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23 February 2012

Jane Connors
Chief, Special Procedures Branch
Office of the High Commissioner for Human Rights
Palais des Nations
8-14 Avenue de la Paix
CH-1211 Geneva 10

Dear Ms Connors,

COMMUNICATION ON UK OVERSEAS DOMESTIC WORKER VISA

Thank you for your letter dated 21 December 2011 in which you enclose a letter requesting information on the UK Overseas Domestic Worker Visa from the Chair of the Working Group on the issue of discrimination against women in law and in practise; 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.

I enclose a response from Glyn Williams, Head of Migration Policy at the UK Home Office.

Yours sincerely,

Peter Gooderham

OHCHR REGISTRY

28 FEB 2012

Recipients : *SPD*
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Home Office

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www.homeoffice.gov.uk

Kamala Chandrakirana
Chair-Rapporteur of the
Working Group
on the issue of discrimination
against women in law and in 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



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Date: 3 February 2012

Dear Ms Chandrakirana, Ms Shahinian, Mr Crepeau, Mr Ezeilo and Ms Manjoo

Thank you for your letter of 21 December to Mr Peter Gooderham about your concerns relating to the Government's proposals on the routes of entry to the UK for Overseas Domestic Workers (ODWs).

As you are aware, the proposals were made in the context of the Government's proposals to break the link between temporary and permanent migration. The consultation was published on 9 June 2011 and closed for comment on 9 September 2011. The Government is now considering future arrangements for ODWs in the light of comments and views received and will make an announcement shortly. The results of the consultation are being finalised and will be published after the announcement. We will share the results with you once they are finalised.

The routes of entry for ODWs were introduced so that foreign visitors and diplomats could bring their domestic support staff to the UK with them. Whilst the Government recognises that there must be appropriate protection for vulnerable workers, these are the only unskilled work routes that remain at a time when we are moving away from recruiting unskilled labour from outside the EU and also the path to settlement is at odds with wider proposals to break the link between temporary and permanent migration. The consultation's proposals aim to return the routes to their original purpose and to ensure that routes of entry for ODWs are consistent with the wider approach.

You are particularly concerned that removing the right of ODWs to change employer may contribute to facilitating a contemporary form of slavery and an increase in trafficking. Although the Government accepts that ODWs can be vulnerable to abuse, we believe that if the route is retained, the right to change employer is not the only way to provide protection. There has been no convincing evidence that the changes proposed to the ODW routes would lead to an increase in trafficking. As stated in the consultation, we consider that the best way to minimise the possibility of abusive situations being brought to the UK is to require that there is an established employment relationship. That is why ODWs must have worked for their employer for 12 months prior to coming here. We would look at providing other protections in future, if the route is retained.

ODWs would, for instance, continue to come to the UK as workers, not visitors, but if they are accompanying an overseas visitor, they would be required to leave the UK with that visitor. They would be entitled to the same comprehensive employment and social protections that they are entitled to now and would continue to have the same access as other workers to mechanisms for enforcing their rights. It would be open to ODWs to seek redress if they are abused, for instance by making a complaint to the Pay and Rights Work helpline, which provides translation services in over 100 languages, pursuing a case through an Employment Tribunal or for criminal offences, by reporting the abuse to the police.

The Government's consultation noted that if the route of entry is retained, a measured and assessed form of protection would be required and that for ODWs who believe they have been trafficked such a mechanism, the National Referral Mechanism already exists. The particular needs of each potential victim of trafficking are assessed upon referral into the National Referral Mechanism (NRM). A range of support is available to the victim where necessary and as determined by a needs assessment. This includes safe and secure accommodation, subsistence support, emergency medical treatment,



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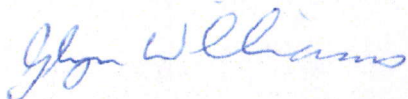
information and counselling on legal rights, support to participate in the criminal justice system. Where a victim identified through the NRM is actively seeking compensation from a trafficker and the proceedings require the presence of the victim there is the ability to seek discretionary leave to remain in the UK for the necessary period and hence it is not correct to assert that the NRM prevents trafficking victims from seeking compensation. More generally any victim of a crime in the UK is able to seek compensation through employment tribunals or if a violent crime through the Criminal Injuries Compensation Scheme.

The NRM would, however, be one of a range of protections.

The Government has committed to reduce net migration - the total of international migrants less emigration of the same. Using the UN definition, an international migrant is a person who moves to a country other than that of their usual residence for a period of at least a year. Most ODWs do leave the UK at the end of a finite period, but considerable numbers seek to stay longer. In the years 2006 - 2010 inclusive, 81,241 visas were issued to ODWs to come to the UK to work in the private household of their employer, 31,025 extensions of stay were granted and 3,400 were granted settlement. Numbers of applications for settlement and of those who left the UK are not available.

The Government's consultation that set out proposals for the ODW routes of entry was open for anyone, including domestic workers and those organisations that support them, to provide their comments and views. We are now considering the future of the routes and the measures that they should include in the light of those and are taking into account the provisions of international conventions to which the UK is a party.

Yours sincerely



Glyn Williams
Head of Migration Policy
Immigration & Border Policy Directorate



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