



The illusion of rights: migrant domestic workers and maternal health in the UK

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Migrant domestic workers (MDWs) are people who have accompanied an employer to the UK on a 'domestic worker visa' to work as part of their private household. A typical role would be as a nanny, housekeeper, cook or chauffeur. The majority of these workers are from South and South-East Asia and Africa. The isolated, dependant and unregulated nature of working in private household, combined with gender-based and racial discrimination means that domestic workers are vulnerable to exploitative practices. They can face physical, psychological and sexual abuse, discrimination, low pay and long hours. Migrant domestic workers are often unfamiliar with the UK system and unsure of their rights in the UK. Kalayaan works with its clients to overcome these barriers and improve their quality of life. In 2004–2005, 92 % of MDWs registered at Kalayaan were women.

Once in the UK, MDW's are allowed to change their employers so long as they continue to work inside a private household. This is a relatively new rule (1998), and comes as a result of the British Home Office recognising that MDW's experience 'abuse and exploitation'. Typically their first visa will be for six months, after which they will be given a renewable one year visa. In order to renew their visa they will need to provide the Home Office with some evidence of

their employment relationship. This is usually a letter from the employer confirming they wish to continue employing the domestic worker, and a form outlining the terms and conditions of the job. MDW's are required to pay tax and national insurance contributions on the money they earn and in turn are protected by UK employment law. They also have free access to primary healthcare.

On paper, it seems that MDWs are protected by law and should enjoy the majority of rights as British citizens. However, in practise, this is not always the case. In 2004, of the 322 newly registered MDW's at Kalayaan, 74 % reported psychological abuse; 82 % reported working over 15 hour days with no days off; 25 % reported physical abuse (being beaten, kicked, or having things thrown at them); and 5 % suffered from sexual abuse. It is not uncommon for MDW's to tell us that their bed is a rolled mat on the floor of the children's room, or even the kitchen floor and perhaps they are not allowed to use the same cutlery and crockery as their employers for fear of 'contamination'. The psychological abuse is most frequently name calling such as 'dog' and 'donkey', but it can also become a much deeper form of psychological control that the employers uses over the MDW. MDW's often have little to no knowledge of the structures that exist in the UK. Many speak hardly any English, and

have had it reinforced to them that they are ‘illegal’, or at least would be were they to leave their employers, and were such a thing to happen the police would catch them and send them home. This problem is magnified when employers withhold MDW’s passports. In many countries this is required by law; however, when an employer withholds a MDW’s passport in the UK, they are prohibiting them from accessing basic services such as healthcare.

Maternity rights and the Migrant Domestic Worker

Kalayaan has recently registered a number of MDW’s who have become pregnant whilst in the UK. As stated above, MDW’s are protected by UK employment law, which includes statutory maternity pay, protection against dismissal and against sex discrimination. They are also deemed as ‘ordinarily resident’ in the UK, therefore as the Department of Health guidelines state, “Any person living in the UK lawfully and on a settled basis is regarded as a resident in the UK and therefore entitled to free primary medical services.” However, they must be in employment at the time they wish to access medical services.

On paper this could seem confusing. Does somebody have to be actually in employment when they have their baby in order to have free maternity care? Accessing protection prescribed by employment law often requires going to an employment tribunal – are these women in a position, physically, psychologically and status wise, to do such a thing? If the employer has not paid tax and national insurance contributions, does this automatically mean they are not entitled to maternity pay? Is it not unfair that MDW’s bear the burden of unscrupulous employers? These individual testimonies highlight the situations many female MDWs face in the UK.

MDW 1

MDW 1 was given full maternity care by a hospital in the UK. However, after she had the baby, she started to receive letters asking for approx £3000 of payment to cover the healthcare costs incurred. When she had given birth her visa was still valid. Since giving birth, as a result of not being able to work and being unable to pay for childcare costs, her visa had expired. When enquiries were made to the health trust to understand why these charges were being billed to her, their response was that the visa allows her to access healthcare whilst in employment, and it is reasonable to assume that she was not in employment at the time of giving birth’. This was true, her job had been terminated, she was not working anywhere and she was not receiving maternity pay. Immigration lawyers advised that this was inappropriate, even racist, of the health trust to take the hard line. However, they also said in order for her to argue the case it would become public that her visa expired, and she therefore would suffer from the risk of deportation in trying to challenge the health trusts decision. She has now submitted an application to the Home Office to renew her visa.

MDW 2

This MDW had her baby in London. She had separated from her partner, she had little to no financial support and her visa had expired before she had given birth. She has not been billed (to-date) for the medical care she received; however the nurses were concerned about her situation and referred her to social services. Social services wanted to help her return to her home country. The MDW did not want to return to her home country and felt like she was being treated like ‘a criminal’ just after she had had her baby. The pressure from social services, combined with fear and a mixture of emotions caused her to run away from the temporary hostel that social services had provided for her. She then came to Kalayaan for help, but was so afraid that she would not leave any contact details and has not been back since. She had no money and nowhere to live. It was obvious that she required support, her mental health had been seriously affected by the pressures she now found herself in. However, she was only assessed by social services on the basis of her immediate immigration status and the only option presented to her was to return back to her home country.

MDW 3

MDW 3 was working up until the 8th month of her pregnancy. She had been sleeping on the floor, working 7 full days each week, being given inadequate food to eat. She was paid no money for her work, and was very scared and confused. She had already been to see her doctor and been to an antenatal clinic. Her employer asked her to leave when she knew MDW 3 had no other support in the UK. Physically she was not in a position to take her employer to the employment tribunal and the priority was her immediate needs: those of food, shelter and money. Kalayaan helped her access a religious organisation that would provide her with accommodation and support. No other organisation would provide any help. Social services were very unwilling to help: she had no right to access their support as they were under the remit of ‘public funds’, however they do have a responsibility to her unborn child. Again, the fear was that once the baby was born they would support her to return to her country of origin as her only option, or potentially separate her from her baby (whilst this only occurs in very extreme circumstances, the fear alone acts as a powerful preventative measure in accessing their support).



Conclusion

On the one hand, there is a lack of continuity in the support provided to pregnant MDW's as in the example of MDW (1) being the only person who was asked to pay healthcare costs. The potential that healthcare costs could be billed at any point must lead to a very different maternity experience and clouds an already emotionally charged event with insecurity. However, the fact which unites all MDW's is that as a result of their immigration status, they were not provided any post-natal support and the majority were so terrified of the consequences of accessing social services support that it has forced them and their baby into the potentially permanent condition of an illegal migrant. This underground world does not even have the pretence of rights or protection and results in abuse and exploitation being commonplace.

A question we may ask ourselves when reading the case studies is whether these women were acting irresponsibly by having a baby in the first place. But as soon as we pose that question, we have fallen into the trap of classification of rights, and the exclusivity of reproductive rights. If someone is British they have the right to choose to have a child, as well as receiving support, but if someone is not a citizen, then they have a different set of rights. Despite the claims that MDW's are protected by employment laws, these are not as easy to access for a migrant as a British citizen, and can easily become illusory.

The British government is currently revising its immigration policy. This will have significant implications for MDW's such as attaching MDW's to their employer – so in cases of abuse and exploitation the only option would be to return to their country of origin, and possibly reducing any free access to the National Health Service (NHS) on the grounds of their non-acquisition of British nationality. If these policies come into practice we are in grave danger of taking all human rights away for migrants in the UK and in particular MDW's. If the rights that exist to protect MDW's are only an illusion, then we can no longer say that they have these rights and we need to collectively understand that MDW's have become a commodity that is only of interest to us as long as it is useful.

Kalayaan is a UK registered charity established in 1987 to provide advice, advocacy and support services in the UK for migrant domestic workers.

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