



The Filipina Au Pairs in The Netherlands

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INTRODUCTION

The new trend in child care for the past 10 years in the Netherlands is hiring nannies from the Third World. Officially they are called *au pairs* but in reality they are nannies and domestic workers blended into one, working day and night. They are usually young women. Most of them come from Eastern Europe, South Africa, the Philippines and most recently Latin American countries.

Bayanihan Foundation has been assisting Filipina au pairs in the Netherlands since 1993.² Several factors make the au pairs vulnerable to different forms of abuse and exploitation. To name a few: they are generally not well informed about the regulations of the au pair programme; ignorance of their rights and welfare; 'invisibility' when they enter the country; prey to the exploitative practices of au pair agencies; and, inability of the Dutch institutions to give them immediate protection.

The problems that the Filipina au pairs faced before 2000 are the same problems they face until now: long working hours, heavy work, inadequate allowance, ill-treatment and disrespect from host families, non-helpful agencies, not enough free days or none at all.

Bayanihan's extensive and vast experience in assisting and working directly with Filipina au pairs in the Netherlands have led us to serious lobby and advocacy work on this issue. Bayanihan believes that the exploitation of au pairs and other problems that arise from it can only be addressed through concerted efforts of the various stakeholders and actors. Most important of these actors are the Philippine and Dutch





governments, through their respective policies concerning the au pairs and the au pair program.

The au pair program is a valuable cultural exchange program for the youth, especially those from the global south, hence it should continue and be supported by both the 'sending' and 'receiving' countries. One of the most immediate steps that needs to be taken in this direction is the lifting of the unilateral ban on the part of the Philippine government and the concomitant establishment on the part of the Dutch government of a concrete system for monitoring, and penalizing abuses by au pair agencies and host families.

What is an au pair and what is the au pair programme?

"Au pair" is French meaning "on a par" or "on equal footing." Hence, someone is placed au pair, meaning she is positioned in a family as an equal or on an equal footing with the rest of the family members, much like a guest.

The au pair exchange programme is an internationally recognised educational program through which young people learn a new language and become acquainted with another society and culture by (or becoming) being placed as an au pair. The idea is that one learns a new language and culture easily and thoroughly by living with a family. In exchange for the hospitality, the young person contributes to the household by doing certain light household work, like babysitting and washing dishes. Although there is an agreement signed between the au pair and the family, the contract is not a labour or work contract, nor is the au pair a hired domestic worker.

Learning a new language and experiencing a new culture by being placed as an au pair is not something new. Young people from all over the world, especially western countries like the USA, Canada and western European nations, have been doing this since even before the World War II. (These same countries are also the major receiving countries for au pairs.) It is a relatively inexpensive way to know a country thoroughly, especially for the parents of au pairs.

Before World War II, the arrangements for becoming an au pair took place between families who were friends or via mutual acquaintances. However, since the end of WWII, the number of young people going abroad as au pairs increased tremendously and arrangements now involve several parties who are unknown to each





other. In Europe in the 1960s, the influx of tens of thousands of au pairs triggered an international regulation of this migration development. The regulation meant to protect the parties concerned.

In 24 November 1969, the Council of Europe signed the European Agreement on Au Pair Placement. Each destination or host country also has its own au pair regulations which may slightly differ from those of others. For instance, the USA has an Au Pair Exchange Program Regulation which is slightly different from that of The Netherlands. There are however core similarities among these regulations: its main purpose is to give social protection to the young au pair, that the au pair stays with a family as an equal, helps the family with light household chores and in exchange, she learns a new language and culture.

The European Agreement on Au Pair Placement and the Dutch Au Pair Regulation

In 1969, the member States of the European Council formulated the Au Pair Placement Agreement in response to the ever increasing number of au pairs travelling into Europe. It was realised that this migration phenomenon, though temporary, needed to be internationally controlled and regulated if the youth are to be protected. This Agreement enjoins all contracting European States to take the necessary measures to follow the Agreement. However, noncompliance does not necessarily constitute a violation of the Agreement if such noncompliance is due to parliamentary, legislative or administrative reasons. The Agreement is meant and used as a guideline for the member states' legislations on au pair placements.

The European Agreement recognises that an au pair is neither a student nor a worker, but a special category of its own: it has features of both.³ Because of this, "it is useful to make appropriate arrangements for them"⁴ to be able to give them adequate social protection, consistent with the principles laid down in the European Social Charter. The agreement was entered into force in 30 May 1971 although it has not been ratified by all Member States.⁵

In practice, however, European states use the Agreement as the basis for internal regulations concerning au pairs, such as what counts as an au pair, minimum age requirement, the visa and health insurance requirements, the need for a contract of agreement between au pairs and host families, the responsibilities of an au pair and a host family. Actually, receiving countries make use of the model text for the contract





of agreement between au pair and host family created by the Council of Europe.

Although The Netherlands has not ratified this European level agreement, its own Au Pair Regulation is based on it. As with the European Agreement, the Dutch regulation allows young people from foreign countries to visit The Netherlands for a maximum period of one year to learn about the Dutch language and culture. Under this regulation, an au pair does “nonphysical household chores and/or babysitting in exchange for room and board and an allowance. And as with the European agreement and consistent with how au pair is understood in countries with au pair program, an au pair is considered part of the family of the host. She is not a domestic help/worker or a lodger; she is a guest or friend of the family, hence she stays with the host family on an equal basis as a member of the family.

In order to prevent au pairs from performing any form of labour that is contrary to the Labour Law for aliens (*Wet Arbeid Vreemdelingen, WAV*), the following are the requirements under the Dutch Au Pair Regulation:

- The au pair must be at least 18 years old and no older than 25 years old;
- The au pair must not work for more than eight hours per day, working for a maximum 30 hours a week in exchange for board and lodging and allowance;
- The au pair is entitled to two free days and two free evenings per week;
- The au pair must do work that has bearing with that of being an au pair. This means that an au pair cannot do work as required by the Labour Law for wherein a work permit is required;
- The au pair must be single;
- The au pair may not have resided previously in The Netherlands as an au pair;
- The au pair must do only light household chores and look after the children;
- The au pair can do only work which can be taken over during her absence by other members of the family, a babysitter or housekeeper;
- An au pair is not completely responsible for the household chores. An au pair actually stays with the host family on an equal basis as a member of the family; and





- An au pair receives a maximum of euro 340 pocket money per month.

If the host family lets the au pair work wherein a work permit is required according to the Labour Law, then the host family is punishable by law. The requirements which the au pair and the host family should follow are found in the *bewustverklaring* (statement of awareness).

The following conditions were added to the regulation in August 2000 to improve the legal position of au pairs:⁶

- An au pair can move between families as long as it is within the one-year period; and
- Both au pair and host family have to sign a declaration of awareness (where the rights and obligations of both au pair and host family are stated).

The au pair situation in The Netherlands

Filipina au pairs are usually in demand. They are popular because according to the host families they work hard for less pay, are modest, are serious, speak good English and are affectionate to the children. The estimated number of au pairs was 1,100 in 2000.⁷ Taking into consideration the high cost of crèche facilities, au pairs are a financially attractive alternative to Dutch couples with children. The au pair programme is however abused to such an extent that these au pairs become domestic workers instead. Moreover, since there is no official recognition of work in the private household as proper work or as a category for immigration, these young women are generally denied of their rights and eventually become undocumented when they stay longer than one year.

Exploitation of au pairs and what is being done to improve their situation

Since 1993, Bayanihan came across cases of abuses by many host families. Filipina au pairs came to Bayanihan for help and assistance. Some examples of their complaints were: long working hours and heavy work; verbal abuse and indifference by host families; unpaid and cheap labour; irregular free days or no free days at all; bad service and exploitation by au pair agencies.

Later, the Dutch Trade Union Federation (FNV), with the cooperation of Bayanihan brought some labour abuse cases to court in





1999 and 2000. In 1999, a Filipina au pair got financial compensation from her host family when FNV threatened to file a lawsuit against them for underpaying her. Other cases which FNV handled were that of the Bulgarian (2001) and Polish (2002) au pairs. The au pairs won the case. Due to the efforts of FNV, a new legislation was passed making the au pair regulations much clearer. These are the regulations mentioned in the au pair requirements. However, in spite of the regulations au pairs abuses still continue.

According to RTL 1 TV News⁸ a large number of au pairs are exploited in the Netherlands. They based this conclusion from the evaluation report made by the Ministry of Justice last June 2003 and from Bayanihan's experience. Bayanihan validated the conclusion of exploitation and abuse based on its eleven years experience giving help to au pairs and doing lobby and advocacy for the protection of the rights and welfare of Filipina au pairs.

It is also based on the findings of the research made by Bayanihan in 1994⁹ and by the research on the position of au pairs from countries outside the European Union by Ralph Reede of the University of Tilburg (UT), as commissioned by Bayanihan on June 2001.¹⁰ The results of the latter were presented to the public during a symposium on January 2002 attended by representatives of the Filipino community, policy-makers and a member of the parliament. It received a lot of media attention which eventually paved the way into the political arena forcing the Dutch Ministry of Justice to conduct its own research on the situation of the au pairs. One of the conclusions of the research was that in spite of the signals showing the exploitation of au pairs, there were no hard numbers and evidences available how many au pairs are actually involved and what their motives are for coming here. It is important to establish the extent and magnitude of their exploitation and their motives.

Evaluation of au air regulations

The report on the Evaluation of Au Pair Regulation¹¹ showed that au pairs do heavy work like cleaning the whole house to working in the garden.

Here are the following conclusions:

- 34% of the 107 host families (respondents) admitted that their au pairs were doing heavy work;





- 52% of the 108 au pairs respondents do heavy work;
- 50% of the 108 au pairs (respondents) are underpaid (under euro 340 allowance per month);
- 7 to 9 from the 10 host families violate in one way or other the au pair regulations; and
- the au pairs work longer than required and often do heavy physical work.

The findings of the report of the Ministry of Justice about the abuse of au pairs led to the following resolutions: 1) improvement of the information regarding au pair regulations; 2) framing of concept au pair agreement; and 3) setting up of “meldpunt” au pairs (hotline), sort of help line for au pairs.

The temporary IND “Meldpunt”

A temporary ‘meldpunt’ (or hotline) of the Immigration and Naturalisation Office (IND), for au pairs was opened last 1 June 2004. According to the IND this ‘meldpunt’ could give more insight on the violation of au pair regulations so that a better supervision can be made. Minister Rita Verdonk of Aliens Affairs (Vreemdelingenzaken) was determined to eradicate the abuses of au pairs through these regulations.

But all complaints, depending on their nature, will be directed by the IND to the police or Labour Inspection. For physical and mental abuse, au pairs are advised to go to the police. At long last a body has been formed to supervise the regulations. Bayanihan has been lobbying for this since 1996. However, self help organisations who are involved with au pairs and have expertise in this subject matter such as Bayanihan were not informed and involved by the Dutch government with the development about the reinforcement of the above-mentioned resolutions.

The following are the setbacks of the IND meldpunt based on Bayanihan’s observation and experience since it was opened last June 2004:

1. The IND is not an independent body and it is very hard for the au pairs to call them because of their “high threshold” nature. The au pairs whose passports were confiscated by the host families have to muster enough courage before calling IND. They are afraid to be sent home by IND when they could not find another host family. An IND employee interviewed about the efficiency of the meldpunt, admitted that it is seldom used by au pairs. They only got a few calls per month. (Sandra Kooijman – 2005).



2. This meldpunt does not support the au pairs effectively. There was a report from an au pair who complained that IND did not attend to her urgent call right away when she reported that the host family did not give IND's letter to her. It took three days for IND to give her the proper information. They give information, register the complaints but they do not mediate, look for second host family, give the au pairs guidance, support them emotionally, supervise the au pair agencies and see to it that there is sanction done if the au pair regulations are violated. The police and Labour Inspection have their own specific functions.
3. The Dutch Au Pair Organisation (NAPO) which was designated to form a meldpunt in the future is not an independent body and may have a conflict of interest since it is a branch organisation of au pair agencies.

The views of Bayanihan were confirmed by the interviews made to two IND employees managing the meldpunt. During an interview made by Sarah Kooiman, a researcher of the University of Amsterdam,¹² the employees pointed out the following points regarding the meldpunt:

1. In their opinion the meldpunt has not improved the supervision of au pairs;
2. A year after it was opened, the meldpunt was scarcely used. There were very few calls of complaints from au pairs. Most of the complaints received were found groundless after investigation. So the host families concerned could not be held accountable for the offence mentioned. It does not mean, however, that because there were few calls no abuses took place;
3. A large number of au pairs belongs to the undocumented group, so they will not file any complaints at all to the IND. The fact that the hotline is at IND, shows that it is a "good for nothing" complaint line. Because of this, many abuses will go unreported; and
4. Regarding the plan to let the Dutch Au Pair Organisations (NAPO) take over the managing of a hotline, the two IND employees think it will take time before it will materialise and they are not positive about it. The chance to bring the abuses in the open might be minimal because of conflict of interest by the very nature of the NAPO.

Undocumented au pairs working as domestic workers in private homes

RTL 1 revealed that a majority of au pairs coming from the third world countries come to The Netherlands without visas and as such



stay undocumented. Au pairs are allowed to change their host families as long as they do it within the one year period of their permit to stay. When that permit expires, they have difficulty finding a new host since they are already considered undocumented. There are also au pairs who came here with visas and have permits to stay. While most of them end up as domestic workers and are paid low, they are afraid to complain to the Labour Inspection for fear of being sent home. Their permit to stay is dependent on the sponsorship of their host families. This practice is indeed an example of exploiting cheap labour and a violation of the rights and welfare of au pairs.

Suspension of the placement of Filipina au pairs (temporary ban) by the Philippine government

Since 1990 up to the present, young Filipina au pairs have been coming to The Netherlands. There were around 700 Filipina au pairs estimated in 1993 to 1995. But in the year 2000 up to the present the number of au pairs decreased. In 2002, it is estimated that the number of Filipina au pairs to be around 100. This estimate does not include the undocumented - those without a valid visa or expired visas. It seems that the embargo by the Philippine government on the au pair programme in 1998 had the impact on this decrease. According to the Philippine government this temporary ban is intended as a safeguard against the abuse on Filipina au pairs; the au pair programme has been abused as a means to recruit cheap domestic labour. Furthermore, the Philippine government pointed out that the other reason is that there is no au pair agreement between the Philippines and any EU country.

In reality this measure of banning the au pair programme does not stop the abuse. It triggers the au pair agencies and the Filipinas themselves to devise a trick so that Filipinas can still come to The Netherlands in another way, like coming as tourists with limited permit to stay with the intention of staying as long as possible which leads them to become undocumented. The ban is not water tight after all. It brings also so much confusion and corruption on the Philippine side.

Quite a big number of au pairs told Bayanihan about their negative experiences with the Philippine migration and customs officials during their departure. They had to be bribed with amounts from P10,000 – P30,000 to be allowed to board the plane. Those who refused to pay were denied to leave. Others were told to go to a certain office where there they were interrogated and given subtle hints to pay something.





Most of the au pairs who came to The Netherlands were advised by their au pair agencies to prepare the abovementioned amount to be given to the customs officials to be allowed to leave the country. A certain au pair agency even bribed some custom officials. Sometimes these agencies have their own contact persons inside the airport. The plane flight of the au pairs is arranged during the time these officials are on duty. This way the au pairs could leave the country without much ado.

Another confusion is the unilateral nature of the au pair ban by the Philippine government. While it stops these young women from leaving the country, the Dutch embassy on the other hand continue to give them visas as long as they meet all the requirements. This kind of situation leads to a *pingpong* effect which makes Filipina au pairs victims of red tapes from both bureaucracies.

Suspending the au pair programme does not address the underlying roots of the problem. Instead the Philippine government should have put up mechanisms of protection and support. If the au pair system is properly implemented, it is an excellent opportunity for the young people to broaden their cultural horizons and even enable them to have some financial advantages as well.



RECOMMENDATIONS

1. The au pair programme, as a cultural exchange programme for young people is a good programme and should continue as conceived. Therefore au pair regulations should be enforced properly and strictly by the Dutch government.
2. The Philippine and Dutch governments should have coordinated policies to ensure the protection of the rights and welfare of Filipina au pairs.
3. Set up a monitoring and supervision system by the Dutch Ministry of Justice on au pair agencies and host families violating au pair regulations by imposing sanctions.
4. Set up of an independent Hotline for Au Pairs with Bayanihan as anchor, in close cooperation with credible au pair agencies, trade unions and the police.
5. Support and encouragement from the Dutch government to au pair agencies and organisations that provide empowerment trainings and services to the au pairs. This also includes au pair agencies which focus more on the cultural aspect of the au pair programme.





6. Lift the au pair ban in Europe by the Philippine government since it proves to be ineffective by the mere fact that Filipina au pairs still continue to come. Instead more protection and supervision be imposed such as predeparture orientation and registration at the Philippine embassies upon arrival in Europe.

CONCLUSION

Abuse and exploitation of au pairs still continue in spite of the recent resolutions made by the Dutch Ministry of Justice. The banning of the au pair programme from the Philippine side is not an effective measure to stop the exploitation of Filipina au pairs. Instead it forces them to go 'clandestine' which exposes them to more danger and abuse.

Bayanihan is still receiving complaints not only from au pairs coming from the Philippines but also from Latin American countries. Based on the General recommendation number 19 made by the Committee on the Elimination of Discrimination against Women (CEDAW) abuses and the exploitation suffered by the au pairs are clear violations of their human rights, specifically on violence against women.¹³ Two violations stand out: coercion or arbitrary deprivation of liberty and economic exploitation. The existing international human rights standards as contained in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) can, if effectively implemented, be utilised to ensure the protection of the rights and fundamental freedoms of exploited au pairs. In this connection, both 'sending' and 'receiving' states must be held accountable for their duties and obligations to protect the human rights of these young women.

It primarily concerns people who want to form a family (by marriage for example) with someone in The Netherlands or who want to join family members already living in The Netherlands. It is of great importance that an independent "Hotline for Au Pairs" be set up to support and assist au pairs in trouble. Bayanihan can play a role as self-organisation to anchor the Hotline because of the expertise it has developed throughout the years in giving assistance and support to au pairs and in recognising the exploitation done by host families.¹⁴ It was also Bayanihan, which brought to the Dutch public and politics the au pair exploitation issue, lobbied for years for the protection of their rights and welfare. In this regard Bayanihan should be given support and encouragement to continue this important work.





NOTES

- 1 Diana Oosterbeek-Latoza is currently Bayanihan's social cultural worker and has been giving support and assistance to Filipina au pairs since 1993. She has also been doing lobby work for Filipina au pairs since 1996. She is also one of the founders of Bayanihan in 1991. Cecilia Nalagon, Bayanihan board member and publications and research officer also contributed some parts to this au pair paper.
- 2 Statistics: estimated total number of au pairs Bayanihan assisted since 1993 to present.
- 3 European Agreement on Au Pair Placement Preamble.
- 4 Explanatory Report European Agreement on Au Pair Placement, General Considerations.
- 5 Signatories to this agreement are Belgium, the Federal Republic of Germany, Greece, Switzerland, Denmark, France, Italy, Spain, Moldova, and Norway. Nonsignatories are Ireland, the UK, The Netherlands, Finland and Luxembourg (who withdrew its support in 2004).
- 6 Due to the efforts of FNV a new legislation was passed changing the au pair regulation for au pairs.
- 7 Financial Times, 4 August 2000.
- 8 RTL 1 is one of the Dutch commercial television stations. A TV report on the abuse of au pairs was shown last November 2003 based on research done by the Ministry of Justice.
- 9 Survey on Filipina Au Pairs in The Netherlands, Bayanihan, 6 August 1994.
- 10 Ralph Reede, '*Positie van au pairs uit landen buiten de Europese Unie in Nederland*' (Position of au pairs from non-EU countries), University Tilburg, June 2001, was commissioned by Bayanihan to do this research.
- 11 Miedema Frank, Bob Post, Clara Woldringh. '*Voor geld of Van Gogh? Au Pairs en hun gastgezinnen in Nederland. Evaluatie au pair regeling*' (For money or for Van Gogh. Au pairs and their host families. An evaluation of the Au pair Regulation). This research was commissioned by WODC of the Ministry of Justice, June 2003).
- 12 Kooiman Sandra, '*Au Pairs en gastgezinnen; Een onduidelijke relatie*' (Au pairs and host families; an unclear relationship), December 2005. p. 27



- 13 The Declaration's definition of violence against women is "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.
- 14 Ralph Reede made this proposal in his research, see p.54.

