

**DOMESTIC WORKERS  
NEED MORE LABOUR LAW  
PROTECTIONS**

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# **Domestic Workers in the UK**

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# Executive Summary

Domestic workers are those who perform work in a private household setting. Despite them playing a crucial role in the care sector, domestic work is generally viewed and accepted as low-status work. This has meant that domestic workers are a vulnerable category of workers usually found at the margins of labour law.

This policy brief identifies key gaps within the labour law framework which result in domestic workers experiencing greater exploitation than workers in most other occupations, deepening the inequality in labour protections that exists in the UK between different categories of workers.

The UK government must recognise the potential of the law to address the lack of protection for domestic workers. The recommendations proposed in this policy brief will help alleviate the legal precarity of domestic workers and provide them access to key labour law legislation.

**"I was unaware that I had no right to renew my Overseas Domestic Workers visa and my passport was confiscated by my employer. I couldn't fight back about the physical assault I suffered in the hands of my employer". [1]**

[1] Mimi Jalmasco, 'A DECADE WITHOUT RIGHTS: UK Migrant Domestic Workers campaign for change' (The Voice of Domestic Workers, 15 June 2022) <<https://www.thevoiceofdomesticworkers.com/post/a-decade-without-rights-uk-migrant-domestic-workers-campaign-for-change>> accessed 7 December 2022

# KEY ISSUES

## 1. Working Time

### Current Legal Framework:

Domestic workers are not afforded the full rights given to other workers through the Working Time Act 1998 [2]. Regulation 19 excludes domestic workers from Regulations 4(1) and (2), 5(1) and (4), 6(1), (2) and (7), 7(1), (2), (6) and (8) [3]. This exclusion means domestic workers have no statutory entitlement to a maximum weekly working time, no regulation on night work (even for young workers), and no entitlement to adequate rest breaks.

### Issue:

At an already vulnerable position, the exclusion of domestic workers from these crucial labour rights further adds to their risk of exploitation. In a survey carried out between 2006 and 2007, 68% of domestic workers involved reported that they were given no time off and were expected to be available for work 24/7 [4]. Even for those without these explicit expectations imposed on them, it would not be hard to imagine a similar implicit pressure being placed on others, especially with the added pressure of living in the same household as your employer. Excluding domestic workers from these protections only exacerbates the pre-existing asymmetry of power between the worker and their employer, which is made even worse by the unique circumstances of domestic work, such as its private nature.

The government must remove Regulation 19 to allow domestic workers the full protections of the Working Time Act afforded to other workers.

## 2. Lack of Health and Safety Protection

### Framework:

The Health and Safety at Work Act (HASAWA) of 1974 does not apply to domestic servants employed in a private home [5]. As a result, domestic workers cannot seek protection through domestic law, and abuse is frequently unreported. Domestic workers face a variety of health and safety risks, including [6]:

- Chemical hazards, which include allergies, chemical intoxication, and long-term effects such as cancer.
- Ergonomic hazards include lifting and moving heavy objects, being on hands and knees, and performing repetitive actions.
- Depression, violence, and harassment are all psychological issues.

The UK government stated that extending protection to private households would not be "appropriate or practical" [7].

The United Kingdom must prioritise the rights of domestic workers over employer rights. The UK must take a similar stance to South Africa in terms of conceptualising work through an intersectional and historical lens [8]. In addition, the International Labour Organisation (ILO) models for conducting household inspections must be taken into account.

[2] The Working Time Regulations 1998

[3] Ibid, s 19

[4] Krishnah Poinasamy, 'Protecting Domestic Workers in the UK (2011), 19(1), Gender and Development, p.96

[5] The Health and Safety at Work Act 1974 s 51

[6] 'Domestic Workers: Safety and health at work' (ILO) <[https://www.ilo.org/global/topics/domestic-workers/WCMS\\_853761/lang--en/index.htm](https://www.ilo.org/global/topics/domestic-workers/WCMS_853761/lang--en/index.htm)> accessed 2 November 2022

[7] Statement by Ms Warwick, International Labour Conference Record of Proceedings 15 June 2011 25 (rev), p 22

[8] *Mahlangu and Another v Minister of Labour and Others* [2020] ZACC 24

# KEY ISSUES

3.

## Overseas Domestic Worker Visa

### Current Legal Framework:

The UK Home Office issue approximately 19,000 visas each year to overseas domestic workers (ODWs) under the 'Domestic Workers in Private Households' scheme[9].

However, reform to this visa scheme was introduced by the government in 2012 which meant that ODWs were now restricted to a six-month non-renewable visa.

### Issue:

These visa arrangements still remain in force despite evidence showing that it helps facilitate the abuse and exploitation of ODWs. As of 2016, If ODWs were being mistreated in the workplace and wanted to change their employer, this change must happen within the six-month period of their visa.

The result of this is that ODWs are given very little time to seek alternative employment which increases the vulnerability of domestic workers as many end up trapped in abusive working environments.

Research by Kalayaan indicates that the infringements on labour law rights that many ODWs experience, such as extremely long working hours and unsafe working conditions have increased since the 2012 visa scheme reform[10].



Image from Kalayaan [11]

[9] Joyce Jiang, 'My home is not my home: amplifying the voices of migrant domestic workers' (University of York) < <https://www.york.ac.uk/research/impact/migrant-domestic-workers-voices/> > accessed 2 December 2022

[10] Zoe Gardner, 'Migrant Workers' Rights: Policy Briefing' (The Joint Council for The Welfare of Immigrants, December 2021) < <https://www.jcwi.org.uk/work-it-out-policy-briefing> > accessed 1 December 2022

[11] Kalayaan Twitter < <https://twitter.com/Kalayaan/status/1450050424392888321> >

# Recommendations

1. Regulate working time for domestic workers to a maximum of 48 hours a week. Due to the private and domestic setting of the industry, there is a lack of regulation to ensure employers are not exploiting domestic workers by overworking them.
2. Alter the Overseas Domestic Worker Visa Scheme to allow ODWs to seek alternative employment in other industries. Although in 2016 the dependency element of ODWs on their original employer was removed, they are still restricted to work in the same industry. This still exposes ODWs to vulnerabilities of exploitation.
3. Restore the original rights given to ODWs pre-2012, which would give them the right to extend their visa. This will provide the legal protection ODWs need, as it will provide a route to leave abusive working environments and seek alternative employment which helps balance the employer-employee asymmetry of power by minimising the risk of mistreatment. Furthermore, it allows ODWs to access the employment tribunal rather than choosing to suffer in silence just to simply satisfy the 6-month stay solely to receive their pay.

# Recommendations

4. Form a regulating body to enforce and police the working/living conditions of domestic workers. The private working environment allows employers to exploit their workers. Testimonials have shown domestic workers to suffer from physical and sexual abuse from their employers behind closed doors.

5. Implement the recommendations of the ILO Convention concerning Decent Work for Domestic Workers (Domestic Workers Convention no. 189) [12]. The UK chose to abstain from voting on the convention when it was first introduced in 2011, but ratifying the terms of this convention like many other countries would help to address many of the issues faced by ODWs and reduce their likelihood of exploitation.

[12] C189 - Domestic Workers Convention [2011](No. 189)

# Bibliography

## Sources

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'Domestic Workers: Safety and health at work' (ILO) <[https://www.ilo.org/global/topics/domestic-workers/WCMS\\_853761/lang--en/index.htm](https://www.ilo.org/global/topics/domestic-workers/WCMS_853761/lang--en/index.htm)> accessed 2 November 2022

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## Legal

C189 - Domestic Workers Convention [2011] (No. 189)

The Health and Safety at Work Act (HASAWA) of 1974

The Working Time Regulations 1998

Mahlangu and Another v Minister of Labour and Others [2020]  
ZACC 24

