

Strategies against Human Trafficking

Current situation

Migrant Domestic Workers are people who have come to the UK with a named employer, on a specific visa, to work in the employer's private household. Since 1998 they have been recognised as workers under UK employment law and so at present are resident in the UK with basic entitlements such as to the NMW, sick pay and statutory holiday. These entitlements however are no guarantee of protection as there are huge difficulties in accessing these rights. It is the lack of knowledge about and access to their rights which leaves MDWs particularly vulnerable to abuse including trafficking: Of the 387 MDWs who registered at Kalayaan between April 05- March 06:

- Physical abuse 23%
- Working more than 16 hours a day 86%
- No private room (sleeping in children's room or else where in house) 56%
- Passport retention by employer 32%

Difficult to say at which stage exploitation as such becomes trafficking. Most (although not all) MDWs seen at Kalayaan have made the economic decision to come to the UK to work to support their families. However the circumstances and conditions under which they work once in the UK are often not what they expected. Most are taken advantage of due to limited bargaining power, others would clearly be defined as trafficked: no payment, no hours of work, no documents nor knowledge of their own immigration status. Sexual abuse of both male and female migrant domestic workers is also common but due to the shame associated with this abuse is seriously under reported.

Migrant domestic workers are particularly vulnerable to abuse for a number of reasons:

The value attributed to domestic work

Of the workers who registered at Kalayaan between April 05- March 06 86% were women. Domestic work in a private household is typically seen as 'women's work'. While it is considered important enough to employ someone full time to do this work domestic work is also often not recognised as 'real' work. It is seen as 'natural' for women to do this type of work so not really considered to be real work with set hours and rates of pay. Many workers who come to Kalayaan describe their work as being 24 hours a day. While this may be physically impossible it may be fair to say they are not far off the mark especially if they do not have their own room or any privacy in the house. Many describe being called by their employer at 2 or 3am and then having to be up with the children at 6am. Some have no day off for months. Often when workers do have time off they are still expected to 'help' in the house or entertain the children.

The gendered assumptions around domestic and care work also causes huge problems for the minority of men who are migrant domestic workers. Their immigration status binds them to full time domestic work in a private household but any man who does this type of work is often not considered to be a real man or is treated with suspicion. It is incredibly difficult for

men to find a full time job as a domestic worker in a private household which they do need in order to renew their visa and they will put up with appalling circumstances in order to comply with their visa requirements. Kalayaan receives reports of both physical and sexual abuse of male domestic workers by their employers. There are huge taboos around these issues which often remain unreported and there is little support available.

Dependency on employers & Unequal power relations in the private household.

At present MDWs are recognised as workers and are in principle entitled to protection under UK employment law. The possession of a domestic worker visa does not however guarantee legal rights.

Migrant domestic workers are dependent on their employer for all information about their immigration status, and frequently do not even know the type of visa on which they came to the UK. We find that often employers deliberately lie to their employees; telling them they are not allowed to leave their employment and if they do so they will be illegal. They warn them against the police who they tell them will beat or rape them if they catch them.

Migrant domestic workers are also dependent on their employer for many practical aspects of their lives. They live in their employer's house, are dependent on them for work, and for the annual renewal of their visa. They are often very isolated and may know no one in the UK. They are not entitled to public funds and so liable to destitution when they leave an employer. This means that workers will often only leave an employer when abuse is extreme or they are not paid for a long period so have been unable to send money to their family.

Strategies to protect migrant domestic workers against trafficking

Kalayaan works with domestic workers to empower and inform them about their rights through individual advice sessions as well as workshops and training courses such as 'Your Rights at Work' run together with the TGWU. Regular ESOL classes and the social area at Kalayaan provide opportunities to share information and build up a support network.

Kalayaan also provides phone and online information for employers to inform them about their obligations. We also deal with employers at the initial stages of complaints from workers- to retrieve passports or unpaid wages.

Kalayaan also works with authorities such as the police, British Embassies overseas, Law Centres and tribunals, and NMW Compliance team to enforce workers rights. Some of this work is to provide information about MDWs rights and the obligation to protect these workers. We have developed a standard procedure with the Met police for when passports are withheld where we first call an employer to inform them they are breaking the law. If this doesn't work we follow up with a standard letter with both Kalayaan and the Met logo. Finally we will report the passport as stolen to the police although this is not without complications as often the police will decide the passport was 'given for safe keeping'.

The key to all of Kalayaan's current work to protect migrant domestic workers is that MDWs are allowed to leave an abusive employer without breaking the law. It is only ever once they have left an employer that they can access any of the limited protection available to them.

The government is however planning to remove this very protection.

Proposed changes to the migrant domestic worker visa were announced to Kalayaan in March 2006 as part of the five year strategy 'Making Migration Work for Britain' and if implemented will completely reverse the rights which were granted by this same government

in 1998 in response to the shocking levels of recorded abuse of MDWs by employers. This is in direct contradiction to the government's stated concern to protect victims of trafficking.

Since migrant domestic workers are already so vulnerable to trafficking and other abuse it would seem logical to ask why Kalayaan is arguing to maintain the current visa:

If the visa were to be scrapped MDWs would continue to be brought to the UK, but they would be brought illegally, this would criminalise them and make them even less likely to be able to access any legal protection.

The proposed changes are to bring migrant domestic workers to the UK outside of the PBS on an amended 'business visitor' visa. This will remove the right to change employers and will not be renewable after the first 6 months. The employer will be responsible for ensuring the worker leaves the UK at the end of this time. There are indications that migrant domestic workers will not even be recognised as a worker under the proposed system.

It is difficult to see how any worker on such a visa, so dependent on their employer who holds the threat of deportation over them, will have any access to legal protection in practise.

Kalayaan has described the proposed changes as legalising trafficking as they will make it virtually impossible to challenge any maltreatment or abuse, and will indeed encourage it. The power the employer has over the worker will be greatly increased. The only option to escape abuse will force MDWs into illegality where they will be further exploited by those who take advantage of the irregular immigration status.

The current focus of Kalayaan's work, and our main strategy to protect MDWs against trafficking is to challenge these proposals, to raise awareness of the vulnerability of MDWs and to demand that the lifeline provided by their existing rights remains.