DOMESTIC WORKERS IN THE UNITED KINGDOM: MIGRANT WORKERS OR MODERN DAY SLAVES?

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Abstract - In 1998, the British government introduced the domestic workers' visa that gave migrant domestic workers (MDW's) the rights to change their employers and extend their visas with their new employers, as a response to the reports of abuses amongst MDW's. Most of the MDW's are from developing countries in Southeast Asia like the Philippines, Myanmar, Indonesia, East Timor. Yet, for reasons on 'the need to cut the net migration', the government of the United Kingdom introduced the new domestic workers' visa in April 2012. The new visa has provisions that got non-governmental organisations (NGO's) and other private groups alarmed and concerned for the welfare of the MDW's. Some of these provisions do not allow the MDW's to change their employers, and that their visas are limited to only six months. According to Donovan in his article "Britain Turns Back the Clock on Migrant Domestic Workers" (2013),'the new arrangement saw the tied visa reintroduced'. Kalayaan, Anti-Slavery International, and Unite the Union responded to these new visa policies by providing information on the possible impact on how these can weaken the rights of domestic workers, and how abuses and other forms of modern slavery can emerge. This paper will look closely and assess the new policies for the migrant domestic workers in the U.K., and how these policies can truly affect the situation of the MDW's as to their human rights and welfare; whether the claims of the NGO's are correct or not. Thus, this paper will review on the current changes and development of the migration policies in the U.K., and see where they stand in upholding the human rights of migrant workers.

Keywords - Human rights, labour rights, migrant workers, domestic workers, UK migration policies

INTRODUCTION

Domestic workers are defined as workers in a private household that provide personal care to their employers, or to family members of their employers; this category of employment includes cleaners, chauffers, cooks, and nannies. 'This industry is mostly dominated by women, and an important source of women's employment.' These women, and even male domestic workers, are mostly from developing countries Southeast Asian countries. Therefore, they really need the job to support their families back in their home countries, and because of this need, they become subjects to abuse from their employers. Members of the Justice 4 Domestic Workers (J4DW) presented evidences of abuses that, themselves, actually experienced. According to Marissa Begonia (chairperson of J4DW), on a case of a domestic worker that was raped,'He threatened to accuse her of harming the child that she was looking after if she reported him.' Begonia added, 'some women domestic workers bear scars on their faces due to hot beverages thrown at them, and scars on their arms from flat irons.' Because of these abuses, the government of the United Kingdom introduced the domestic workers' visa in 1998 that gave migrant domestic workers rights, such as the right to change employers and to extend their visas.

Yet, for reasons on 'the need to cut net migration', the government of the United Kingdom changed some provisions of the domestic workers' visa in April 2012. These changes in the visa limit the domestic workers from changing employers, and with no chance of extending their visas after six months of service. According to Donovan (2013), 'the new arrangement saw the tied visa reintroduced'. The tied visa will leave the migrant domestic workers no choice of choosing a better employer; thus, this can be grounds of abuse because whether their employers are nice or abusive, the domestic workers will have to work for them in the next six months as stated in their contracts.

Concerned of what will happen to the future migrant domestic workers, three organisations filed a joint response to this pressing issue. The three organisations are "Kalayaan', "Anti-Slavery International", and "Unite the Union". Their response provided information on the possible impact of the changes of the visa to migrant domestic workers. It explained how this can weaken the rights of domestic workers, and how abuses and forms of modern slavery can emerge.

'Kalayaan, established in 1987, provides advice, support, and advocacy services to migrant domestic workers in the United Kingdom.' Anti-Slavery International, established in 1939, holds the mission to stop all forms of slavery; and has been in consultative status with ECOSOC since 1950. On the other hand, Unite the Union (in solidarity with Justice 4 Domestic Workers) provides services and represents migrant domestic workers in the UK for appeals and legal matters.

The researcher conducted a semi-structured interview with 20 domestic workers from the Philippines who came home from the U.K after their six months' visa provision have expired , and also compare published

studies regarding the impact of the new UK visa policies to these migrant domestic workers.

Life Before, During, and After Domestic Work in the U.K.

All of the 20 domestic workers that were interviewed are women; 17 from the regional areas in the Philippines, while 3 are from the national capital centre (Manila). The research participants are selected because they have worked in the U.K., and that they experienced what it is to be a migrant domestic worker under the new visa provisions; plus, their availability and willingness to participate in the study.

All of these women came from the underprivileged backgrounds, and are expected to be bread winners; 7 of them are single mothers, 1 has 4 children and a sick mother to attend to, while the rest must support their families. 5 of these women are unemployed in the Philippines and are challenged to find work, while the 15 have been working as domestic workers in the metropolitan cities in the Philippines. They earn an average salary of PhP 4,000 – PhP 5,000 per month (US$ 80 – US$ 100 as of September 2017 exchange rate). They only get one rest day in a week, which is Sunday; and, they work from 5:00 in the morning when the household is up and getting ready for their daily activities to 11:00 in the evening when the household is asleep. With a very little salary, they find it inadequate to support their families. The offer to work in the U.K. with their employers, or an offer by an employment agency to work in the U.K., gives them hope. A hope that they will be able to give better lives for their families.

In the U.K., they thought that they will be paid according to the minimum pay that the U.K. government has mandated, but apparently not. 8 of the research participants have experienced this. They still do the same long hours of work and doing household chores, earning a little more this time, but still paid lesser than the minimum. In other cases, from other researches, like that of Montouvalou's (2015), the domestic workers did not receive an increase or any adjustments in their salaries even if they were brought to the U.K, and even if their employers actually promised them a wage increase. 9 of the participants are paid honestly by their employers. However, their salaries are still not enough because they needed to pay back the loan that they made before they left for the U.K. to cover their employment agencies' fees. As domestic workers in the Philippines, their source of income is too low to be approved for a loan from legal funding businesses or from the bank. They ended up loaning the money from 'loan sharks' with interest rates of 10% to 20% per month. Thus, making it difficult for them to pay the loan in full sooner. 3 of the research participants are with good employers whom they have worked with from the Philippines.

7 of the research participant get verbally abused by their employers, while 1 of them received a physical injury when her employer hit her on the face because the child that she was attending to was choked by an apple. All of them are afraid to report the abuses to the police because they believe that reporting will cost them their employment. They believe that when they report the abuses, the police will have to send them back home since they cannot transfer employers, and if they will be allowed to transfer employers, it will be challenging to find another employer when the visa provisions will only allow them to stay in the U.K for six months. If they will be sent home, what will happen to their families? How will they pay back the loans that they have made? These are the questions that haunt them if they will report the abuses and the unfair treatment.

One of them actually received an offer to work for a flower shop because the proprietor found her skills in flower arrangement. Yet, because of the visa conditions, the potential employer could not hire her and sponsor her on another work visa.

One of the research participants found a boyfriend in the U.K. She is waiting for his visit in the Philippines. He is planning to marry her and bring her back to the U.K. to live permanently.

Back in the Philippines, they are in search for new employers. 16 of them still wanted to go back to the U.K. and would want to try to their luck again. However, 4 of the research participants believe that they had enough, and that the work in the U.K. was not a good decision because of being able to uplift their lives, it actually worsened their situations.

The New Visa Provision on Migrant Domestic Workers:

The UK Border Agency (UKBA) is the commissioned border control agency of the British government, and was split to two departments focusing on visa systems and immigration law enforcement respectively. The UKBA posted on its website the changes and the new visa conditions.

'The rules for domestic workers changed on 6 April 2012. If you had applied on or before 5 April 2012 for a visa to come to the UK as a domestic worker in a private household, please see the "Workers who applied for entry on or before 5 April 2012 section."

The "domestic worker in a private household" category allows overseas employers to bring their domestic workers with them when they visit the UK for up to 6 months. To come here as a domestic worker, you must be an established member of your employer's staff - you must have worked for your

employer for at least a year before you apply for a visa.

You will be given permission to stay in the UK for up to 6 months. You must return home at the end of the 6 months or when your employer returns home, whichever is sooner. We will not extend your permission to stay past 6 months or past the time that your employer is in the UK.

You are not allowed to change employer while you are in the UK or change to a different type of employment.

You cannot bring your dependants with you but they may apply to come here in their own right, for example as visitors.'

Based from these conditions, one may see that the right to choose an employer was abolished. Moreover, the condition that states 'you are not allowed to change your type of employment' denies a person of his/her rights to equal opportunities.
It should not only be the employer who has the right to terminate employment. An employee must be allowed to terminate employment as well, especially if the employee sees that his/her work condition is no longer healthy and beneficial. If an opportunity arises to find a new employer that can provide much better conditions, an employee must be allowed to avail of this opportunity. So, why create a condition of not allowing a person to change employers? Second, if there is an opportunity for a person to be offered with employment, even if different from the nature of his/her work, why stop him/her from this employment opportunity?

In addition, this tied visa conditions are direct contradiction with General Recommendation 26 of the Committee on the Elimination of the Discrimination Against Women, paragraph 26(f), which recommends that 'migrant women workers be covered by employment legislation and that residence status should be independent of an employer.'

What are the Possible Effects of the New Visa Condition?
'The right to change employer is a fundamental safeguard against abuse, exploitation, forced labour and trafficking.' If this provision will stay, this will limit the opportunities of a migrant domestic worker to search for other employers that can offer better conditions, and this can also instil fear that their employers have absolute power to terminate employment and send them back home. If this happens, the domestic workers will not able to challenge employers in case of abuse; thus, they will have taken all the abuses to keep their jobs, or fled to other employers undocumented, which can expose them to more abuses. This situation can be classified in the United Nations Special Rapporteur on Slavery as a form of "neo-bondage". Dependence on the employers will make domestic workers easily vulnerable to exploitation.
'Abuse and exploitation increases because employers know that there will be no realistic sanction for their actions, and that the threats that they make about illegality, detention and deportation will be enforced by the state. The inability to change employer essentially gives abusive employers the power to act with complete impunity.'

Below are issues and concerns gathered by Unite The Union, together with J4WD, and Kalayaan. These concerns were raised by migrant domestic workers under the new tied visa.

1. All workers on the tied visa reported that they were paid less than £100 per week (US$154), compared to 60% of those on the original visa;
2. 62% of those on the tied visa were paid no salary at all, compared to 14% on the original visa
3. 85% of those on the tied visa did not have their own room so slept with the children in their care or in the kitchen or lounge, compared to 31% on the original visa
4. 86% of those on the tied visa had their passport and biometric permit retained by their employer, compared to 46% of those on the original visa
5. 96% of those on the tied visa were unable to leave the house unsupervised compared to 52% on the original visa

On a separate survey that Begonia (of J4DW) conducted for her research on Migrant Domestic Workers (MDW), she found out that there is more safety if they retain the right to choose an employer. Her research concluded that there is a big gap on the working conditions from the abusive employer to the second employer, and that with the second employer, MDW's are able to exercise their basic rights better.

CONCLUSION AND RECOMMENDATION

This paper concludes that the changes of visa conditions for migrant domestic workers are deprivation of rights and a violation to ILO Convention 189 "Concerning Decent Work to Domestic Workers".
'…international labour standards illustrate a shift towards recognizing domestic work as "real work" which should be governed by labour and social policies. The Convention applies to all domestic workers, including migrant domestic workers. Domestic workers, like any other workers, have the right to enjoy fair terms of employment and decent working and living conditions, and a range of measures in this regard are set out in the Convention.'
Therefore, if other workers hold the right to choose an employer; thus, migrant domestic workers hold the

same rights. Since, it was stated that '..like any other workers, have the right to enjoy fair terms of employment and decent working and living conditions…' then, all employment rights such as health and safety, off days, privacy, protection from abuse, and many others should be enjoyed by the MDW's.

In Anderson's article (2015), "Migrant Domestic Workers: Good Workers, PoorSlaves, New Connections", she stated that the U.K. government has to respond to these issues because "this will argue the importance of not reifying the difference between a migrant and citizen, thereby recognising connections between national and non-national workers, and also between commodified and non-commodified reproductive labour".

First, the enjoyment of all these rights can be achieved if the British government will ammend the new changes in the visa of the MDW's; or, if possible, it should retain its original visa conditions that were implemented in 1998. The original visa conditions were set to avoid the reported abuses, so why not bring it back?

Second, the implementation of Convention 189 will be a more effective ground for protection for MDW's. Therefore, it is recommended that we secure a widespread ratification of Convention 189, and implementing it through national and legal policies, and through programs that will set basic standards of rights for domestic workers.

Third, this paper also recommends to extend the rights to choose an employer to domestic workers employed by diplomats.

Lastly, if it is challenging for the U.K. government to come up with better amendments on their policies, this paper suggests that there should be a bilateral labour agreement between the U.K. and all countries of origin where these migrant domestic workers come from to assure the protection of their human rights and the promotion of their welfare.

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