



# KALAYAAN

justice for migrant domestic workers

February 2009

## Migrant domestic workers and the Borders, Citizenship and Immigration Bill

Kalayaan is a UK charity which works with migrant domestic workers (MDWs) from all over the world who are in the UK. MDWs have normally entered the UK with a specific employer in order to work in the employer's private household. Work done by MDWs within the house is wide ranging and can include cleaning, caring, driving, cooking, ironing. MDWs enter on a domestic worker visa. Unless they have entered the UK with an employer who is a diplomat, in which case their visa is endorsed 'migrant domestic worker (diplomat)'<sup>1</sup>, MDWs are entitled to change employer so long as they continue to work full time as a domestic worker in a private household. Other types of work are prohibited. MDWs have no recourse to public funds but are currently entitled to health services which are not a public fund.

Despite the limited protections provided by their recognition as a worker in the UK and the migrant domestic worker visa MDWs as a group of migrants are particularly vulnerable to abuse. This is because of the nature of their work; domestic work is hidden, pay and hours are often not recorded or document and domestic work is often not considered to be 'real work', with statutory entitlements such as to the National Minimum Wage and maternity leave. The dependence MDWs have on one employer not only for their work and pay but also for their housing, the annual renewal of their visa and information about their rights means that they are often treated very badly. Some MDWs are trafficked to the UK for domestic servitude<sup>2</sup>

319 MDWs who registered at Kalayaan between April 07 and March 08 reported the following abuse:

- 19% reported physical assault by their employer
- 62% reported threats, insults and other psychological abuse
- 62% were not allowed outside of the house where they lived and worked without permission
- 66% had no time off
- 30% had their passport taken from them by their employer

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<sup>1</sup> Migrant domestic worker (diplomat)s are not allowed to change employer outside of the diplomatic mission of the employer with who they entered the UK.

<sup>2</sup> From 1<sup>st</sup> May- 5<sup>th</sup> September 08 Kalayaan participated as a referral organisation for a Home Office pilot on trafficking for labour exploitation ('Operation Tolerance'). The Competent Authority decided that there were reasonable grounds to consider that 12 of the 13 MDWs referred by Kalayaan had been trafficked to the UK. The 13<sup>th</sup> did not have a decision made on her case as the referral was not accepted due to her being outside of the geographical boundaries from within which Kalayaan was allowed to refer.

The implications of the Borders, Citizenship and Immigration Bill ('the Bill') for MDWs are not entirely clear however the indications are that proposed changes to the rules for British citizenship and the likely removal of Indefinite Leave to Remain (ILR) as a category will effect MDWs negatively. Currently MDWs become eligible to apply for ILR after they have completed 5 years in the UK on the domestic worker visa (without any sizable absences) and met the language and knowledge of life in the UK requirements<sup>3</sup>. If they chose to do so, one year after they have been granted ILR, MDWs become eligible to apply for citizenship.

The importance of ILR to MDWs should not be underestimated. As stated above, while the MDW visa does give some important rights, principally the right to change employer, allowing MDWs to escape abuse, the visa also puts many restrictions on MDWs in the UK which limit their negotiating powers with employers and their ability to access their rights in the UK. While an MDW is on the MDW visa they have to apply every year to renew their visa, at considerable expense, they are limited to full time domestic work in one private household and have no recourse to public funds. This limits opportunities to access many fundamental rights such as starting a family until the worker gets ILR (pregnancy inevitably results in dismissal causing visa problems) and illness of any length is also likely to result in curtailment of the MDWs visa. The dependencies on employers caused by the visa are without doubt a significant factor in unacceptable abuse of MDWs by employers.

The 'probationary citizenship' to which an individual will move from the MDW visa as proposed within the Bill will not replace ILR. Unlike ILR this remains a temporary category. It is unclear if MDWs for example will continue to be limited to full time domestic work in a private household on this visa. If does become the case MDWs will be tied to domestic work on an insecure immigration status for an additional 4 years (on top of the 5 already completed) as this is the proposed time in which individuals who don't participate in 'prescribed activities' will take to 'earn' their citizenship and permanent status in the UK. MDWs typically work 16 or more hours a day. If they have any time off it will be a few hours on Sunday. It is not fair or realistic to expect some of the hardest working contributors to our economy to volunteer in the tiny amount of free time they have.

If the UK really wants to encourage people to settle in the UK as 'citizens' we have to remain fair. Prolonging the time that individuals have temporary status in the UK will result in them feeling that they are temporary, that they don't belong. In June 2008 the then minister for immigration, Liam Byrne, announced that he was 'proud' of the protections available to MDWs. ILR and the security it brings is one of the key aspirations of MDWs who are in the UK doing jobs, including long term care work, which is not short term or 'temporary work'. These are jobs which EU citizens need done but generally do not want to do themselves.

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<sup>3</sup> Many MDWs have had little formal education and meeting the requirements of the test can be especially challenging