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# JOINT SUBMISSION FOR THE UNIVERSAL PERIODIC REVIEW OF THE UK 41st SESSION, OCTOBER – NOVEMBER 2022

## MIGRANT DOMESTIC WORKERS

### INTRODUCTION

1. This is a joint submission by Anti-Slavery International, Focus on Labour Exploitation (FLEX), Kalayaan, Kanlungan Filipino Consortium, and the Voice of Domestic Workers.
2. This submission focuses on abuse and exploitation, including trafficking and modern slavery, of **migrant domestic workers in the UK**. This information is relevant to **Theme G4: Migrants** and **Theme D27: Prohibition of Slavery and Trafficking** in the *Third Cycle Matrice of Recommendations - UK*<sup>1</sup>.
3. This submission provides evidence that the UK Government has failed to implement supported third cycle Universal Periodic Review (UPR) recommendation 134.220 (Honduras) and that this failure also amounts to serious gaps in the implementation of nine supported third cycle recommendations on trafficking and modern slavery.<sup>2</sup>

<sup>1</sup> [MatriceRecommendationsUK.docx \(live.com\)](#)

<sup>2</sup> Recommendations 134.138 (Islamic Republic of Iran), 134.139 (Philippines), 134.140 (Russian Federation), 134.141 (Spain), 134.142 (Timor Leste), 134.143 (Uganda), 134.144 (Lebanon), 134.145 (Australia), 134.146 (Bahrain), and 134.147 (Morocco).

# SUMMARY

4. Migrant domestic workers in the UK, the majority of whom are women that live in their employer's household, continue to suffer from widespread abuse and exploitation, including situations of trafficking and modern slavery.
5. The Overseas Domestic Worker visa increases vulnerability to exploitation because it restricts migrant domestic workers to a non-renewable six-month visa, against the recommendations of an independent review commissioned by the Government itself<sup>3</sup>. The inability to renew the visa renders the right to change employer inaccessible in practice and leaves migrant domestic workers to face abuse and exploitation with no escape route. It also obstructs access to justice and remedy when abuse occurs. New protections for migrant domestic workers announced by the Government in 2016 have either been dropped altogether or are not being implemented in practice.
6. The Government acknowledged the vulnerabilities of migrant domestic workers to trafficking and modern slavery at the time of the Modern Slavery Act (2015) but has failed to put any new protection measures in place, while retaining a policy framework that increases vulnerability. Therefore, the Government has failed to implement supported third cycle recommendation 134.220 (Honduras) to *Revise its regulation and administrative practices in order to protect human rights of female domestic migrant workers, in particular when their work permits are linked to the employer and have been victims of human trafficking and work exploitation*.
7. While we welcome the Government's stated ongoing commitment to preventing trafficking and modern slavery in the UK, its continued failure to address the role that the restrictive terms of the Overseas Domestic Worker visa play in driving vulnerability of migrant domestic workers to trafficking and modern slavery is a serious gap in the UK's prevention and protection measures. Therefore, inaction and failings on this issue also undermine the implementation of supported third cycle recommendations on combatting and preventing trafficking and modern slavery.<sup>4</sup>
8. In order to ensure the effective implementation of previous UPR commitments to protect the human rights of women migrant domestic workers, and prevent and combat human trafficking of migrant domestic workers, we recommend that the Government re-instate the original pre-2012 Overseas Domestic Worker visa with the right to change employer and the linked and required right to renew the visa based on continued employment.

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<sup>3</sup> Independent Review of the Overseas Domestic Worker visa available at: [ODWV\\_Review\\_-\\_Final\\_Report\\_6\\_11\\_15.pdf](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/541115/ODWV_Review_-_Final_Report_6_11_15.pdf) ([publishing.service.gov.uk](https://publishing.service.gov.uk))

<sup>4</sup> Recommendations 134.138 to 134.147 (inclusive)

# THEME: MIGRANTS

## Migrant domestic workers

9. The Government has failed to implement recommendation 134.220 (Honduras) to *Revise its regulation and administrative practices in order to protect human rights of female domestic migrant workers, in particular when their work permits are linked to the employer and have been victims of human trafficking and work exploitation.*
10. Although since 2016 Overseas Domestic Worker visa holders can theoretically change employer within the domestic work sector, they cannot apply to renew their six-month visa, even if they have an offer of ongoing new employment. This makes the right to change employer meaningless in practice. It is not realistic to find a new job in a private household, an area of work which usually requires care and trust, with only a few months left on your visa and no options to renew this. The visa also does not allow for access to public funds.
11. Migrant domestic workers face difficulties in securing decent new employment in the absence of them having the right to renew their visa and therefore, as a consequence of the policy framework in place, are forced to remain with abusive employers rather than lose their livelihood, accommodation, and permission to stay in the UK. Those that do flee are at risk of destitution and further harm.
12. The Government states that, since 2016, safeguards are in place for migrant domestic workers as part of the visa application process, such as the requirement to be seen alone during the visa interview and that they should receive an information leaflet setting out their rights in the UK and who to contact should abuse occur. However, these safeguards are rarely applied. Only a tiny percentage of migrant domestic workers who register at Kalayaan have received an information leaflet. There is no monitoring by the Government of whether information leaflets are systematically issued at Visa Application Centres.
13. The Government has also dropped some of the protection measures for migrant domestic workers that it announced it was going to introduce in 2016. It has dropped plans to introduce compulsory information meetings for migrant domestic workers newly arrived in the UK, without official explanation or attempts to put in place alternative protection measures.
14. While there are mechanisms in place to identify and provide support to victims of trafficking and modern slavery in the UK, these only apply to migrant domestic workers whose treatment amounts to the legal definition of trafficking and modern slavery. In cases where migrant domestic workers have experienced violations of their labour rights, but which do not meet the threshold of trafficking or modern slavery, they are not in a position to access protection and assistance. The net result is that they are left without status in the UK, are unable to access reporting mechanisms, and their employers go unpunished. This also undermines the obligation of the Government to prevent trafficking and modern slavery.

15. Migrant domestic workers employed by diplomats experience substantial challenges in enforcing their rights, as diplomatic immunity is frequently invoked, even in cases of trafficking and modern slavery. In October 2021, the UK Supreme Court heard a case brought by a migrant domestic worker to the UK in which they challenged the defence of diplomatic immunity. The judgement is awaited at the time of writing.<sup>5</sup>

16. In February 2022, an Amendment was tabled by peers in the UK House of Lords to the Nationality and Borders Bill which would restore the pre-2012 Overseas Domestic Worker visa regime including the right for workers to renew their visa annually. The Amendment was withdrawn. In response to the Amendment, the Government committed to consulting with civil society organisations about the gaps in protection for migrant domestic workers, and particularly those who suffer labour rights violations that do not meet the threshold of trafficking and modern slavery and therefore receive no support. However, early discussions suggest that the Government is not considering restoring the pre-2012 Overseas Domestic Worker visa route, despite the very serious abuses suffered by migrant domestic workers and the role that the restrictions of the current visa play in driving vulnerability.

17. The vulnerability of migrant domestic workers in the UK to abuse, exploitation and modern slavery has been the subject of a joint Special Procedure communication to the Government. In this communication the United Nations Human Rights Experts stated “As United Nations human rights experts, we firmly believe that migrant workers should be granted the right to change their employer at any point in time and for any reason while being able to apply for an extension of their visa/residency status. This would, in our view, contribute directly and significantly to the prevention and protection from exploitation and abuse of migrant workers.”<sup>6</sup>

18. In 2019, the UN Committee against Torture stated that “While noting the explanation provided by the delegation on the changes made in 2016 to the terms of the so-called “tied” visa for foreign domestic workers, the Committee expresses concern that these changes do not provide a meaningful escape route for many migrant workers who have experienced abuse in the UK, especially those who become trapped in abusive employment relationship (art. 16).” Further, that **“The State party should consider adopting further measures to encourage migrant domestic workers who are subjected to ill-treatment to report their abuse to authorities, including providing information to migrant domestic workers on their rights and taking measures to enhance the ability of migrant domestic workers to obtain alternative employment.”**<sup>7</sup>

## 19. RECOMMENDATIONS TO THE UK GOVERNMENT

To protect the human rights migrant domestic workers, and prevent abuse, exploitation, trafficking, and modern slavery of migrant domestic workers:

- Reinstating the pre-2012 Overseas Domestic Worker visa which allows domestic workers to change employer with the linked and required right to renew the visa.

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<sup>5</sup> <https://www.supremecourt.uk/cases/uksc-2020-0155.html>

<sup>6</sup> AL GBR 6/2021, 27 May 2021, [DownloadPublicCommunicationFile \(ohchr.org\)](#)

<sup>7</sup> Committee against Torture, Concluding Observations on the sixth periodic report of the United Kingdom, CAT/C/GBR/CO/6, 7 June 2019, para 60 and 61

- Require Tier 5 visa holders who work for diplomats to be employed by Embassies and not diplomats.
- Ratify and implement ILO Convention No. 189 on Decent Work for Domestic Workers (Domestic Workers Convention, 2011).

## ***THEME: PROHIBITION OF SLAVERY AND TRAFFICKING***

### **Vulnerability of migrant domestic workers to trafficking and modern slavery**

20. The Overseas Domestic Worker visa is increasing the vulnerability of migrant domestic workers to trafficking and modern slavery. This is because migrant domestic workers are restricted to a non-renewable six-month visa, against the recommendations of an independent review commissioned by the Government<sup>8</sup>, which renders the right to change employer inaccessible in practice. It is not realistic to find a new job in a private household, an area of work which usually requires care and trust, with only a few months left on your visa and no options to renew this. Therefore, as a result of the policy framework in place, migrant domestic workers are forced to remain with abusive employers rather than lose their livelihood, accommodation, and permission to stay in the UK. Those that do flee are at risk of destitution and further harm.

21. Protection measures for migrant domestic workers announced by the Government in 2016, have either been dropped altogether, such as information sessions for Overseas Domestic Worker visa holders, or are not being implemented in practice, such as safeguards during the visa application process.

22. Despite acknowledging the vulnerability of domestic workers to trafficking and domestic servitude at the time of the Modern Slavery Act, the Government has not taken action to address the role that the restrictive terms of the Overseas Domestic Worker visa play in driving vulnerability by reinstating the pre-2012 visa. This is a serious gap in the UK's obligations to prevent trafficking and modern slavery and protect those affected. The failure to reinstate the pre 2012 Overseas Domestic Worker visa therefore has undermined the implementation of the nine supported third cycle UPR recommendations on combatting and preventing trafficking and modern slavery.<sup>9</sup>

### **23. RECOMMENDATIONS**

To prevent exploitation, trafficking, and modern slavery of migrant domestic workers:

- Reinstating the pre-2012 Overseas Domestic Worker visa which allows domestic workers to change employer with the linked and required right to renew the visa.
- Require Tier 5 visa holders who work for diplomats to be employed by Embassies and not diplomats.
- Ratify and implement ILO Convention No. 189 on Decent Work for Domestic Workers (Domestic Workers Convention, 2011).

<sup>8</sup> Independent Review of the Overseas Domestic Worker visa, op.cit

<sup>9</sup> Recommendations 134.138 to 134.147 (inclusive)