

Court of Appeal judgement rules that diplomatic immunity is upheld, leaving diplomatic migrant domestic workers employed by diplomats without a remedy

5 February 2015

Kalayaan intervened in a case in the Court of Appeal concerning a migrant domestic worker found to be trafficked by a diplomat and her claim for compensation.

The case *Reyes & Anor v Al Malki* is a claim against a Saudi Arabian diplomat and his wife. The Claimants, who were employed successively in the diplomat's household and who have both been found by the UK Competent Authority to have been trafficked for domestic servitude, are represented by the Anti Trafficking and Labour Exploitation Unit (ATLEU) who instructed Paul Luckhurst of Blackstone Chambers.

Kalayaan, a charity which gives support and advice to migrant domestic workers in the UK instructed Zubier Yazdani & Silvia Nicolaou Garcia of Deighton Pierce Glynn solicitors and Tom Hickman of Blackstone Chambers for their intervention. The Judgement, handed down on the 5th February 2015, has upheld the diplomats' immunity, denying the claimants recourse to pursue claims through the employment tribunals. The claimants are appealing.

The case was heard together with *Janah v Libya*, *Benkharbouche v Sudan* in which the claimants, also domestic workers, challenged State immunity, seeking a declaration of incompatibility between the State Immunity Act 1968 and the claimants EU law rights. In a potentially groundbreaking judgement this decision of incompatibility was granted.

Zuber Yazdani said 'Despite the UK recognising that the Appellants were subjected to treatment amounting to trafficking the Court has denied them a remedy preferring to uphold the immunity of a diplomat. Trafficking is inherently a commercial activity and has nothing to do with the functions of a diplomat. It would seem outrageous to anyone that the law should defend such abhorrent conduct. This is a disappointing decision from the Court which will no doubt be appealed.'

Kate Roberts, Community Advocate at Kalayaan said that 'Kalayaan continues to advocate for justice for all migrant domestic workers, including those employed and trafficked by diplomats. The Reyes judgement and the fact that these individuals have not been able to pursue justice through the courts due to their employer's claim to immunity further demonstrates the need for the UK to have domestic policies which protect all migrant domestic workers. Currently all migrant domestic workers are tied to their employers in law. This has been found by both the Joint Committee on the Draft Modern Slavery Bill and the Joint Committee on Human Rights to facilitate their exploitation including trafficking. The UK needs to have legislation in place which allows domestic workers to change employers. For those employed in diplomatic households there needs to be enforceable contracts in place directly with embassies.'