Human Rights Act. Schedule 1, Article 5 and International Covenant on Civil and Political Rights (ICCPR), Article 9.

Most domestic workers on new visas whom Human Rights Watch interviewed said they were not allowed to go out freely. Some were only permitted to go out with their employer, or with the children, or for short trips to the supermarket. Two domestic workers on the new visa, one working in a private household the other working for a diplomat, told Human Rights Watch their employers locked them in the house when they went out.

Cherryloi M., a Filipina domestic worker who arrived in the UK in May 2013 with her employers for whom she had worked in Qatar for one year before that, described how her employers treated her in Qatar, where she slept on a mattress on the floor:

I slept in one room, a storage area. They didn't let me keep my clothes in the room, they said they were dirty. They treated me not like a human, like an animal. Other maids had left before me, it wasn't just me.⁶²

Cherryloi M. told Human Rights Watch that in London her employers locked the apartment door preventing her from leaving the apartment. "I had a room with a bed. But at 5 a.m. I woke up and made tea for my Madam. She told me not to go to my room again until midnight.... I sat with them in restaurants, looking at them eating." she said. One day, a week after arriving in London, Cherryloi M.'s employers forgot to lock the door. She ran away, without her passport or money.⁶³

Comfort S., a Nigerian domestic worker who was employed under the old visa rules, described how her employer told her to mistrust people in London, contributing to her feeling of isolation: "I didn't know people [in London]. My aunty [employer] told me people here are wicked, don't tell them your business, they'll use it against you, so I was scared to tell people about myself."⁶⁴

Catherine Kenny, a case-worker at Kalayaan, told Human Rights Watch she had seen about 35 migrant domestic workers on the new visa and all reported some kind of confinement. "I haven't seen anyone on the new visa who can go out freely," she said. "Some are locked in, some told they can't go out. Some can go out with a child.... Another way is they don't have

⁶² Human Rights Watch interview with Cherryloi (not her real name), London, August 31, 2013.

⁶³ Ibid.

⁶⁴ Human Rights Watch interview with Comfort S. (not her real name), London, October 25, 2013.

any money. They can't even get a bus. They're also told they're not allowed to speak to people locally.”⁶⁵

Seven domestic workers who arrived in the UK on the new visa told Human Rights Watch they were not allowed a mobile phone or did not have enough money to top up the credit on their phone. Isolating a person from contact with others is an indicator of forced labour under the CPS Guidance on Slavery, Servitude and Forced or Compulsory Labour.⁶⁶

According to the ILO indicators of forced labour, which include isolation, “workers may be isolated [...] by being kept behind closed doors or having mobile phones or other means of communication confiscated, to prevent them from having contact with their families and seeking help.”⁶⁷

Elissa I., an Indonesian domestic worker, told Human Rights Watch she did not call her family during her first six months in London. “I called them before I left,” she told Human Rights Watch. “I told them I’m going to London with my employer. If you don’t hear from me, I’ll call you when I get back.” Elissa I. came to the UK with her employer from Saudi Arabia in 2012 and then in 2013. She ran away the second time.⁶⁸

Maria D., a Filipina domestic worker who went to the UK on a new tied visa, told Human Rights Watch that she once asked her employer permission to speak to her family back home in the Philippines. “She gave me her phone, maybe for ten minutes, and then I had to translate what I said to my family,” Maria D. said.⁶⁹

For Sudeewa B., a Sri Lankan domestic worker who went to the UK on an old visa with her former employer from Kuwait, calls home were strictly limited. “She [my employer] gave me

⁶⁵ Human Rights Watch interview with Catherine Kenny, London, December 6, 2013. Some of the domestic workers referred to by Catherine Kenny were also interviewed by Human Rights Watch for this report.

⁶⁶ The Crown Prosecution Service, “Legal Guidance: Slavery, Servitude and Forced or Compulsory Labour,” April 2010, http://www.cps.gov.uk/legal/s_to_u/slavery_servitude_and_forced_or_compulsory_labour/ (accessed January 14, 2014).

⁶⁷ International Labour Organization, “ILO indicators of Forced Labour,” October 1, 2012, http://www.ilo.org/sapfl/Informationresources/Factsheetsandbrochures/WCMS_203832/lang--en/index.htm (accessed January 14, 2014).

⁶⁸ Human Rights Watch interview with Elissa I. (not her real name), London, December 13, 2013.

⁶⁹ Human Rights Watch interview with Maria D. (not her real name), December 8, 2013.

the telephone to call Sri Lanka one time per month. Very quick, just “hello, how are you?” I asked for a mobile but she said no.”⁷⁰

Several domestic workers told Human Rights Watch their employers told them not to talk to people in London, apparently as a means of controlling domestic workers by preventing them from having contact with other people.

Retention and Withholding of Passports

Thirteen of the 15 domestic workers interviewed by Human Rights Watch who arrived since the visa changes said their employers retained their passports. Withholding a domestic worker’s passport is a means of control, and while it is not a specific offence under UK law it is listed by the CPS as a means of coercion which can indicate forced labour.⁷¹ The retention of identity documents is also described in the ILO Convention as an indicator of forced labour. The UK Visas and Immigration information sheet for overseas domestic workers states that “You, not your employer, should retain your passport,” but it does not give any information as to what they can do if their employer retains their passport against their will.⁷²

While some domestic workers said they held their passport during their journey to the UK, others told Human Rights Watch their employers even retained their passport while going through the UK border at the airport.⁷³

It is common for employers to hold their domestic workers’ passport in the Gulf, where most of the domestic workers interviewed by Human Rights Watch worked before going to the UK with their employer.⁷⁴

⁷⁰ Human Rights Watch interview with Sudeewa B., December 1, 2013.

⁷¹ The Crown Prosecution Service, “Legal Guidance: Slavery, Servitude and Forced or Compulsory Labour,” April 2010, http://www.cps.gov.uk/legal/s_to_u/slavery_servitude_and_forced_or_compulsory_labour/ (accessed January 14, 2014).

⁷² UK Visas and Immigration, “Overseas domestic worker information sheet,” https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265823/dworkers-informationsheet.pdf (accessed February 24, 2014).

⁷³ Human Rights Watch interviews with Raquel E. (not her real name), December 3, 2013; Maria D. (not her real name), December 8, 2013; Elissa I. (not her real name), December 13, 2013; Ana V. (not her real name), January 26, 2014; and Sharmaine A. (not her real name), London, January 26, 2014.

⁷⁴ Human Rights Watch, *South Asia: Protect Migrant Workers to Gulf Countries*, December 18, 2013, <http://www.hrw.org/news/2013/12/18/south-asia-protect-migrant-workers-gulf-countries>; *Walls at Every Turn: Exploitation of Migrant Domestic Workers Through Kuwait’s Sponsorship System*, October 2010,

Elissa I., an Indonesian domestic worker who went to the UK with her Saudi employers in January 2012 for six months on an old visa, and again in January 2013 on a new visa, told Human Rights Watch that when she travelled to the UK her male employer held all the family's passports, including hers. She said border officers asked questions but her employer answered.

Some migrant domestic workers told Human Rights Watch they had wanted to leave their employer, but they didn't want to leave without their passport.

Rita C., a domestic worker from Uganda, who left her employers in September 2012 having worked with them in the UK since 2009 and before that in Uganda, told Human Rights Watch: "I didn't like the way they treated me, it wasn't good. So I wanted to run away but I didn't want to run away without my passport. They locked it in the safe. They told me if a letter arrives in your name don't open it."⁷⁵

Raquel E., a Filipina domestic worker, told Human Rights Watch how in November 2013 she called the police to ask how she could get her passport back from her employer who was withholding it. Police officers came to her employers' flat the same evening. She said they didn't enter the flat. They spoke to her employer in the hall, but didn't speak separately to her. Her employer, she said, told the police that she had her own room and one and a half days off. Then, she said, her employer turned to her and told her, in front of the police officers: "I'm holding your passport because I'm your employer, you're my employee." The police, she said, simply apologized to her employer and then left. According to Raquel E., after the police left her employer told her: "I won't give you your passport. I'll give it to the Home Office. You can't find another job. I'll tell the police to find you and send you to the Philippines." The following day, Raquel E.'s employer dismissed her without returning her passport. Raquel had not received her passport back at the time of writing.⁷⁶

<http://www.hrw.org/news/2010/10/06/kuwait-abused-domestic-workers-nowhere-turn>; *'As If I am Not Human': Abuses against Domestic Workers in Saudi Arabia*, July 2008, <http://www.hrw.org/en/reports/2008/07/07/if-i-am-not-human-o>.

⁷⁵ Human Rights Watch interview with Rita C. (not her real name), London, October 27, 2013.

⁷⁶ Human Rights Watch interview with Raquel E. (not her real name), December 3, 2013. Raquel had previously escaped from the employer with whom she arrived in the UK and was able to take her passport and change employer, though she arrived in the UK after the visa changes.

Labour Abuses

The main labour abuses documented in the research for this report were excessive working hours and low wages or non-payment of salary. The overwhelming majority of interviewees said their employers did not pay them the minimum wage in the UK, despite the fact that a written agreement specifying that the worker will be paid UK national minimum wage is a requirement for visas to be issued, as well as a requirement under UK employment law.⁷⁷

Excessive Working Hours

The majority of migrant domestic workers interviewed by Human Rights Watch, under both the old and the new visa system, said they worked excessively long hours, on average from 6 a.m. or 7 a.m. until 10 or 11 p.m. Some said they started at 4 a.m., some finished at 12 p.m. In families with small children, especially, they were expected to be on call day and night and to attend to the children if they woke up.

Some said they also had to get up at night if their employer requested something, for instance food, whatever the time. Some domestic workers said they had to wait until their employers finished eating before cleaning up, and some had to work late into the night if their employer had a party, but they were not paid extra. Of those interviewed by Human Rights Watch under the new visa system, only two said they had days off in the UK and one of these two said it was not consistent.

Excessive overtime, which can include being denied breaks and days off or being on call 24 hours a day, 7 days a week, is an indicator of forced labour according to the ILO and the UK Crown Prosecution Service.⁷⁸

Farah Y., from Morocco, said she was the only domestic worker in the house of a diplomat that had nine bathrooms, nine bedrooms, three living rooms, a garden, and a swimming

⁷⁷ Immigration Rules – Part 5, undated, Paragraph 159A. (v), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285093/Immigration_Rules_Part_5.pdf (accessed February 24, 2014).

⁷⁸ International Labour Organization, “ILO indicators of Forced Labour,” http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf; The Crown Prosecution Service, “Slavery, Servitude and Forced or Compulsory Labour,” http://www.cps.gov.uk/legal/s_to_u/slavery_servitude_and_forced_or_compulsory_labour/ (accessed January 14, 2014).

pool. Almost every day she would have to change the sheets, even if there was no one staying in the room, cook, clean, and iron. She said:

I told them I start at 9 [a.m.] and finish at 5 or 6 [p.m.]. He [the employer] said, “No, I need my breakfast at 7 [a.m.], and you finish when you finish.” ... I didn’t sleep until 11 or 12 [p.m.].⁷⁹

Zahia M., a Moroccan domestic worker who arrived in the UK under the new visa rules with her employers from Saudi Arabia, told Human Rights Watch she worked day and night, sometimes only sleeping for one or two hours. She started to make breakfast at 6 a.m., sometimes earlier. Her employers and their children each wanted something different to eat. She spent the rest of the day cooking, cleaning, and picking up after them. She said sometimes she started ironing her employers’ clothes at 1 a.m. because she did not have time to do it during the day.⁸⁰

Several domestic workers, who are practicing Christians, said they would have liked to have gone to church but they were not allowed to. With very few exceptions, the domestic workers interviewed by Human Rights Watch said they had no breaks during the day and no days off.

Andrea N., a Filipina domestic worker, told Human Rights Watch about the reaction of her female employer when she asked for a day off:

[She] said: “You can go out and pack your things if you want a day off. The police can take you.” I said to the husband, why is your wife shouting at me when I ask about a day off? He said: “We can’t give you a day off. I’ll take you to church for one hour and pick you up.” But he didn’t.⁸¹

Domestic workers are excluded from the provisions of the UK’s Working Time Regulations that limit weekly working time to 48 hours and night work to 8 hours for each 24 hours.⁸²

⁷⁹ Human Rights Watch interview with Farah Y. (not her real name), London, December 7, 2013.

⁸⁰ Human Rights Watch interview with Zahia M. (not her real name), January 19, 2013.

⁸¹ Human Rights Watch interview with Andrea N. (not her real name), September 8, 2013.

⁸² The Working Time Regulations of 1998, regulation 19.

However, they are entitled to an uninterrupted rest period of at least 11 hours every 24 hours, an uninterrupted rest period of 24 hours each seven day period, a rest break if the working day is longer than 6 hours, and 4 weeks' annual leave per year.⁸³

Low or No Salary

Along with employers withholding their passports and excessive working hours, insufficient wages was the most common abuse described by the domestic workers interviewed by Human Rights Watch. Most of those staying in the UK under both the old and the new visa rules said they were paid extremely low salaries, if at all. At least those in the UK under the old visa rules were allowed to look for and take on another, better paying job. Those coming to the UK under the new rules have little realistic option but to accept the wages offered.

Of the 15 migrant domestic workers working in the UK under the new visa system whom Human Rights Watch interviewed, 9 said they were not paid in the UK. They were paid back in the country where they had worked before, or their employer sent their salary directly to their family, or they were not paid at all. While some said they had consented to their employer sending their wages directly to their families back home, in practice they had little choice if they wanted to send the money home themselves given the restrictions many employers placed on their movements. Several domestic workers working in the UK under the new visa rules told Human Rights Watch they had signed documents with information about their salary and time off in the UK which their employers never followed. In some cases, employers explicitly told them to lie if they were asked questions at the British embassy during their visa interview.⁸⁴

As of October 2013, the National Minimum Wage for workers over 21 years old was £6.31 per hour. In 2012 it was £6.19 and in 2011 it was £6.08.⁸⁵ Employers can only charge up to £4.91 per day, or £34.37 per week for accommodation, which includes rent, gas and

⁸³ The Working Time Regulations of 1998, regulations 10, 11, 12, and 13. Regulation 11 allows for two uninterrupted rest periods of at least 24 hours each or one rest period of 48 hours per 14 day period instead of a rest period of 24 hours every seven days.

⁸⁴ Human Rights Watch interviews Ira A. (not her real name), October 27, 2013; Lisa J. (not her real name), London, September 8, 2013; Raquel E. (not her real name), December 3, 2013; Raheema F. (not her real name), London, November 12, 2013; Cherryloi M. (not her real name), August 31, 2013; and Ana V. (not her real name), January 26, 2014.

⁸⁵ Home Office, "National Minimum Wage rates," undated, <https://www.gov.uk/national-minimum-wage-rates> (accessed January 16, 2014).

electricity, and laundry.⁸⁶ The majority of the domestic workers interviewed by Human Rights Watch for this report were not paid anything like the minimum wage.

Elissa I., an Indonesian domestic worker, said the first time she went to the UK with her Saudi employer in 2012, she stayed for six months.⁸⁷ Her salary continued to be what it was in Saudi Arabia: 1,000 Saudi Riyals (about £160) per month, which Elissa I.'s employers sent to her family in Indonesia as she had agreed with them. "I never took my salary here.... They only gave me £150 two days before leaving.... Whenever I need shampoo or cream they bought it for me. They didn't give me money." The second time Elissa I. came with her employers, under a new visa in 2013, she left after two weeks. The only money she had were the £150 her employers gave her before she left.

Neha R., a domestic worker employed by a diplomat, told Human Rights Watch she worked seven days per week looking after her employer's children, cooking, and cleaning. She said her employer paid her £150 per month and that she had not had a salary increase since she started working for her employer 12 years ago. "What can I do?" she told Human Rights Watch. "My family is very poor.... I send them £100 every month." Neha R. said she supported her mother, father, sister, and her sister's two children back home.⁸⁸

Anita L, an Indian domestic worker who arrived in the UK under the old visa system, said her employers didn't pay her for three years, including the three months she spent working for them in the UK. She said she worked from 6 a.m. to 11 p.m. or 11:30 p.m. with no breaks and no days off. She was not allowed out alone and slept in a room with the children. "They said they would transfer money to my account but they didn't," she said. "I called home in India once per month, I wasn't allowed a mobile."⁸⁹

Zahia M., a Moroccan domestic worker in the UK under the new visa rules, said her Saudi employers paid her £250 per month to work day and night, with no days off. She told Human Rights Watch her employers had increased her salary from 1,000 to 1,200 Saudi Riyals (just under £200) shortly before leaving for the UK. However, even though she was

⁸⁶ Home Office, "National Minimum Wage: accommodation," undated, <https://www.gov.uk/national-minimum-wage-accommodation> (accessed February 2, 2014).

⁸⁷ Human Rights Watch interview with Elissa I. (not her real name), December 13, 2013.

⁸⁸ Human Rights Watch interview with Neha R. (not her real name), London, December 15, 2013.

⁸⁹ Human Rights Watch interview with Anita L. (not her real name), London, December 1, 2013.

working in the UK for her employer's convenience, she said she had to pay her employers £500 for her own plane ticket to the UK.⁹⁰

Phoebe D., a Filipina domestic worker who went to the UK with her Saudi employer under the old visa rules, said she was not paid during the three weeks she worked for them in the UK (nor had she been paid for one month in Saudi Arabia prior to leaving for the UK). "The woman [my employer] said if they pay us we might think of running away," she said.⁹¹

Saleema R., a Filipina domestic worker who escaped from her employers after working for them for three years in London, told Human Rights Watch: "For two years I didn't get paid. The third year, Sir went to the bank and sent money [\$200] to my family in the Philippines. At Christmas and Ramadan, they gave me £10 or £20."⁹²

The UK Home Office information sheet issued to overseas domestic workers informs those going to the UK that they are entitled to the National Minimum Wage and that if they have worries about their work situation or think their employer is not respecting their rights, they can contact the Pay and Work Rights Helpline⁹³ or the ACAS Helpline. The information sheet does not specify what the acronym ACAS (Advisory, Conciliation and Arbitration Service) stands for, nor does it tell domestic workers what the National Minimum Wage in the UK is or to how much time off they are entitled.

⁹⁰ Human Rights Watch interview with Zahia M. (not her real name), January 19, 2014.

⁹¹ Human Rights Watch interview with Phoebe D., London, November 23, 2013.

⁹² Human Rights Watch interview with Saleema R. (not her real name), February 9, 2014.

⁹³ While the helpline is available in over 100 languages, a survey by the government Department for Business, Innovation and Skills in 2010 found that only 1 per cent of calls to the helpline went to language line: Ian Rutherford and James Achur, "Survey of Pay and Work Rights Helpline callers," September 2010, p. 7, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32140/10-1128-employment-relations-research-series-survey-pay-work-rights.pdf (accessed February 26, 2014).

III. Obstacles to Protection

The most serious consequence of the new tied visa for migrant domestic workers is that if they leave their employer they become undocumented. As a result, domestic workers who have escaped from abusive conditions can be afraid to approach the police out of fear of being deported from the UK.⁹⁴ The fear of deportation is a strong deterrent for them to report abuse by their employer. If they become undocumented, migrant domestic workers are unable to register with a doctor and unable to work legally. As a result, they risk either being destitute or at risk of further exploitation if they take up informal work.

Ahead of its review of the UK's compliance with the UN Convention on the Elimination of Discrimination against Women (CERD) in 2013, the Committee for the Elimination of Discrimination against Women requested information from the UK government about the removal of safeguards to migrant domestic workers under the Overseas Domestic Workers visa.⁹⁵ The government replied:

[W]e do not consider that the ability to change employer is necessary to provide protection. There are a range of options available to Overseas Domestic Workers (ODW) to seek protection such as access to the National Referral Mechanism (NRM) if they have been trafficked to the UK; the ability to report abuse or confiscation of a passport to the police; and as workers, the right to access the Employment Tribunal service or return home.⁹⁶

The prohibition of slavery and forced labour under the European Convention on Human Rights (ECHR) and international treaties ratified by the UK, as well as its domestic law, obligates the UK to protect people from these abuses while on UK territory. However, the

⁹⁴ Human Rights Watch interviews with Irene C., (not her real name), London, July 26, 2013; Ana V. (not her real name), January 26, 2014; Zahia M. (not her real name), January 29, 2014; and with Kate Roberts, Community Advocate at Kalayaan, London, December 6, 2013.

⁹⁵ Committee on the Elimination of Discrimination against Women, "List of issues and questions to the United Kingdom of Great Britain and Northern Ireland," November 2, 2012, paragraph 21, available on Equality and Diversity Forum, <http://www.edf.org.uk/blog/?p=25071> (accessed January 23, 2014).

⁹⁶ Committee on the Elimination of Discrimination against Women, "Replies of the United Kingdom of Great Britain and Northern Ireland to the list of issues to be taken up in connection with the consideration of its seventh periodic report," February 5, 2013, paragraph 174, <http://www2.ohchr.org/English/bodies/cedaw/docs/CEDAW.C.GBR.Q.7.Add.1.pdf> (accessed January 23, 2014).

“range of options” the UK government listed in this response as constituting such protection for migrant domestic workers does not, in fact, provide adequate protection from abuse and exploitation.

Access to the National Referral Mechanism

The NRM is an identification process which can lead to a channel of redress only to those for whom the “Competent Authority,” that is the UK Human Trafficking Centre, which is part of the government’s National Crime Agency (NCA) or the Home Office, find that there are reasonable grounds to believe they are a victim of trafficking. The authority can then grant a recovery and reflection period of 45 days and accommodation in a government funded safe house. However, not all migrant domestic workers who have been abused have been trafficked, and not all those who have been trafficked are willing or able to make an application to the NRM.

Even for trafficking victims who are eligible, the NRM does not grant an automatic right to work even for a fixed period.⁹⁷ This makes the NRM a less desirable option for migrant domestic workers who have been trafficked and who face intense financial pressure to continue to send money back home.

Once the UK Human Trafficking Centre or the Home Office (UK Visas and Immigration) have determined that there are “conclusive grounds” that a person is a victim of trafficking, he or she may be granted permission to remain in the UK to cooperate with the police in a criminal procedure against the trafficker. In the absence of a criminal procedure, the Home Office may grant a discretionary residence permit based on the person’s circumstances. However, if the person is not found to be a victim of trafficking, he or she may be referred to police or the Home Office and receive an offer to return home voluntarily.⁹⁸ He or she could also face possible removal from the UK. NGOs working with victims of trafficking have criticized the NRM on the grounds that the Home Office is both a decision maker on

⁹⁷ However, victims of trafficking can simultaneously apply for asylum and, as asylum-seekers, apply for permission to work.

⁹⁸ National Crime Agency, “National Referral Mechanism,” undated, <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism> (accessed January 23, 2014).

determinations of whether a person is a victim of human trafficking and responsible for controlling the UK's borders, creating a conflict of interest.⁹⁹

The All-Party Parliamentary Group (APPG) on Human Trafficking and Modern Day Slavery was concerned by reports that “the NRM decisions made by the Home Office UK Visas and Immigration are unduly influenced by their role in immigration control and that decision making is inconsistent between the two Competent Authorities.”¹⁰⁰ Both the APPG and the Modern Slavery Bill Evidence Review Panel, in its December 2013 report, recommended the removal of the Home Office UK Visas and Immigration from its position as Competent Authority within the NRM. They also recommended that decisions should be made by a new independent decision-making body, or that all decisions should be made solely by the United Kingdom Human Trafficking Centre.¹⁰¹

Kate Roberts, community advocate at Kalayaan, told Human Rights Watch that in cases involving domestic workers who have come to the UK under the new visa rules and have left their employment she must inform them of the risks of referring them through the NRM because it exposes their undocumented status to the authorities. However, Kalayaan does so, and increasingly so, because referral through the NRM remains the only possibility for them to obtain legal aid. “The only way they can get a lawyer is if they have legal aid,” Roberts said. “And the only way [to do that] is if they’ve been trafficked.”¹⁰²

Reporting Abuses to the Police

Migrant domestic workers who are experiencing abuse as well as those who already have fled from an abusive employer can be reluctant to go to the police because of the fear of being deported if they do so. Some domestic workers told Human Rights Watch they had been threatened by their employer with being reported to the police and imprisoned.

⁹⁹ The Anti Trafficking Monitoring Group, “Hidden in plain sight – Three years on: updated analysis of UK measures to protect trafficked persons,” October 2013,

http://www.antislavery.org/includes/documents/cm_docs/2013/h/hidden_in_plain_sight.pdf (accessed February 2, 2014).

¹⁰⁰ All Party Parliamentary Group on Human Trafficking and Modern Day Slavery, “Inquiry into the collection, exchange and use of data about human trafficking and modern slavery,” January 2014, page 24,

<http://humantraffickingfoundation.org/sites/default/files/DataInquiry2014.pdf> (accessed February 25, 2014).

¹⁰¹ Modern Slavery Bill Evidence Review Panel, “Establishing Britain as a world leader in the fight against modern slavery,” December 2013, p. 58, <http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/Establishing-Britain-as-a-world-leader-in-the-fight-against-modern-slavery.pdf> (accessed February 25, 2014).

¹⁰² Human Rights Watch interview with Kate Roberts, Community Advocate at Kalayaan, London, December 6, 2013.

Domestic workers interviewed by Human Rights Watch also described a number of other reasons that made it difficult for them to leave their employer, including not having their passport, not knowing people in the UK, and not knowing the city in which they are living.

Several domestic workers interviewed by Human Rights Watch said they were reluctant to go to the police because their employer had told them the police would detain them if they ran away, or because they did not trust the police.

Elizabeth A., a Nigerian domestic worker who worked for her employer under the old visa rules said:

They [the employers] said “If you go out alone and the police see you they will take you and send you to Nigeria.” I didn’t know I could change employer, only when I met Kalayaan.... The one that scared me most was the police, that they’d send me to Nigeria.¹⁰³

Comfort S., also a Nigerian domestic worker on an old visa, told Human Rights Watch:

She [the employer] said the visa I had I could only stay with her until it finished. I didn’t know I could change employer. There was a time when she beat me and I said I want to go to Nigeria. She said if I try to run away the police will take me, put me in prison. I was scared. I didn’t want to be on the street.¹⁰⁴

Given the lack of information made available to migrant domestic workers going to the UK, many of those interviewed by Human Rights Watch said they did not know the terms of their visa until they escaped from their employer and received assistance from the NGO Kalayaan, self-help groups, or other domestic workers. However, for those under new visas, there is little help they can receive once they run away, leaving them undocumented and vulnerable to further abuse.

¹⁰³ Human Rights Watch interview with Elizabeth A. (not her real name), London, December 1, 2013.

¹⁰⁴ Human Rights Watch interview with Comfort S. (not her real name), October 25, 2013.

Linda S., a Filipina domestic worker brought to the UK from Qatar to look after her employers' adult son, said that although her employers' children threatened her and mistreated her, "I was scared to go to the police because maybe they'll give them money [as a bribe]."¹⁰⁵

Andrea N., a Filipina domestic worker whose employer, a diplomat, locked her in the apartment, said: "I wanted to go to the police and report, but I was afraid. He's a diplomat, maybe he has power.... I only found out about the rules on the visa when I got legal advice."¹⁰⁶

Zahia M., a Moroccan domestic worker who came to the UK under the new visa rules, said she had heard from mutual acquaintances that her Saudi employers had reported her to the police. "I'm afraid of going to the GP [the doctor] and the bank. If I go to the police, they'll send me to Morocco. I just want to work to help my family." Zahia M. told Human Rights Watch she has a brother who is blind and doesn't work, and a sister who had a heart operation. Zahia M. said she had to provide for them and pay for her sister's medicine.¹⁰⁷

Lisa J., a Filipina domestic worker who came to the UK with her employer from Dubai under the new visa rules, said: "My Madam's sister had four small children, she borrowed me. I slept in the living room with my *compagnon* [another domestic worker]. I woke up at 7:30 a.m. or 8 a.m., [and worked] until 10 p.m. or 11 p.m." Lisa J. said she didn't have her passport. "I don't want to tell the police because I'm afraid of their reaction, if they send me back to the Philippines," she said.¹⁰⁸

Access to the Employment Tribunal or other Legal Remedies

For a domestic worker staying in the UK under the new visa rules, filing a claim with an employment tribunal is, in practice, almost impossible. Firstly, the new Overseas Domestic Workers visa is limited to six months and is not renewable. Should a domestic worker bring a claim, if he or she were to remain in the UK to pursue a claim against an employer

¹⁰⁵ Human Rights Watch interview with Linda S. (not her real name), September 8, 2013.

¹⁰⁶ Human Rights Watch interview with Andrea N. (not her real name), September 8, 2013. Andrea had made an application under the National Referral Mechanism.

¹⁰⁷ Human Rights Watch interview with Zahia M. (not her real name), January 19, 2014.

¹⁰⁸ Human Rights Watch interview with Lisa J. (not her real name), September 8, 2013.

from whom they had fled, the person would be undocumented and would not be able to work legally to support themselves financially during that time. Secondly, due to recent cuts to legal aid, migrant domestic workers who have not been trafficked are not entitled to legal aid to bring employment claims except for cases of discrimination. While workers can represent themselves before an employment tribunal, in practice, a migrant domestic worker would only be able to do so with assistance from a lawyer because many migrant domestic workers are not familiar with the relevant laws and procedures in the UK, in addition to the language and literacy barriers some of them face. Finally, if the person is removed or leaves the UK, in practice, it will be virtually impossible for them to pursue a legal claim against their former employer.

Access to legal assistance for migrant domestic workers has been seriously affected by the government's cuts to legal aid as of April 1, 2013. These cuts particularly affect migrant domestic workers who have not been recognized as possible victims of trafficking.

Despite the UK's obligations under the ECHR and the Human Rights Act to provide people whose rights under the convention have been breached with an effective remedy, legal aid is not available for victims of forced labour unless they have been trafficked.¹⁰⁹ Though UK law provides that legal aid can be granted in exceptional cases where failure to do so would be a breach of the individual's rights under the ECHR, the wording suggests it would apply to specific cases and not to a category of individuals, such as domestic workers.¹¹⁰

Only those who have received either a decision by a "competent authority" that there are conclusive grounds indicating they have been trafficked, or reasonable grounds that they have been a victim of trafficking, can benefit from legal aid for their cases concerning their (non-asylum-related) immigration status in the UK. Those who have been referred by a first responder as victims of trafficking can make a claim under employment law in relation to their exploitation and claims for damages arising from their exploitation.¹¹¹ However, cuts

¹⁰⁹ While there is no right to legal aid under the European Convention on Human Rights (ECHR) in civil law, the European Court of Human Rights has ruled that Article 6 of the ECHR "may sometimes compel the State to provide for the assistance of a lawyer when such assistance proves indispensable for an effective access to court either because legal representation is rendered compulsory [...], or by reason of the complexity of the procedure or of the case." (*Airey v. Ireland*, October 9, 1979, paragraph 26).

¹¹⁰ Legal Aid, Sentencing and Punishment of Offenders Act 2012, section 10.; Human Rights Watch interview with Andrew Tucker, Senior Policy Manager on family, immigration, asylum and international legal aid and access to justice, Ministry of Justice, London, January 28, 2014.

¹¹¹ Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1, Part 1, paragraph 32.

to legal aid contracts for employment cases and the reduction in the number of cases the remaining providers can take mean that legal firms have had to decrease the number of cases in which they can assist victims of trafficking in making compensation claims and proceedings relating to exploitation by their employer.¹¹²

A migrant domestic worker who has not been paid, or who has been paid very little (the stark reality for the majority of domestic workers interviewed by Human Rights Watch for this report) would not be able to afford a lawyer's fees. While many of the domestic workers interviewed by Human Rights Watch, particularly those from the Philippines, spoke English, it was not their mother tongue, and others did not speak English at all.

Since the cuts, legal aid for immigration proceedings, other than issues relating to asylum and immigration detention, is no longer available. Legal aid for cases relating to employment has also been cut, unless it is a case of discrimination.¹¹³ Although domestic workers could in theory bring an employment claim in the employment tribunal without being represented or otherwise assisted by a lawyer, the complexity of such cases and the language barrier make it, in practice, impossible.

Another obstacle, for those under the new visa, is that if they leave their employer or stay after their visa has expired, they lose their immigration status. They cannot work legally to support themselves while the case goes forward, and if they do work, they would not be covered by employment law for such work as it would not be legal.

Emily-Anna Gibbs, a lawyer who represents victims of trafficking and forced labour in employment cases, told Human Rights Watch:

She [a domestic worker on a new visa] would effectively have to get an employment solicitor and an immigration solicitor because she'll be an overstayer. She'll have to have a first responder, go through the NRM, make

¹¹² Human Rights Watch interview with a lawyer who requested anonymity, London, December 11, 2013.

¹¹³ Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1, Part 3, paragraph 20. Cases of discrimination are defined as "civil legal services provided in relation to contravention of the Equality Act 2010 or a previous discrimination enactment" and include discrimination on grounds of sex, disability, race, religion, or belief (LASPO, Schedule 1, Part 1, paragraph 43).

an argument that she needs to stay. If she hasn't been trafficked, she pretty much won't have status.¹¹⁴

Plans by the Ministry of Justice to further restrict legal aid would leave even more migrant domestic workers without legal assistance.¹¹⁵ These plans include the introduction of a “residence test” for civil legal aid, by which applicants would have to have lived in the UK as legal residence for at least 12 continuous months. Migrant domestic workers who entered on the new tied visa who have not been recognized as potential victims of trafficking would automatically be excluded. A government consultation on the plans ended on November 1, 2013.¹¹⁶ At the time of writing the proposed regulations had not yet been presented before parliament and were being challenged before the High Court.¹¹⁷

Domestic workers employed by diplomats face further obstacles to redress because their employers have diplomatic immunity. In a case involving two domestic workers in diplomatic households who brought claims against the embassies of Sudan and Libya respectively for unfair dismissal, breach of working time regulations, discrimination, and failure to pay the national minimum wage, the embassies argued that they had diplomatic immunity, which the employment tribunal upheld in each case.¹¹⁸ In October 2013, the UK Employment Appeal Tribunal set aside the employers' diplomatic immunity for the claims of breach of working time regulations and discrimination, on the grounds that the EU Charter of Fundamental Rights grants the right to an effective remedy. An appeal against the ruling was pending at time of writing.

¹¹⁴ Human Rights Watch interview with Emil-Anna Gibbs, solicitor at the Anti-Trafficking and Labour Exploitation Unit, London, December 9, 2013.

¹¹⁵ As well as the introduction of a residence test for civil legal aid, the government's proposals include the restriction of legal aid available to prisoners, the removal of legal aid for cases considered to have “borderline” chances of success and the restriction of legal aid to challenge government laws and policies through judicial review applications.

¹¹⁶ A first consultation phase ended on June 4, 2013, but the Ministry of Justice amended certain proposals in light of the responses it received, and a consultation on the amended proposals ended on November 1, 2013: Ministry of Justice, “Transforming Legal Aid: Next Steps,” <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps> (accessed February 26, 2014).

¹¹⁷ The legal charity Public Law Project initiated a judicial review of the residence test, which was pending at the time of writing: Public Law Project, “Permission granted in residence test challenge,” January 24, 2014, <http://www.publiclawproject.org.uk/news/31/permission-granted-in-residence-test-challenge>. (accessed March 25, 2014).

¹¹⁸ UK Employment Appeal Tribunal, *Benkharbouche v Sudan, Janah v Libya*, October 4, 2013, UKEAT/0401/12/GE.

Returning Home

Returning home is not a realistic protection measure for domestic workers who have been abused by their employer. Expecting migrant domestic workers who have fled from abusive employers to return home grants effective impunity to those employers and absolves the UK of its obligation to ensure effective remedies for domestic workers who have been victims of forced labour or servitude regardless of whether they have been trafficked. It is also not an option many will consider, given the considerable pressure they face to provide for their relatives back home.

“None of them want to go home,” Marissa Begonia, coordinator of the self-help group Justice for Domestic Workers, told Human Rights Watch. “They came to the UK to provide for their family. Those who went through an agency have a loan. There’s nothing there for them; it’s humiliating if they go back unsuccessful.”¹¹⁹

¹¹⁹ Human Rights Watch interview with Marissa Begonia, coordinator of Justice for Domestic Workers London, July 23, 2013.

Sarah S.'s case

Sarah S. is a 39-year-old Filipina domestic worker who is the single mother of two children. After a year and a half in a Gulf country, Sarah S. went to London with her employers for a two week vacation in 2012.

“In London they just locked me at home. I think it was the third floor. We arrived in London and went directly to the house.... I ate after they finished, the leftovers”, she said. “They didn’t pay me here. It was included in the salary [in the Gulf]. I had [the equivalent of US\$50] only. When I changed it, it was £20 or £30.... I felt so sad because they just locked me in the house. I didn’t see anything. They went out with the children and I stayed alone.... I felt very sad. No telephone, no one to talk to. One day my tooth was very painful, I said ‘Madam I’m not feeling well.’ She said just take a paracetamol. For three days it was painful.”

Sarah S.’s employer kept her passport locked in a drawer. One day while she was cleaning she saw the key to the front door in a drawer and left.

“When I ran away I was sleeping in the park because I didn’t know anybody here.... I was five days in Regent’s Park. I felt like a beggar,” she said.

When she was interviewed by Human Rights Watch, Sarah S. was working as an undocumented domestic worker looking after three children (including a baby), cleaning, and cooking. Sarah S. said that when the baby woke up during the night, she was the one to wake up with her. She had two days off per week but if her employer worked she had to work too. Her employer paid her £20 per day. Once, Sarah S. fell while she was cleaning and badly hurt her ankle and knee. She wasn’t able to walk for three days, but she didn’t go to see a doctor as her employer told her she couldn’t go due to her undocumented status. She just took some medicine her employer gave her.

Sarah S. said she sometimes thought of leaving her employer, but that she was afraid because her employer threatened to call the police. “She says ‘Sarah if you go out of my place I will call the police and they’ll send you back.’ ... [She says] ‘You must be thankful that I pay you £20. You cannot work anywhere.’”¹²⁰

¹²⁰ Human Rights Watch interview with Sarah S. (not her real name), London, December 18, 2013.

IV. Insufficient Safeguards before Coming to the UK

Many of the 33 migrant domestic workers interviewed by Human Rights Watch said they had received inadequate information from UK embassies about the terms and conditions of their employment and their rights in the UK. This is despite the fact that all migrant domestic workers are supposed to receive an information leaflet (see appendix) when their visa is issued, setting out the rights and obligations. Several told us that during the visa application process they just gave their fingerprints, had their photograph taken, or signed documents they did not read. Several others said they did not know what the terms of their visa were, whether on the old or the new one.

The outsourcing of visa services in recent years may have added to the problem of insufficient information provided to applicants. A Home Office official told Human Rights Watch that visa services are outsourced and received by private contractors, not by UK embassy staff. “They’re contracted to hand them the leaflet, they’re not contracted to explain it to them.... They’re not allowed to give advice.”¹²¹

Research by Human Rights Watch also indicates that UK border officials are failing in at least some cases to question migrant domestic workers without their employer present and verify that the domestic workers themselves hold their passport. Five domestic workers entering the UK under the new visa rules told Human Rights Watch their employer held their passport at the airport and seven said they were not asked any questions by border officials. While the Home Office Guidance to Frontline Staff, which includes Border Force staff, states that withholding of passports is a common indicator of domestic servitude and calls on Border Force staff to be “particularly alert” to the signs of trafficking, including trafficking for domestic servitude, it does not explicitly instruct frontline staff to systematically conduct individual interviews with those entering the UK’s borders or ensure that they hold their own passports.¹²²

The following cases are illustrative of the problems outlined above.

¹²¹ Human Rights Watch meeting with UK Home Office officials, London, January 29, 2014.

¹²² Home Office, “Victims of human trafficking: guidance for frontline staff,” https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275239/Human_trafficking.pdf (accessed February 26, 2014).

Cherryloi M., a domestic worker who entered the UK under the new visa rules in May 2013, told Human Rights Watch she had been interviewed alone at the British embassy in Qatar but her employer had told her to lie about the terms of her employment. She only found out about the six month time limit on her visa once she was in the UK. Her employer hadn't told her how much time they would be spending in the UK. "The husband told me to lie, [he said] otherwise they won't give you a visa. I lied."¹²³

Maria D., a Filipina domestic worker who came to the UK under the new visa rules, told Human Rights Watch that at the British embassy in Kuwait city, she just gave her fingerprints. Her male employer's sister gave her papers that she had to sign quickly. "I don't know why there was no British person to talk to me," she said. Her employers kept her passport. She found out she had a six month visa when she filled out her landing card on the plane to the UK. Her male employer presented all the passports to the border officials, including Maria's, when going through UK passport control at the airport. Maria D. told Human Rights Watch that no one asked her any questions.¹²⁴

Ana V., a Filipina domestic worker on a new visa, told Human Rights Watch that at the British embassy in Qatar she signed a document stating that her salary would be 1,500 Qatari Rials (about £250) per month. Her salary in Qatar was 900 Qatari Rials, but when she asked her employer for that amount, she said, her employer told her: "No, no, no. That's only for the embassy. I will increase you but not to 1,500." It is unclear why the UK contractors to whom the visa processing had been outsourced would have accepted documentation indicating a monthly wage below the UK legal minimum. Ana V. told Human Rights Watch the document also said she would have one day off per week, but in the 11 days she spent in London before running away, she did not have a day off and was not allowed out of the apartment alone.¹²⁵

Elissa I., a 35-year-old from Indonesia, worked for her former employers in Saudi Arabia before going with them to the UK for six months in 2012, and again in January 2013 on a six month visa.¹²⁶ She told Human Rights Watch that in Saudi Arabia she started working at 7 a.m. and usually finished at midnight. She had no day off, only went out if she was with

¹²³ Human Rights Watch interview with Cherryloi (not her real name), August 31, 2013.

¹²⁴ Human Rights Watch interview with Maria D. (not her real name), December 8, 2013.

¹²⁵ Human Rights Watch interview with Ana V. (not her real name), January 26, 2014.

¹²⁶ Human Rights Watch interview with Elissa I. (not her real name), December 13, 2013.

her employers, and her employers kept her passport locked. She was paid 1,000 Saudi Riyals (about £160 per month). Elissa I. said that both times she went to apply for a visa, no one asked her any questions. She said:

I gave my fingerprints and signed some documents. They were in English. I came with both of my employers. My male employer went to the reception. He's the one who spoke to them. I waited until he called me to give my fingerprints.... Whenever I had documents I just signed them without filling in the information. My employer did that for me.... From what I know I had six months [on the visa]. I just heard when they talked about it.¹²⁷

She said she found the work in London even harder than in Saudi Arabia. In the morning and afternoon she did housework, then went to the hospital where her employer was being treated, and stayed there until nighttime, sometimes spending the whole night in the hospital.

Once in the UK, there are no mechanisms in place to check whether the statement of terms and conditions presented by the employer during the visa application is applied. A Home Office official told Human Rights Watch that the government “does not have the resources to follow 15,000 overseas domestic workers” to see if they are treated well.¹²⁸

¹²⁷ Ibid.

¹²⁸ Human Rights Watch meeting with UK Home Office officials, London, January 29, 2014.

V. International Standards on Protecting Migrant Domestic Workers

As a party to a range of international human rights treaties it has ratified, the UK is obligated to protect migrant domestic workers from abuse from both agents of the state and from private individuals.

The Universal Declaration of Human Rights (UDHR) prohibits slavery and servitude and guarantees everyone the right to favorable conditions of work.¹²⁹ The International Covenant on Civil and Political Rights (ICCPR) prohibits slavery, servitude, and forced or compulsory labour and guarantees the right to liberty of movement.¹³⁰ The ICCPR places an obligation on states to protect people from violations of their rights by state actors but also from acts committed by other private persons.¹³¹

The UK is a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) which requires it to respect the right to work, including the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and the right of everyone to the enjoyment of just and favorable conditions of work which include fair wages, safe and healthy working conditions, rest, leisure, reasonable limitation of working hours, and periodic holidays with pay.¹³²

However, the UK has not ratified the Optional Protocol to the Covenant which would allow persons alleging they are victims of violations of these rights to bring “communications” to the UN Committee that monitors compliance with the Covenant. The UK has also repeatedly refused to meet the Committee’s requests to comply with its legal obligations under the Covenant to “ensure that the Covenant is given full legal effect in its domestic

¹²⁹ Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 23(1).

¹³⁰ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by the UK May 20, 1976, art. 8 and art. 12.

¹³¹ UN Human Rights Committee (HRC), General Comment No. 31, “The Nature of the General Legal Obligation Imposed on States Parties to the Covenant,” U.N. Doc. CCPR/C/21/Rev. 1/Add.13 (2004), para 8.

¹³² International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, ratified by the UK May 20, 1976, art. 6 and 7.

law, that the Covenant rights are made justiciable, and that effective remedies are available for victims of all violations of economic, social and cultural rights.”¹³³

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) prohibits discrimination against women in employment.¹³⁴

The UK has ratified the ILO Forced Labour Convention of 1930 (No. 29) which requires states to suppress any forms of forced or compulsory labour, defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”¹³⁵ The ILO indicators of forced labour include threats or actual physical harm to the worker; restriction of movement and confinement to the work place or to a limited area; debt bondage; withholding of wages; retention of passports and threats of denunciation to the authorities, where the worker has irregular immigration status; and excessive overtime.¹³⁶

By ratifying these conventions, the UK has committed to ensuring that those who have suffered harm on UK territory, whatever their citizenship or immigration status, have effective access to redress if their rights have been breached.

The UN special rapporteur on contemporary forms of slavery found the prohibition to freely change employers to be a factor around the world that creates dependency by a victim of servitude and other slavery-like practices on the perpetrator, a dependency so severe the victim cannot extract herself or himself from the situation of exploitation.¹³⁷

¹³³ Concluding observations of the Committee on Economic, Social and Cultural Rights on the UK, June 12, 2009 (E/C.12/GBR/CO/5), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSMlBEDzFEovLCuW3XRinAE8KCBFqOHNz%2fvuDNYrNRpYh4%2fXwi5mGxO4uVHSp5NkoJ82qvuCoRYrFwZPTCDMxjOFb22xm9hq%2boJq2oc5GX%2fWPPHCYPRNBddrPf> (accessed January 16, 2014).

¹³⁴ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, ratified by the UK April 7, 1986, art. 11.

¹³⁵ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour (Forced Labour Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932, ratified by the UK June 3, 1931, art. 1 and 2(1).

¹³⁶ International Labour Organization, “ILO indicators of Forced Labour,” October 1, 2012, http://www.ilo.org/sapfl/Informationresources/Factsheetsandbrochures/WCMS_203832/lang--en/index.htm (accessed January 14, 2014).

¹³⁷ Report of the special rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, A/HRC/15/20, 18 June 2010, paragraphs 47-48, http://www.ohchr.org/Documents/Issues/Slavery/SR/A.HRC.15.20_en.pdf (accessed December 9, 2013).

In December 2011, the chair-rapporteur of the UN Working Group on the issue of discrimination against women in law and in practice, the special rapporteur on contemporary forms of slavery, the special rapporteur on the human rights of migrants, the special rapporteur on trafficking in persons, especially women and children, and the special rapporteur on violence against women, its causes and consequences, all wrote to the UK government about its proposal to remove the Overseas Domestic Workers visa and strongly recommended the government maintain the visa in place at the time.¹³⁸

They stressed that the changes, which the government subsequently adopted, may contribute to facilitating trafficking and other contemporary forms of slavery practices and that migrant domestic workers would be tied to their employers and that “if their rights are violated, they may face the dilemma of continuing to suffer or fleeing and becoming irregular in the UK.” They stated that migrant domestic workers would be unlikely to seek help from the authorities and that “as such, there will be no deterrent or sanction through the criminal courts or employment tribunals for employers who hold people in domestic servitude.”¹³⁹

Following his visit to the UK in June 2009, the then special rapporteur on the human rights of migrants noted that “the right to change employer [had] been instrumental in facilitating the escape of migrant domestic workers from exploitative and abusive situations” and recommended that the government extend this right to domestic workers employed in diplomatic households.¹⁴⁰

Article 4 of the European Convention on Human Rights (ECHR) prohibits slavery, servitude, and forced or compulsory labour.¹⁴¹ In a ruling of November 2012, the European Court of Human Rights found that the UK had been in breach of Article 4 of the ECHR because, at

¹³⁸ Kamala Chandrakirana, chair-rapporteur of the Working Group on the issue of discrimination against women in law and practice; Gulnara Shahinian, special rapporteur on contemporary forms of slavery; Francois Crépeau, special rapporteur on the human rights of migrants; Joy Ezeilo, special rapporteur on trafficking in persons, especially women and children; Rashida Manjoo, special rapporteur on violence against women, its causes and consequences, letter to the UK government, December 21, 2011, G/SO 214 (106-10), Slavery (2007-2), Trafficking (2004-5) G/SO 214 (89-15) GBR 7/2011, [https://spdb.ohchr.org/hrdb/20th/OL_UK_21.12.11_\(7.2011\).pdf](https://spdb.ohchr.org/hrdb/20th/OL_UK_21.12.11_(7.2011).pdf) (accessed February 24, 2014).

¹³⁹ *Ibid.*, p. 2.

¹⁴⁰ Report of the special rapporteur on the human rights of migrants, Jorge Bustamante, Mission to the United Kingdom of Great Britain and Northern Ireland (22-26 June 2009), paragraph 60 and recommendation 76(a), 16 March 2010, A/HRC/14/30/Add.3.

¹⁴¹ European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols Nos 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively.

the time, it had no legislation in place that criminalized forced labour in the absence of trafficking. The case concerned a Ugandan woman who worked as a live-in carer for an elderly couple. She was on call day and night and only had a couple of hours leave once per month, and did not receive any significant payment for her labour. The court ruled: “[D]omestic servitude is a specific offence, distinct from trafficking and exploitation, which involves a complex set of dynamics, involving both overt and more subtle forms of coercion, to force compliance.”¹⁴²

While the UK has, since the facts of the case, passed the Coroners and Justice Act 2009, which criminalizes servitude and forced labour, legislation alone is not enough. In order to comply with its duty under Article 4 of the ECHR, the UK must protect people in its jurisdiction from forced labour and servitude and ensure that victims have access to a remedy in practice. The tied visa prevents migrant domestic workers who have been victims of these abuses from reporting them and having access to an effective remedy.¹⁴³ Indeed, the ECHR also guarantees the right to an effective remedy to anyone whose rights have been violated under the convention.¹⁴⁴

Article 47 of the EU Charter on Fundamental Rights also guarantees the right to an effective remedy and to legal aid for those who lack sufficient resources to exercise that right.¹⁴⁵ The EU Working Time Directive of 2003 provides for daily rest periods of 11 consecutive hours per 24-hour period, a rest break when a working day is longer than 6 hours, a full day (24 hours) off for every 7 day period in addition to the 11 hours’ daily rest and at least 4 weeks paid annual leave per year.¹⁴⁶

Other EU legislation, such as Directives on health and safety, workers' rights, gender equality, trafficking, and asylum, address other aspects of protecting domestic workers.

¹⁴² European Court of Human Rights, *C.N. v. United Kingdom*, Application No. 4239/08, paragraph 80.

¹⁴³ Aire Centre and Kalayaan, Joint Submission to the Committee on Human Rights on the UK’s implementation of *C.N. v the UK*, September 27, 2013, <http://www.airecentre.org/data/files/resources/22/Joint-Submissions-to-the-JCHR-on-CN-v-United-Kingdom.pdf> (accessed January 24, 2014).

¹⁴⁴ European Convention on Human Rights, art. 13.

¹⁴⁵ Charter of Fundamental Rights of the European Union (2012/C, 326/02), art. 47.

¹⁴⁶ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time.

The United Kingdom ratified the original European Social Charter in 1962.¹⁴⁷ However, it has signed but so far failed to ratify the 1996 revised Charter, which significantly increased the protection of the rights to just conditions of work and to safe and healthy working conditions¹⁴⁸

¹⁴⁷ European Social Charter, adopted by the Council of Europe's Committee of Ministers on October 18, 1961.

¹⁴⁸ Revised European Social Charter, adopted by the Council of Europe's Committee of Ministers on April 3, 1996.

Appendix



UK Visas & Immigration

Dear Overseas Domestic Worker applicant

You have applied for a visa to go to the UK as an Overseas Domestic Worker. Overseas Domestic Workers 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.

You and your employer will have already agreed your conditions of employment, for example your working hours, pay and time off. You will have also agreed your role and duties, which could include looking after children, cooking or cleaning.

You should have signed a document showing these as part of your visa application, and your employer should have given a copy to you.

If you are granted a visa, it will be placed in your passport. You, not your employer should retain your passport. It contains your permission to be in the UK and is your identification.

(a) What will happen when I arrive in the UK?

On your arrival at the UK border, you and your employer will see a Border Force Officer. The officer will check the visa in your passport, and ask you about your reason 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 purpose in coming to the UK since you obtained your visa, you will be allowed to enter the UK.

(b) How long you can stay in the UK and what you can and can't do

The length and conditions of your visa will depend on whether you are working in the home of a visitor to the UK or in the home of a diplomat.

- **If you are working in the home of someone who is visiting the UK**, you must travel with or join that employer in the UK and you can work only for them. You must leave the UK when your employer does or at the end of 6 months whichever is sooner. You cannot bring members of your family with you.
- **If you are working in the home in the UK of a diplomat**, you must travel with or join them there and can work only for them. When they leave the UK so must you. Your visa will initially be for 24 months and before the end of that time, if your employer is still in the UK and you are still working for them, you may apply to stay longer. If this is granted you will be able to stay for another 12 months. You can apply to extend your visa each year - up to a total period of 5 years. At the end of 5 years or when your diplomat leaves the UK you must also leave. You can bring members of your family with you and they may work, but they must leave the UK when you do.

Further information is available on the UK Visas and Immigration website.

(c) What do I do if I have problems with my employment?

Like UK workers you will have a number of rights. These include a right to be paid according to the National Minimum Wage Act 1998. If, once you are in the UK, you have any worries about your work situation or you think your employer is not respecting your rights, you can seek help and advice from the Pay and Work Rights Helpline on 0800 917 2368 or the ACAS Helpline on 0845 474 747. Advice is available in a number of languages. Alternatively you can call the charity Kalayaan – see below.

Further information about the Pay and Work Rights Helpline is on:
http://www.direct.gov.uk/en/D11/Directories/DG_177940 and the ACAS helpline on :
<http://www.acas.org.uk/index.aspx?articleid=2042>

(d) Where to go for more information, advice and help you if you are in difficulty

Everyone in the UK has the right to be treated properly and with respect. If you think you have been a victim of crime you can go to your local police station or in an emergency phone 999

If you think you have been /are being mistreated in any way (for example you haven't been given any time off, or there are problems with your pay) or you have been a victim of crime, you can talk to one of the following organisations who will provide you with confidential, independent advice:

- Kalayaan
St Francis Centre
13 Hippodrome Place
London
W11 4SF

020 7243 2942
- Unite
128 Theobalds Road
London
WC1X 8TN 020

7611 2500

If you decide you want to return home, you can contact your country's Embassy or High Commission in the UK. Alternatively, Choices, a charity, can offer you confidential advice and information about returning home voluntarily. You can contact them on 0808 800 0007.

October 2013¹⁴⁹

¹⁴⁹ UK Visas and Immigration, "Overseas domestic worker information sheet," https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265823/dworkers-informationsheet.pdf, (accessed February 24, 2014).

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HIDDEN AWAY

Abuses against Migrant Domestic Workers in the UK

Every year, thousands of migrant domestic workers accompany their employers to the UK on Overseas Domestic Worker visas. Many are women from Asia and Africa working for employers in the Gulf.

Hidden Away shows that migrant domestic workers in the UK face serious abuse in the homes of their employers including forced labour, physical and psychological abuse, confinement, and not being provided with food. Abuses experienced by these workers include being forced to work for excessively long hours without breaks or days off and being paid little or not at all.

The UK government is failing to protect this group of workers who are particularly vulnerable to abuse. In April 2012, the government removed their right to change employer while in the UK, ignoring advice from parliament and international experts that it would close down an escape route.

Under current rules, those who are abused and leave their employer become undocumented migrants. This leaves workers who experience abuse with a terrible choice—endure the abuse, or escape and become undocumented migrants vulnerable to removal from the UK or further exploitation in the informal economy.

There are no checks in place to ensure that employers' treatment of domestic workers is in compliance with British law, nor does the British government make sure migrant domestic workers are aware, before they arrive, of their rights and where they can seek help in the UK. The new tied visa combined with recent budget cuts affecting legal aid make it very difficult if not impossible for migrant domestic workers to access justice if they have been abused.

As the UK government prepares a new bill to combat modern day slavery, *Hidden Away* urges the UK government to amend its laws and policies by restoring these workers' right to change employer, and ensuring they receive information about their rights in the UK and can benefit from legal aid when they are victims of abuse.



A domestic worker holds up her UK Overseas Domestic Worker visa. Following changes to the immigration rules in April 2012, workers entering the UK on this visa are not permitted to change employer, making them more vulnerable to abuse.

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