



KALAYAAN

justice for migrant domestic workers

Organising between autonomy and care crisis

Migrant domestic work: Critical review and perspectives of collective action

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Perspectives of organising within and outside trade unions

Abstract

In 1998 the current UK government, in response to the unacceptable levels of abuse of migrant domestic workers (MDWs) in the UK, changed the immigration rules for MDWs, recognising them as workers and granting basic protection under UK employment law including the right to change employer.

This change in the immigration rules, recognised as good practise for workers rights, was a direct result of ten years of organising and campaigning by MDWs themselves (many of whom were undocumented), with the support of Kalayaan and the TGWU (now TGWU Unite). The cooperation and different roles of these 3 entities within the campaign were vital to its success.

Since the campaign was won community organising has taken a back seat to case and individual advice work, resulting in the gradual breakdown of the group of organised domestic workers. The situation is however again changing with the announcement of the UK Government's proposed Points Based System for migration to the UK and increasingly stringent internal immigration controls making the need for collective action clear. The Home Office paper on the points-based migration system, presented to Parliament in March 2006 does not include MDWs. However, on Friday 10th March 2006, the then Immigration and Nationality Directorate (IND) presented their proposals to Kalayaan, which are to again change the immigration rules for MDWs. These changes would restrict domestic workers accompanying their employers to a maximum of 6 months, with no right to change employers and no route to settlement. The implications of such a change would be disastrous for MDWs creating an urgent need for organisation of workers, for individuals to come out from the secrecy of the private households in which they work to speak about their individual experiences and the vulnerabilities resulting from the nature of work in the private household and insecure immigration status.

Introduction

Kalayaan is a small UK charity which works with migrant domestic workers (MDWs) of all nationalities in the UK.

The profile of domestic workers and domestic work is huge and varied. It includes live in and live out work, caring and cleaning. Employment relations are described in any number of ways from 'helping out' to nannies with contracts. Domestic work is also done

by a large profile of people, from British nationals cleaning another families house for a few hours a week to child labourers brought to the UK under the guise of 'family reunification'.

Kalayaan works with a particular group of Migrant Domestic Workers. These are individuals who have come to the UK with a named employer, on a specific visa, to work in the employer's private household. According to Home Office statistics obtained under the Freedom of Information Act, 18,206 Domestic Worker visas for entry to the UK were issued during 2006. During the same year 5,680 MDWs were granted extensions to their leave to remain in the UK indicating that many either enter and leave with their employers within the first 6 months of their visa, or are not applying to renew their visas. Between April 2005 and March 2006 Kalayaan registered 387 new Migrant Domestic Workers (MDWs), a tiny proportion of MDWs who enter the UK, and in the same period 2,494 MDWs accessed advice sessions and support services at Kalayaan.

MDWs are currently recognised as workers under UK employment law and so at present have entitlements such as to the NMW, sick pay and statutory holiday. MDWs also have the right to change employer, but not sector. The right to leave an abusive employer without becoming undocumented is crucial for the protection of this group of workers. Difficulties remain in *accessing* these rights due to a combination of factors which include the isolated and unregulated nature of working in a private house, the fact that domestic work within a private household is frequently not recognised as work, the links between immigration status and access to employment law, the dependency upon one employer for work, housing and immigration status as well as for information. Despite these difficulties, workers in the UK today on the domestic work visa have a lot more to lose than those who entered prior to 1998. The maintenance of their visa, the annual renewal of which is dependent on being in full time employment in one private household, is of top priority and jeopardising the job on the basis of which the visa is renewed is a strong deterrent to organising.

In this paper I will examine the role of organising leading up to the 1998 campaign success for MDWs in the UK. I will then examine the situation in the ten years since the campaign has been won. Finally I will look at the present situation with its current proposed policy challenges in the context of the PBS for migration to the UK. I will examine the responses to these proposals by MDWs themselves, the unions and Kalayaan and the challenges of workers organising in the present context

Nothing to lose- organising undocumented domestic workers

There are many challenges, real and perceived, of organising MDWs: individuals are often undocumented, they are isolated in private households where the employer has direct control over most aspects of their lives, they have little, if any, time to themselves, their work is often not recognised as 'work' and they themselves are denied their identity as a worker. Relationships with employers often become personalised and confused with employers describing workers as a friend or 'one of the family'¹ exploitation is excused as 'helping out' and the workers themselves describing feeling gratitude and debt to employers despite their mal treatment of them. Attachment to family members, particularly children is also common with workers staying in appalling

¹ Bridget Anderson 'Doing the Dirty Work? 2000, Zed Books p122

jobs because they do not want to leave the children. Hours are often not fixed, contracts and payslips are a rarity, and the boundary between work and leisure time is unclear. MDWs come from many different countries of origin, with potential language and cultural divisions and the labour market is highly racialised with employers often employing workers on the basis of race.

Kalayaan (which means 'freedom' in Tagalog, the Philippine language) was established in 1987 by the Commission for Filipino Migrant Workers (CFMW) in response to a significant number of individuals coming to them for support with similar and disturbing problems; reports of having to escape serious abuse perpetrated by employers while the worker was working in 'live in' domestic work in the employer's household. CFMW was already facilitating regular meetings of MDWs of all nationalities to meet regularly to learn about their rights and discuss individual problems. The organised group of undocumented domestic workers which soon formed was called Waling Waling, named after a flower in the Philippines which grows under rocks out of sight. The undocumented status of members meant that there was a lot of fear around organising and meetings happened in secret in different places around London for fear of police raids. It soon became apparent that there was also a need to campaign for the rights of all overseas domestic workers and specifically for the recognition of their status as workers with an immigration status independent to their employers. For this reason Kalayaan was formed as the official face of Waling Waling which could campaign publicly.

The campaign, which eventually led to a change in the immigration rules for MDWs in the UK, is an excellent example of the success which can be achieved when workers are organised. The Transport and General Workers Union (TGWU) gave particular support to the campaign, in no small part due to the individual commitment of key workers within the Women and Equalities section of the TGWU. The union gave confidence and status to groups of incredibly vulnerable workers who had previously been isolated and unrecognised. The TGWU recognised MDWs as workers and issued them with union cards; important for the feeling of legitimacy and identity for workers who often had no passports. The union also had important political links with key politicians and connections to the Labour party which was then in opposition. The workers themselves provided real data and evidence for the campaign; many spoke publicly about their abuse despite their undocumented immigration status; at least 600 MDWs were union members and thousands of MDWs reported abuse to Kalayaan allowing them to build up robust and shocking evidence pushing for the need for protection and basic rights.

Kalayaan in turn became a centre where workers could meet, attend English classes, cook meals and develop informal support networks- vital for individuals isolated within the private household. Knowing other workers they could rely on meant that they would have somewhere to stay when they left an employer or were kicked out, Kalayaan was the front which could negotiate with Government and policy makers on the workers behalf, work with the media, and collect and document evidence of abuse by employers in order to pressure the Government as to the need for MDWs to have an independent immigration status.

Processing success

In 1997 the Labour government was voted into power in the UK and in 1998 they were persuaded to make good their commitments to MDWs in the UK. From this point MDWs had a visa independent to that of their employers, allowing them to leave an abusive employer without breaking the immigration rules. There was also a 'regularisation process' for many of the workers who had clearly come to the UK with an employer, had run away and were now undocumented. Regularisation was not however automatic, it had to be applied for and workers had to prove the manner in which they entered the UK (no small matter if you have no passport). One of the proofs the Home Office accepted was registration with Kalayaan. This process had big implications for the work of Kalayaan which underwent a shift from campaigning and organising work to intensive casework in order to process around 5,000 regularisation applications, leaving little capacity or resources to continue to campaign.

The regularisation approach itself could be seen as facilitating divisions between MDWs because it was based on workers who had been given "accompanying employer" visas. In fact the visas issued to MDWs under the 'immigration concession' prior to 1998 appears to have been quite random with MDWs being given a wide range of visas based on the practise of immigration officers at the border and their perceptions of the worker, not to do with any difference in the work performed. This meant that certain nationalities were given accompanying employer visas while others were given family member or visitor visas. The implications of this were that certain nationalities found it easier to access regularisation than others leading to resentment and division along national boundaries.

This change in roles inevitably changed the relationship between Kalayaan, individual MDWs and the union. There was no longer one clear common goal. Kalayaan, which was originally set up as the public campaigning face of MDWs became an increasingly professionalised advice and support organisation with specialist immigration knowledge on MDWs. The nature of advice work, while often necessary, is not empowering for MDWs, as workers are seen individually and the advice worker takes on much of the responsibility for the worker rather than encouraging group support and advocacy.

MDWs, now regularised, focused on keeping their immigration statuses in order (which meant keeping their jobs sometimes at the cost of their rights), working hard, sending remittances home and not speaking out. Increased rights led to a shift in priorities, for example the right to family reunification meant that people spent a lot of time arranging for their family to come, and then became focussed on their family relationships and arrangements- with no more Sundays to organise as childcare beckoned. Little time off and the need not to be seen as 'troublemakers' meant that union membership and participation waned. Where individual workers remained members the relationship was about the union supporting those individuals (winning one case for 50,000 euros). Without the common goal there were also increasing splits within the group of previously organised domestic workers, often along national boundaries

From case work to campaign

The Home Office paper on the points-based migration system, presented to Parliament in March 2006² does not include MDWs. However, on Friday 10th March, the Immigration and Nationality Directorate (IND) presented their proposals to Kalayaan, which are to restrict domestic workers accompanying their employers to a maximum of 6 months in the UK, with no right to change employers and no route to settlement. This is effectively a return to the situation pre 1998 and will facilitate trafficking for labour exploitation, will mean an increase in abuse and 'illegality' and will remove all access to UK employment law for MDWs who will no longer be recognized as 'workers'

The TGWU, and the Trade Union Congress (TUC) pledged their support for MDWs and opposition to the government's proposals as soon as they were announced. This was highly significant: not only do the unions have a lot of political power and influence in the UK, they also have far greater resources and capacity for campaigning than Kalayaan and they were prepared to advocate for a group of workers despite the now low number of members. The issue of membership marks an important shift in the working of unions, and one which is necessary if unions are to organise the most marginalised workers in the UK: migrant workers with little or no experience or knowledge of unions. These workers do not have the means to pay membership dues and show their loyalty to the unions before they receive support, instead the unions need to act for the workers before they are members, and in turn, demonstrate to the workers the reasons for becoming involved in the unions.

Creating a 'community'

It may be tempting to dismiss organising individuals within private household as too challenging. Yet experience shows that organisation can happen, and to great effect. However it does need to be worked at and it needs committed leadership. There is no automatic 'community' of domestic workers, this needs to be built by emphasising shared experiences and the power of solidarity. There is no doubt that it is a huge risk and a sacrifice for individual MDWs to speak out about their abuse by employers, and that while speaking out may well help MDWs as a group, or immigration category, it is unlikely to be of direct benefit to the individual worker. Crucial to the organisation of MDWs in the UK has been the existence of a safe space to meet with other workers and build informal networks, the support of a flexible union which understands that workers in insecure jobs with no bank accounts cannot pay regular membership dues, and which will offer services to all vulnerable workers, including those who are not yet members. Also key have been joint Kalayaan and union initiatives including training and education opportunities for MDWs such as English classes which give workers a space for personal development and independence from their employers, training on employment and other rights. The support of the unions has also been key in facilitating platforms, through the media but also at events and fringe meetings where MDWs can speak out, in a safe environment, to other workers about their experiences and build on the resulting solidarity and support.

² 'A Points-Based System: Making Migration Work for Britain'. March 2006