

# The New Bonded Labour?



The impact of proposed changes to the UK immigration system on migrant domestic workers

## **Acknowledgements**

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## **The New Bonded Labour?**

### The impact of proposed changes to the UK immigration system on migrant domestic workers

Every year around 17,000 visas are granted to domestic workers from non-EU countries to accompany their employers to the UK. Prior to 1998, there was no formal route for migrant domestic workers (MDWs) to enter the UK. They were given leave to enter either as a visitor, a family member, or given a stamp 'to work with...' This meant that they were not formally recognised as workers, leaving them extremely vulnerable to exploitation by their employers and others.

In 1998, the government recognised that the documented levels of abuse and exploitation of MDWs entering the UK with their employers was unacceptable. It introduced new policies to protect this category, and the domestic worker visa. This gives MDWs the protection of UK employment law and allows them to change employer, as long as they continue to work within a private household. The majority of domestic workers are women. Working within the private sphere of the household, they remain a vulnerable migrant group. Instances of psychological and physical abuse are commonplace.

The British government is proposing changes to the immigration system, which could entail eliminating the domestic worker visa. One proposal is to allow domestic workers to come to the UK as 'business visitors', on a six-month non-renewable visa. They would have no possibility of changing employers and no protection under employment law.

These arrangements will return MDWs to the situation of abuse and exploitation that existed before 1998. With no possibility of leaving, they will be tied to their employers, and unable to leave exploitative situations.

## Executive summary

Migrant domestic workers (MDWs) are a particular group of non-EU migrants who enter this country accompanying a specific employer to undertake a range of different activities within a private household ranging from housekeeping to care work, and other tasks. The domestic worker visa allows these migrants to apply to renew their visa every year and change employer, as long as they continue to work within a private household. They may apply to settle in the UK after five years of full-time continuous employment, in addition to passing an exam to show knowledge of citizenship and English. According to Home Office figures, over 85,000 people entered the UK on a domestic worker visa between 2002 and 2006. Around six per cent have remained in the UK for longer than a year. These workers come from a variety of developing countries, such as India, the Philippines, Sri Lanka, and Indonesia, whilst their employers are mainly Middle Eastern, Indian, or British.

Kalayaan, a small advice, support, and campaign charity based in London, which works exclusively with migrants on domestic worker visas, led a campaign from the early 1980s resulting in the current domestic worker visa. This grants MDWs basic immigration and employment rights. It represents a safety net for victims of abusive employment situations.

Under the points-based system (PBS) for immigration to the UK, the British government proposes to eliminate the domestic worker visa, within a wider reshaping of the whole immigration system. The PBS has started to be phased in from early 2008. Under the proposals, domestic workers will enter the UK as 'domestic assistants', on a modified business visitor visa.

They will only be allowed to remain for six months. They will be unable to change employer. Moreover, they will lose all access to employment rights.

Kalayaan, together with Oxfam, Unite (previously the Transport and General Workers' Union), the Trade Union Congress (TUC), Anti-Slavery International, Amnesty International UK, and others, are calling for the proposed changes to the domestic worker visa to be dropped and for the current system to be retained.

The core problem behind the new proposals is that they do not take into account the inherent vulnerability of MDWs to abuse and exploitation. This is due to the isolated, dependent, and unregulated nature of work in a private household, combined with gender and racial discrimination. Each year, Kalayaan collects data on hundreds of MDWs when they approach the organisation for the first time and are registered (an average of over 350 MDWs a year). We have found that physical and psychological abuse is widespread. On average, over 80 per cent of MDWs registering at Kalayaan each year are women. At least ten per cent suffer sexual abuse at the hands of their employers. Living and working conditions are extremely poor, as many domestic workers are not given a bed or allowed regular meals.

Often, employers unlawfully keep their workers' passports. This is a criminal offence. Moreover, it deprives MDWs of their only form of identification, preventing them from accessing a series of services. Apart from the psychological control employers maintain over workers through the use of threats and scare tactics, MDWs are disadvantaged by the fact that they are highly dependent on their employers for their continued legality and housing in the UK.

Another kind of dependency also works against MDWs: it is not unusual for them to send money to their families. These remittances are sometimes essential for the bare survival of up to 15 people in the worker's country of origin.

The current system of domestic worker visas entitles MDWs to a series of rights and services, providing an essential safety net against the most extreme forms of abuse. Immigration rights

give MDWs independent immigration status (although they are still dependent on being in full-time employment in order to apply to renew their visa). They are also entitled to apply for settlement after five years, provided they pass an exam demonstrating knowledge of citizenship and English. Employment rights allow MDWs to take action against employers if they are overworked or underpaid. MDWs also have the right to access health care. This is essential, taking into account the general poor working conditions and high levels of stress and anxiety to which many MDWs are subjected.

The success MDWs have in accessing these rights is varied. The overarching problem – a lack of information – is still widespread. Most MDWs are unable to find protection because they are not informed of their rights and the conditions of their visa. Even when they are informed, they face additional barriers. They may not be fluent in English or accustomed to dealing with bureaucracy and government officials. At the same time, government officials, immigration officials, police officers, embassy workers, and healthcare practitioners are often misinformed as to the specific situations and vulnerabilities of MDWs. They are often unable to help them when they are in abusive employment situations.

Nonetheless, the rights to leave an employer, renew a visa, settle in the country, and access a full range of employment rights and health care are vital for the migrants' well-being. Under the new system, these immigration and employment rights will completely disappear, leaving MDWs without any protection against abuse. Not being able to change employers translates into an increased number of cases of abuse and exploitation, as MDWs will be trapped in one household. Leaving that household will make them illegal, a powerful tool of control for employers. Illegality among MDWs will grow, as more and more workers will end up staying longer than the six months allowed by their visa. This will be through no fault of their own. The situation will arise because they do not know they are meant to leave after six months, or because they will be forced to stay by unscrupulous employers. Additionally, MDWs will not be recognised as workers by law. There will be no legislation instructing employers about the terms of employment of domestic workers; employers will be free to keep their workers in conditions akin to slavery.

The new system will increase the risk of trafficking, as it will allow employers to recruit MDWs abroad for purposes of forced labour in the UK. This will occur without the existence of any protection for workers or punishment for employers.

The government has said that better checks at the pre-entry phase and at the port of entry will be used to prevent exploitation. This is unrealistic: statistics collected upon registration at Kalayaan in 2006 and 2007 indicate that the record of interviews in terms of identifying 'bad' employers has been particularly poor. Kalayaan firmly believes that there is no actual method of identifying 'bad' employers prior to entry. The best solution to the plight of MDWs is to protect them in law, so that they can escape abusive situations if need be.

This briefing paper therefore suggests that domestic workers should remain outside of the new PBS for immigration to the UK. They should retain their existing rights as workers with the ability to change employers within the sector. They should be supported in accessing these rights. First and foremost, more information must be disseminated among MDWs themselves and the groups with which they are involved whilst in the UK.

The proposals to remove the rights of MDWs contradict the government's current commitments to protect victims of trafficking and work towards ratification of the Council of Europe Convention on Action against Trafficking in Human Beings. Arguably, it will also result in the contravention of the Universal Declaration of Human Rights, with respect to the rights to safety, to not be enslaved, to not be treated in a degrading manner, to an adequate standard of living, and to equal access to protection in law.

## **Conclusion and policy recommendations**

This paper concludes that it would be highly dangerous to eliminate the protections currently provided in the UK for MDWs. Doing so would effectively legalise their abuse and exploitation. Ultimately, it would allow and encourage forced labour. This is against the Home Office's stated policies to protect victims of trafficking. MDWs are extremely vulnerable to abuse and need to be protected in ways which would be impossible, were the 'domestic assistant' visa to be implemented. It is our belief that migration must work for the workers, and that the proposed system of a modified business visitor visa will not work for MDWs.

### **We make the following recommendations to maintain and improve the rights of migrant domestic workers:**

- ◆ MDWs remain outside of the new points-based approach to immigration into the UK; the current system of migrant domestic worker visas is maintained.
- ◆ MDWs retain the right to change employer, often the only safety net against the unseen abuse and exploitation taking place within the household. To remove this basic right would effectively deny MDWs the right not be held in slavery or servitude, in contravention of Article 4 of the Universal Declaration of Human Rights.
- ◆ MDWs continue to be recognised as workers in the UK. As such they continue to be protected by employment law, able to take action against abusive and exploitative employers, especially in the context of the government's current commitment to combat trafficking and forced labour, as demonstrated by their signatory to the Council of Europe Convention on Action against Trafficking in Human Beings.
- ◆ MDWs maintain the right to apply for visa renewal from year-to-year, provided that they remain in full-time employment in the same sector. This will ensure that MDWs remain legal and visible while in the UK. By limiting MDWs' stay to six months, there is a great danger that exploitative employers will force MDWs to overstay their visas in order to take advantage of their irregular immigration status.
- ◆ A route to settlement should remain open to MDWs, currently able to apply for Indefinite Leave to Remain (ILR) after five years in the UK.
- ◆ The current system should be improved, particularly by promoting active dissemination of information among MDWs by UK missions abroad. This would ensure that MDWs are aware of their rights and duties when they enter the country.
- ◆ Training embassy workers, immigration officials, and police officers is necessary so that MDWs are not faced with prejudice when they do seek help to escape abusive employment situations. This would decrease their vulnerability, as officials at every step of the immigration process would be aware of MDWs' specific issues.
- ◆ Better information should be given to health workers to address the obstructions MDWs face when attempting to access health care.
- ◆ Whenever a new domestic worker visa is issued, UK visas should enforce registration of new employers with the Inland Revenue. The Inland Revenue would then be able to ensure that National Insurance and tax contributions for the domestic worker are paid, thus increasing employers' responsibility, and decreasing the chances of MDWs being blamed for a situation over which they have no control.

### **Data sources**

This paper is based on qualitative and quantitative data, obtained by Kalayaan over the last two years.

Statistics have been produced from the Kalayaan registration database, which contains data on 327 migrant domestic workers for 2006 (January to December) and on 213 migrant domestic workers for 2007 (January to mid-August). This data was obtained during registration interviews with MDWs which Kalayaan undertakes in order to advise them on whatever issues they may have.

Additional quantitative data was obtained by distributing questionnaires among MDWs at Kalayaan in July and August 2007, resulting in 49 completed questionnaires.

Qualitative data was obtained during interviews conducted with 13 domestic workers and two community support workers at Kalayaan from July to September 2007.

# 1 Migrant domestic workers: definitions and context

## 1.1 The domestic worker visa in the UK

Wealthy families from all over the world often enter the UK accompanied by one or more migrant domestic worker (MDW). MDWs who wish to enter with employers are granted a domestic worker visa. This visa can be obtained on satisfying several conditions. MDWs must have spent at least one year in the employment of the person(s) with whom they are entering the UK, and they must be between 18 and 65 years of age. Moreover, the employer must provide a written statement of the terms of employment of the domestic worker, and a written undertaking that the employee will be able to maintain and accommodate herself without recourse to public funds (meaning that the employer must either provide accommodation and food, or a salary high enough for the worker to rent accommodation and buy food). This visa can be renewed by MDWs every year, as long as they remain in continuous full-time employment in a private household for the duration of their stay in the UK. After five years in the UK, and having demonstrated knowledge of life in the UK<sup>1</sup> and Citizenship, MDWs are allowed to apply for Indefinite Leave to Remain (ILR), and can settle in the country. Most importantly, MDWs are allowed to change employer in the case of abuse or exploitation without forfeiting their leave to remain.

As shown in Table 1, over 85,000 domestic worker visas have been issued in the past five years; some of these applications might be from the same individuals re-entering the country several times. Initially domestic worker visas are usually given for a period of six months or a year. In order to remain in the UK, people on the domestic worker visa must therefore renew their visa before it expires; and thereafter every year, until they have been in the UK for five years (when they can apply for ILR).

As shown in Table 2, 5,680 people were granted extension of leave to remain on a domestic worker visa in 2006; a very small percentage (six per cent) of all people entering the UK on a domestic worker visa in the last five years have stayed in the UK for longer than a year. There is consequently no evidence that the domestic worker visa is being used as a route to settlement.

Table 1. **Domestic worker visas issued for entry into the UK from 2002 – 2006<sup>2</sup>**

Period	Domestic worker (diplomatic)	Domestic worker (other)	Domestic worker (visitor)	Total
2002	Estimate based on average for following 4 years			17,361
2003	228	989	15,977	17,194
2004	223	1,080	15,598	16,901
2005	235	1,389	15,519	17,143
2006	324	1,615	16,267	18,206
<b>2002 to 2006</b>				<b>86,805</b>

Table 2. **Grants of an extension of leave to remain in the UK as domestic workers in a private household and private servants of diplomatic household, 2006<sup>3</sup>**

Year	Number of decisions	% of visas issued in last 5 years
2006	5,680	6

### 1.2 Definitions

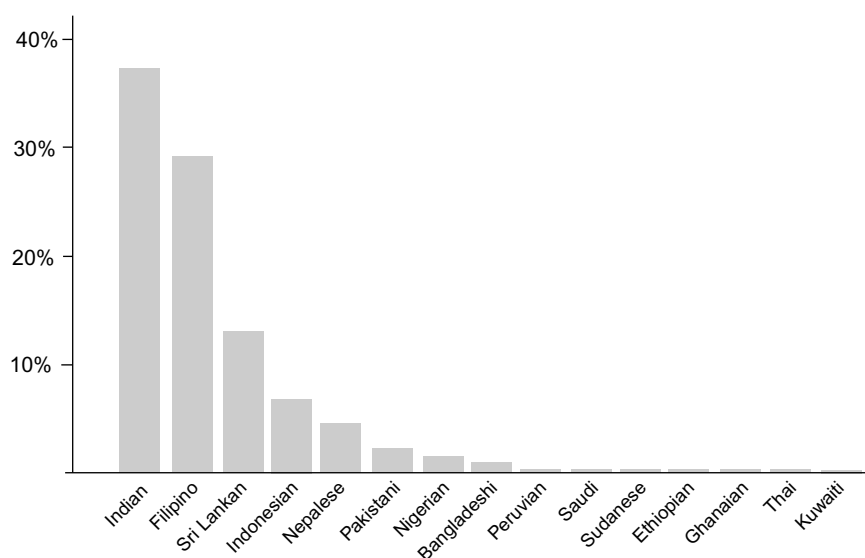
Domestic workers do a variety of different tasks, sometimes simultaneously. Their roles include housekeeper, nanny, caregiver, driver, gardener, dog-walker, and cook. One of the major tasks seldom taken into account is care work within the household, both for children and elderly people. This forms a large component of the jobs of MDWs in the UK.<sup>4</sup>

Kalayaan only represents a proportion of domestic workers: those who enter the UK with their employers on a domestic worker visa. MDWs tend to have a wide range of immigration statuses, depending on their home country and the tasks they undertake. This paper therefore uses the term ‘migrant domestic worker’ in a narrow sense to denote MDWs who have entered the UK on domestic worker visas.

### 1.3 The nationality of workers and employers

Domestic workers registering as service users with Kalayaan come from the poorest countries in Asia and Africa, with four nationalities standing out. In 2006, out of the 312 MDWs registered by Kalayaan who gave information on their nationality, 38 per cent were Indian; 30 per cent, Filipino; 14 per cent, Sri Lankan; and a further seven per cent were Indonesian. The remaining 11 per cent came from a variety of countries and continents.

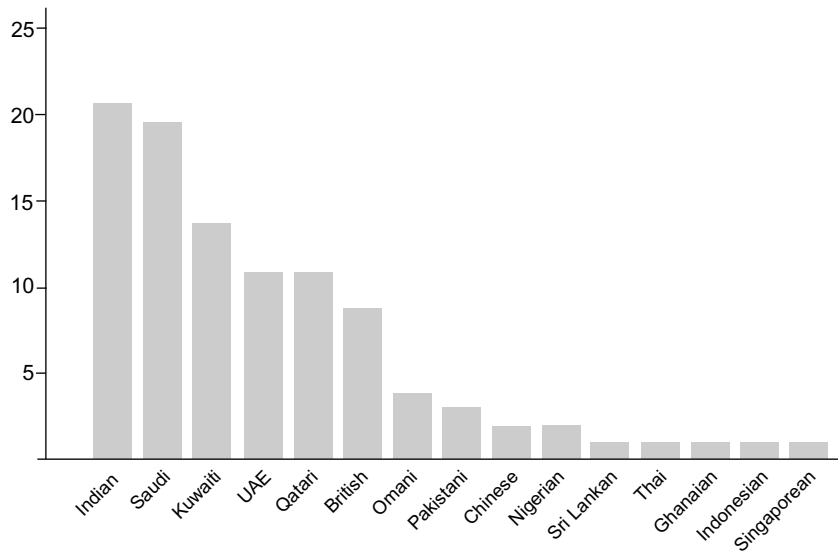
Figure 1. **Nationality of MDWs registered by Kalayaan in 2006\***



\*Statistics produced using Kalayaan’s registration database for 2006 (N = 312).

Employers who bring domestic workers into the UK also come from many different countries. We term these 'first employers' to distinguish them from second and subsequent employers. Immediately apparent is that a vast number of 'first' employers come from various Middle Eastern countries (around 59 per cent). This is because the majority of MDWs from the developing world (especially from Sri Lanka and the Philippines) actually initially migrate to the Middle East, where demand for domestic workers is highest. A further 21 per cent of employers are from India, whereas British employers represent nine per cent of the total sample. The remaining 11 per cent come from a variety of countries.

Figure 2. **Nationality of employers of MDWs registered by Kalayaan in 2006\***



\*Statistics produced using Kalayaan's registration database for 2006 (N = 312).

No data is available about the nationality of second and subsequent employers. However, most of Kalayaan's clients, having left their first employers, find live-in work in private households in London.

In the UK, demand for domestic workers and carers is attributed to the increasingly nuclear nature of the family, the consequent lack of extended family to help with child care, the movement of women into employment, the emergence of new lifestyles, and an ageing population, increasing the need for carers. Demand for care work, in particular, has increased because of the government's encouragement of care within the home, and the diminishing state provision of care.

Migrant domestic workers are specifically in demand for reasons connected with the labour market: they tend to offer a more affordable option for domestic work and care within the home; they are more flexible and available: they have no commitments as their families are usually not close by.<sup>5</sup>

#### 1.4 Kalayaan and the first campaign

From 1980 onwards, migrant domestic workers were admitted into the UK under a concession which permitted wealthy employers to bring their domestic workers into the country as 'visitors' or as 'persons named to work with a specific employer'. In reality, MDWs entered the country under a variety of visas. But they were always extremely dependent on their employers. They suffered much abuse, including non-payment of wages, long working hours, physical and psychological abuse, sexual abuse, confiscation of passports, and threats of imprisonment and deportation.

In 1980, the Commission for Filipino Migrant Workers (CFMW) was established. From 1982, MDWs approached the centre with similar problems. They had run away from their employers because of abuse. In so doing, they had become 'illegal' with no rights at all in the UK. They were deemed by

the Home Office to be here illegally, and could be picked up and deported without reference to anyone.

In 1982, CFMW called together a group of these workers and facilitated the establishment of their own organisation. By 1984, an organisation of unauthorised migrant domestic workers of all nationalities called Waling-Waling was established (possibly the first of its kind in the UK). This organisation worked closely with CFMW learning about the policies that created their 'illegal' status in the UK. Waling-Waling was able to offer practical help and support to new 'runaways', finding jobs and accommodation for them, organising trips, outings and discos; and generally enabling them to live and work with dignity in the UK.

By 1987 it had become evident that the policies would not be changed without a high-profile campaign. A voluntary organisation, Kalayaan (a Filipino word meaning 'freedom') was established in London, specifically to campaign to change the legislation relating to migrant domestic workers.

Kalayaan immediately set about publicising the situation of this vulnerable group of workers. The media took a keen interest in the issue because of their slave-like conditions. Several programmes were broadcast on the subject, both on television and radio. All the major broadsheets highlighted the issue with interviews with migrant domestic workers and members of the campaign group.

Support was generated from a broad spectrum of organisations including the trade union movement, the church sector, and migrant and refugee organisations. In the late 1980s, the Transport & General Workers Union took up the issue seriously and worked alongside Kalayaan and Waling-Waling, using the parliamentary system at both local and European levels.

The campaign demands were that MDWs be admitted to the UK as workers with the rights to change employer and apply for ILR; finally, that all MDWs who had entered the country and subsequently become illegal should be legalised.

After a ten-year campaign, the Labour Party came into government and basic rights were given to this group of workers, meeting the campaign's demands. In 1998, the government instituted the current system of domestic worker visas, first as a concession, and later by changing their immigration status.

Since then, in addition to continuing its advocacy and campaign work, Kalayaan has been offering a wide range of free services to MDWs, including face-to-face advice on immigration and employment rights, support with emergency accommodation, training, English classes, and social events.

### 1.5 The points-based system

In March 2006, the government unveiled its proposals for a new points-based approach to managing the flow of migrants coming to the UK. The new scheme, which has started to be phased in from early 2008, is a central part of the government's five-year strategy for asylum and immigration, published in February 2005.

As the proposals stand, MDWs do not fall within the points-based system (PBS). However, at a meeting with Kalayaan on 10 March 2006, the Immigration and Nationality Directorate (IND) proposed that MDWs enter the UK on an amended business visitor visas, as 'domestic assistants', rather than as 'domestic workers'. MDWs will therefore lose all protection under employment law as they will legally not be considered workers. They will be unable to change employer, even in cases of severe abuse. The six-month visa on which they enter the country will be non-renewable. At the end of the six-month period, the worker will be expected to leave the UK, with no possibility of accessing a route to settlement in the country.

## 2 The current situation of MDWs

Support workers at Kalayaan regularly experience the arrival of domestic workers who have run away from their employers taking nothing with them, with no passport and nowhere to stay.

### Case study one: Ramani, India<sup>6</sup>

Ramani is 40 and comes from India. She has been a domestic worker for almost ten years, and worked in Singapore and India before arriving in the UK in 2005.

Ramani was psychologically abused by her first employer in the UK, who told her 'we have the money, we have the power; you have no rights'.

This exemplifies the kind of power employers have over domestic workers. Ramani had no idea what her rights were when she first arrived in the UK. So she believed her employer and her threats. She was told, for example, that if she left the house she would be kidnapped and raped. She suffered serious racial abuse. She was frequently threatened with physical violence, and was never paid the £270 a week she was promised.

After less than four months with this employer, Ramani ran away, only to find a second employer who also abused her psychologically and shouted at her constantly. The employer's husband sexually molested her at night, coming into her bedroom which did not have a lock. She was promised £300 a week. But she was not paid regularly and is still owed a large sum of money.

Ramani tolerated it for five months, so she could obtain a recommendation letter and renew her visa. Her third employer treated her better, but she was still overworked and underpaid as she often had 24 hour shift being a carer for a woman with Alzheimer's disease. Ramani must continue to work. 'Employers are bad, but too many mouths [are] dependent on me', she says.

Ramani's story is not untypical. Some indication of this can be seen from the data below.

Table 3. **Conditions of work for MDWs registered by Kalayaan in 2006\***

Conditions of work	2006 %
Physical abuse	26
Psychological abuse	72
Sexual abuse**	10
No own room	61
No own bed	43
No regular meals	41
No meal breaks	70
No time off	70
Not allowed out of the house	62

\*Statistics produced using Kalayaan's registration database for 2006 (N = 312).

\*\* Sexual abuse is consistently underreported by MDWs, so the real percentage may be much higher (see section 2.3).

As will be explained, MDWs are an extremely vulnerable group of people. Therefore poor working and living conditions prevail. MDWs find themselves at the intersection between two vulnerable and self-reinforcing positions: as workers within the household, and as female workers. Since they work within the household, it remains difficult for the government to monitor the conditions in which they live and work; government intervention within the home is still seen as an invasion of the private life of families. At the same time, the majority of MDWs are female (76 per cent in 2006 and 83 per cent in 2007).<sup>7</sup> Many do not speak English and are therefore dependent on their employers for information. This often means they are unable to access information, services, and help.

### 2.1 Psychological abuse

Psychological abuse, including shouting, insults, in particular of a racist nature, and threats to the worker or the worker's family are highly prevalent among migrant domestic workers: 72 per cent of workers registered at Kalayaan in 2006 stated they had been psychologically abused.

Employers can instil in workers such fear of the outside world that they will almost certainly be too frightened to escape. In most cases, this is combined with their not being allowed to leave the house. Additionally, poor knowledge of English and British customs may leave MDWs unable to deal with the world outside the household. Combined with employers maintaining that if the worker leaves, she will be arrested by the police and sent home, thrown into jail, or raped by unknown men, this means that workers can be at the mercy of their employers and dependent on them for everything. Analyn's case illustrates the fact that these threats actually have some consequence, and the only option may be for the worker to escape.

#### **Case study two:** Analyn, Philippines<sup>8</sup>

Analyn is 52 and comes from the Philippines. She is separated from her husband and is looking after her two sons, aged 17 and 27, who still live in the Philippines. Her younger son is still in school and wants to go to university. Her elder son is unmarried and works as a waiter, earning too little to provide for himself and his brother.

She first left the Philippines in 1986 to be a domestic worker in Hong Kong. But she left after six months because her employer sexually abused her. In 1993, she decided to migrate again because her then husband was not earning enough as a bus driver to provide for the family. She found a wealthy and powerful employer in Saudi Arabia thanks to an agency. She was only sleeping three to four hours a night and being paid just US\$300 a month, but she stayed, as it allowed her to send some money home to pay for the everyday necessities of her family: food, rent, and education for her sons.

The problems started when she was assigned as a nanny to the granddaughter of her original boss. The previous nanny had ended up in prison because of allegations made by the child that she had hit her. When the family moved to the UK, Analyn grew increasingly scared as the child started to tell lies to the family, claiming that Analyn had beaten her and shouted at her. Her employers rapidly became more abusive, shouting racist insults and threatening her. Analyn became so scared for her safety she decided to flee.

She is now living in London with a fellow domestic worker whom she met on the street. She is looking for another job. She says she will never go back to Saudi Arabia again, as she knows her former employer is powerful and would have her killed. In the UK she has peace of mind, knowing that she is protected by the law.

Such threats continue to influence MDWs even after they have run away. For example Chitra, another MDW interviewed at Kalayaan, said that when she contacted an MDW who worked for the same employer from whom she had run away, she was told that the employer was going to give photos of her to the police in the major Indian airports, so that when she returned she would be arrested for allegedly stealing from them.<sup>9</sup>

A number of workers interviewed report that they were constantly shouted at for not working properly, even when they were doing so, for example:

...she's shouting [...] someday when she come home she ask 'you do this?' and I say 'Yes I did' 'Don't look like you did it' [...]<sup>10</sup>

Racist insults and name-calling are also a widespread problem recalled by the MDWs interviewed when MDWs and the employers are of different nationalities:

Like they call you stupid or they calling you, you know like animals, like they told you: 'No brain'.<sup>11</sup>

[the employer was] Screaming like 'Indian stupid, poor people', like this, bad bad talking.<sup>12</sup>

Such treatment is, of course, illegal under UK labour law. But is unlikely to be reported, as MDWs would usually have no idea of how to challenge such treatment. There is a need to raise awareness of the status of domestic work in private households as 'work', and to continue to educate MDWs about their rights.

## 2.2 Physical abuse

The level of physical abuse reported by migrant domestic workers coming to Kalayaan is shocking. A quarter reported being hit or beaten by their employers. Sometimes this would happen regularly. Or else they would be beaten as a punishment for a small mistake such as burning food, or washing clothes in a way their employer would deem inappropriate. Kalayaan also receives reports of physical abuse in response to the worker asking for entitlements such as their salary owed to them. Another commonly reported type of physical abuse is that of employers burning workers' hands on the stove, or with cooking oil, as punishment for mistakes in cooking. Disturbingly, physical abuse is often reported as being perpetrated by women employers; and this includes beating male workers. On other occasions, workers report being regularly slapped, hit, and spat at by the employers' children, including children of 12 and 14 years old; and this being condoned by the parents:

She was very violent, very violent. [...] She threw my Bible, because I was praying, she came and threw the Bible.<sup>13</sup>

[...] If I've not done the job right she's raise hand for me.<sup>14</sup>

The boy always bite me, in my face as well and in my hands, everywhere.<sup>15</sup>

Unfortunately, physical abuse is rarely reported to the authorities. Workers are seldom in a position to contact the police at the time of the abuse. By the time they have run away and gone to the police, the bruises have usually faded. Without hard evidence, the police will not follow up. In addition, abuse rarely happens in the presence of external witnesses. For example, Sashi, 26, from India, recalled the following:

...[my employer] fight with me one day in Oxford Circus, she fight with me and she want to hit me that day, and then the husband told to her then, because they know everything, rules and regulations in here, they know everything because every time they come, and they know. So one day she fight with me in Oxford Circus, then her husband told her: 'Don't fight with her because this country's very strict, so don't hit her.' And then, she don't care about that, she want to hit me and she hit me, but not a lot, she hit me but people didn't see...<sup>16</sup>

## 2.3 Sexual abuse

Taboos around sexual abuse mean that it is often under-reported. Workers fear that their families might learn about it, and that they may be stigmatised. Ramani (Case study one) explained: 'I have no face to go home, because [rape] is always the female's fault.'<sup>17</sup>

Sexual abuse then becomes another tool of control over the domestic worker. Some male employers may indeed expect their domestic worker to be sexually available to them. MDWs may not be able to prevent sexual harassment, as they are tied to their employer in every aspect of their lives and would risk losing their job if they reacted. They may be frightened to tell the other members of the employer's family as they feel that they would be seen as to blame, and punished accordingly. In one case, an employer's son tried to rape a male domestic worker in their employ. When he reported this to his employer, she became furious with him for accusing her son of 'being gay'.

Workers living in their employers' homes are often unable to avoid sexual abuse because they do not have their own room, or if they do (like in Ramani's case), they cannot lock the door.

One worker explained how her employer would often walk naked in front of her and other domestic workers. When asked whether he had touched her, she answered that he had, but would say nothing more.<sup>18</sup>

## 2.4 Living and working conditions

Living and working conditions for domestic workers can often be very poor, especially since the majority of MDWs 'live in', and as such are entirely dependent on their employers for accommodation and food.

In most of the interviews conducted at Kalayaan, domestic workers complained that their employers did not give them access to sufficient food. Over 40 per cent of workers registered by Kalayaan in 2006 were not allowed regular meals. In some cases, the workers are not allowed to eat the same food as their employers, or were given very little to cook with. In other cases, the domestic worker is forced to eat the family's leftovers, a deeply humiliating experience.

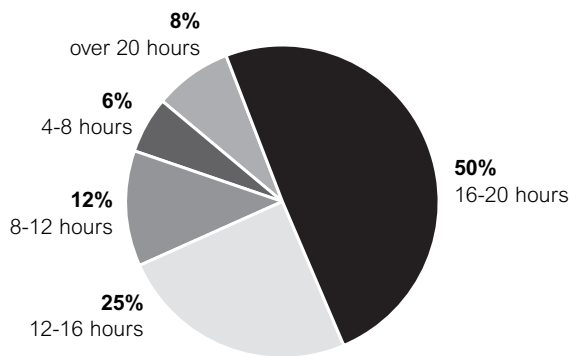
Over 40 per cent of domestic workers registered in 2006 did not have their own bed. It emerged from conversations and interviews that employers usually make the worker share a room, or even a bed, with either another domestic worker, or with the children. In a surprisingly high number of cases, domestic workers were forced to sleep on the floor in a corridor or a living room (often without so much as a mattress). Some report having to sleep on the floor in their employer's room, again highlighting their vulnerability to sexual abuse. Even when workers have their own room, it is often a cupboard or utility room, or a room that they are expected to vacate on a regular basis, when the employer's family want to use it:

**Interviewer:** So [your] bedroom was actually a bathroom?

**Bina:** Yes, bathroom, washing room, there is washing machine, dryer, gas meter or what, but all the time gas meter is there, people are coming to see, all the time it's gas smell.<sup>19</sup>

Working hours are particularly long, with daily breaks, days off, and holidays being an unusual occurrence. MDWs registered by Kalayaan in 2006 stated that the average duration of their workday was 16.5 hours, with over 41 per cent of MDWs working between 16 and 20 hours a day (Table 3). Moreover, 70 per cent of workers registered did not have any time off during the week. Paid holidays were also a rarity, a very low number of MDWs interviewed having had a paid holiday since being in the UK.

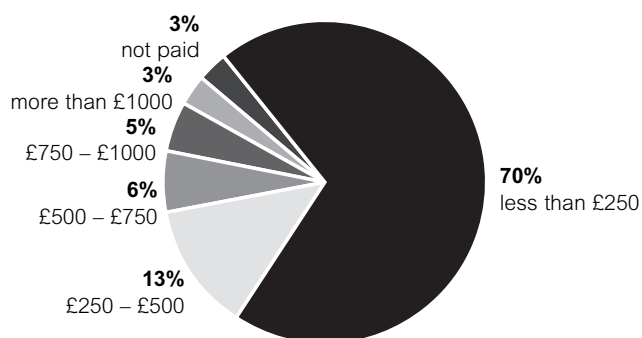
Figure 3. **Duration of the work day in hours for MDWs registered by Kalayaan in 2006\***



\*Statistics produced using Kalayaan's registration database for 2006 (N = 212).

With regard to wages, almost no worker with whom we have spoken is paid the minimum wage. Considering the average number of hours worked per day is 16.5, probably with no days off, and the average salary is £245 per month, it is correct to assume that in fact, most workers are paid well below the minimum wage, or around 50 pence per hour.

Figure 4. **Monthly salary paid to MDWs registered by Kalayaan in 2006 (in GBP)\***



\*Statistics produced using Kalayaan's registration database for 2006 (N = 212).

## 2.5 Passport retention and the response of embassies

Passport retention is a tool of control over individuals used by employers in many different sectors the world over. In 2006, 34 per cent of workers registering with Kalayaan reported that their employers still had their passports. Without a passport, any migrant worker is vulnerable, as it is their only form of identification and confirmation that they can legally be in the UK.

In contravention of the agreed guidelines, MDWs are often not involved in the process of applying for their visa to come to the UK. Often, employers will fill out the application forms themselves and then just make the worker sign it. Many MDWs entering the country have not seen their passport in years. They do not know the type or validity of the visa on which they entered the UK. Without a passport stating their immigration status, workers may be reluctant to leave an employer because they fear deportation if the police finds them without identification and a valid visa. Employers themselves can use such threats to control domestic workers. Passport retention therefore adds to the vulnerability of workers, as it may force them to accept conditions of work that are in breach of employment law.<sup>20</sup>

Kalayaan frequently contacts employers on behalf of workers in an attempt to recover their passport. If an employer agrees to return the passport, it is common that rather than return it to Kalayaan or to

the worker's embassy, the employer sends it to their own embassy (usually a different one from that of the worker) so that the visa for the previous country of work can be cancelled. These embassies then usually send the passport to the Home Office, rather than to the embassy to which the passport belongs, which creates enormous difficulties for MDWs. The Home Office has a huge backlog. It may take up to several months for the worker to recover the passport.

Kate Roberts, Community Support Worker at Kalayaan, spoke with caseworkers at the Home Office which declared there is no requirement for an embassy to return a MDW's passport to the Home Office. But when she communicated this to employees of a Middle Eastern embassy who have done this several times, they refused to believe her unless the head of the Home Office confirmed to them that it was indeed the case.<sup>21</sup>

Even the worker's own embassy may sometimes refuse to return the passport to the worker or help her or him recover it, which has some serious consequences.

### **Case study three: Masika, West Africa**

Masika is 26. She arrived in the UK with her employer from West Africa in December 2006. She had already experienced some abuse when she was in her country of origin, but this became worse in the UK.

Her employer's husband repeatedly tried to rape her. Masika showed the interviewer the scars she got from struggling against him. He did not succeed, but Masika was never able to tell anyone about this abuse because he threatened to kill her. Her employer's mother psychologically abused her by shouting at her and insulting her. After six months in the UK, Masika had still not been paid the £100 a month she was promised. With her mother, four sisters and two brothers all depending on her for food and school fees, she had had enough.

Masika fled her employer's house, but had to leave her passport behind. The employer sent Masika's passport to the embassy. The embassy has refused to return it to Masika until she decides to go back to her country, despite her having a valid visa to remain in the UK. Masika found another job, but after one month her employer fired her because she was too worried about employing someone without a passport.

Masika has been in the UK for almost ten months and has only been able to send £400 to her family; two of her sisters have had to drop out of school. She is now, again, looking for another job.

Often, MDWs have no choice but to apply for a new passport, which can be a long, difficult, and costly process. A range of documents, which can be obtained with varying difficulty, are required, such as a birth certificate, a photocopy of the old passport, a report by the police that the passport was stolen, various letters from the Home Office, and so on.<sup>22</sup>

## **2.6 Dependencies: employers in the UK and families back home**

As domestic work is based within the household, it is a difficult sector to monitor and regulate. The tendency to consider domestic work as not being 'real work' means employers can assume they have the right to treat an employee within the household as it so pleases them. And there are added vulnerabilities that make it difficult for MDWs to challenge abuse or to leave.

The previous sections highlighted one recurring cause of MDWs' vulnerability: their dependence on their employers. MDWs depend on an employer for their continued legal stay in the UK. Moreover, because domestic work is isolated by nature, workers are often disconnected from friends, family, and a support community.

As we have seen, at the most basic level, MDWs depend on employers for food and accommodation. One of the conditions of their visa is that they have no recourse to public funds, so they cannot access most refuges or shelters. Leaving an employer may mean resorting to the street with nowhere to go, as Visala explained during an interview:

Live-in is very different; if you leave a job, because we're always doing live-in job you come out and you don't have a place to stay and if you want a place, renting is so much and you don't have a job, [it's] very hard to survive.<sup>23</sup>

One of the conditions of the domestic worker visa is that the worker must be in continuous full-time employment as a domestic worker in a private household. A signed letter from the employer confirming employment is needed for the worker to apply to renew their visa. This means that whenever a MDW leaves a job, either because conditions have become unbearable, their salaries have not been paid, or they have been fired, they are not in a strong negotiating position and will often accept working and living conditions that are sub-standard. This can be accentuated if the visa is about to expire. Many of the workers interviewed stated that they decided to stay on with abusive employers and find ways to cope with violence or exploitation because they needed a letter from an employer. Employers are mostly very aware of the fact that their employee's legality in the UK depends on their own willingness to produce such letters, as recounted by Sashi:

They [the employers] shouting. Like: 'You need employer letter'. If you need anything you have to work, so you have to do. [...] They never tell me like: 'You do, please'. Like not kind or nothing. They say: 'You have to do. I pay my money and I give you employer letter so you have to work'.<sup>24</sup>

At the same time, workers have entire families depending on them, as explained by Camilla Brown, a community support worker at Kalayaan:

[A MDW's weakness...] is dependence on their employer, but then [also] the responsibility they have towards their families back home, so there's some sort of tightrope that they need to walk, to be able to ensure some money going back home, not losing their job, not jeopardising their immigration status but also keeping themselves safe in some way.<sup>25</sup>

MDWs' families in their own countries are highly dependent on the remittances of their relatives abroad. It is not unusual for a MDW to be the sole breadwinner for families of over ten people in their home countries. All MDWs interviewed at Kalayaan felt they had no real choice in terms of what jobs were available to them, and that domestic work abroad was their only option. Out of 49 MDWs registered at Kalayaan who filled out a questionnaire, 85 per cent said part of their remittances were used for daily expenditure by their families; 73 per cent, that remittances were partly spent on health care; and 85 per cent used part of their remittances to send their children or other young relatives to school.

## 2.7 Lack of information as a cause of vulnerability

Another fundamental cause of vulnerability for MDWs is the lack of information among all parties concerned about the specific situation, rights, and vulnerabilities of domestic workers in the UK.

In the case of Primary Care Trusts (PCTs), police officers, and embassy workers, this lack of knowledge may lead to unwillingness to help domestic workers when they most need it; and it results in discrimination.

#### **Case study four:** Divia, India

Divia is a 26 year-old migrant domestic worker from India. She and her employer arrived in the UK from Kuwait in May 2000. This employer was a relative of her previous employer in Kuwait. She was forced to sleep on a stone floor in the store room. She was given so little food her sight started to fail and she was continually shouted at and insulted. After six months, Divia ran away from her employer, leaving her passport behind, not knowing that her visa was about to expire.

In fact, Divia was never informed about her visa, since the employer applied for it for her and she never had an interview at a UK mission abroad. Divia believes her employer purposefully 'forgot' to renew her visa.

When she first ran away, Divia went to the police for help. But they could not understand her because her English was not very good and sent her away. Her embassy just told her to get a new passport. But they did not try to find out what her visa situation was.

Divia did not learn of her irregular immigration status until 2005. Since she ran away from her employer, she has been working for free in people's house, sometimes for a week, sometimes for a month, in exchange for accommodation and food. She has worked for so many people she has lost count. She says some were nice and some were not. She has been beaten, exploited and sexually abused in jobs but cannot take any action against these employers due to her undocumented immigration status. When she cannot find anyone to stay with, Divia sleeps on benches or in parks. She feels that if the new legislation is implemented, what has happened to her will happen to more and more MDWs.

A further and more worrying problem is the lack of information among domestic workers themselves. They are often already at disadvantage because they are uneducated, do not speak English and may not be streetwise as to how to cope with every day life in the UK.

At the root of this situation is the fact that MDWs are consistently misinformed, or not informed at all, about their rights and the terms of their visas by those at the beginning of their passage, and by UK missions abroad. When they do encounter problems or want to access services, information as regards their rights and circumstances is not available to officers.

### **3 Existing protections for MDWs**

Since 1998, migrant domestic workers have been recognised as workers. This provides them with protection under UK employment law as well as access to health care. Their immigration status is independent of their employers. This means that they can change employer (but not sector of work). This right to change employer is vital in order for MDWs to be in any kind of position to be able to negotiate their employment terms and conditions. Protection under UK employment law means that MDWs can challenge an employer, through a tribunal if necessary, for unpaid wages or other employment breaches. They are also entitled to join a union should they so wish.

### 3.1 Immigration rights

The existing entitlement that allows MDWs to change employer without being in breach of the immigration rules underpins all other protection for MDWs in the UK. Without being able to leave an abusive employer, MDWs cannot challenge maltreatment. It is vital that the act of leaving an employer does not jeopardise a worker's immigration status: anyone in breach of the immigration rules has no access to any protection under employment law. All evidence shows that entitlement to change employers is something that MDWs use when they are desperate; often because they have not been paid for several months, and there is immense pressure to send money home to their families.

Figures obtained by Kalayaan from the Home Office under the Freedom of Information Act show that only six per cent of domestic worker visas issued in the last five years have been granted an extension. Many of these will be applications to extend leave to remain with existing employers. The Home Office has told Kalayaan that 80 per cent of the visas issued to MDWs to enter the UK are to accompany employers coming as 'visitors' for less than six months. This low figure for visa renewals suggests that over 90 per cent of MDWs enter the UK and leave with their employers within the duration of their initial visa.

This also implies that it is the most abused MDWs who seek support and advice. The majority of the average 400 MDWs registering each year with Kalayaan have run away from their initial employers. For example, in a survey conducted among 49 domestic workers registered at Kalayaan it was found that 29 (almost 60 per cent) of workers had changed employer at least once since they had arrived in the UK. These numbers are an indicator of the need to maintain the right of MDWs to change employer. Even though it is not a right used on a large scale, it does offer vital provision for the protection of the minority of MDWs who are severely abused.

One of the reasons that the majority of MDWs who register at Kalayaan report abuse, despite being protected in law, is because they are not aware of their rights as workers in the UK. This lack of information means that they are unable to access protection. Most MDWs coming to Kalayaan only learn about the terms of their visa through information they receive there, either through members of staff, or from other MDWs. Kate Roberts, a community support worker at Kalayaan, explained:

You need to consider that this is a group of mostly women, particularly vulnerable, because unlike other groups of migrants they haven't got here off their own backs, they have usually been brought in having had very little to do with the process themselves so they're not necessarily streetwise.<sup>26</sup>

Many MDWs have no knowledge at all about the type of visa on which they entered the UK or what this visa means for them, as their employers managed the application process. The majority of workers do enter on the correct, domestic worker, visa. But occasionally, the wrong visa is issued. Staff at Kalayaan report receiving confirmation that a worker was issued a 'visit visa to work for...' A clear contradiction. This may be a mistake on the part of either the issuing embassy or the employer. But the result is that the worker is working in the UK in breach of the immigration rules. She cannot renew her visa and has no rights as a worker in the UK. This demonstrates that the procedure at overseas embassies is unreliable in terms of informing workers about their rights. The situation of these workers also highlights the importance of the rights and entitlements currently embodied in the domestic worker visa.

### **Case study five**

Luisa, in her 20s and from the Philippines, arrived in the UK with her employer from the Middle East. She had not held her passport for over a year including on the journey to the UK and passing through immigration. She had not seen her visa and did not know her immigration status. She had been beaten by her employer. She had marks on her arms from where she was burned deliberately by her employer with the lid of a pan because food was not ready on time. She told Kalayaan about how she was shouted at every day. Since leaving she has had recurrent nightmares about her employer screaming at her. She was paid around £100 per month. She told her case worker at Kalayaan that she had gained a lot of weight since leaving her employer but still looked incredibly thin.

Kalayaan was able to support Luisa to report the theft of her passport to the police, apply for a new passport, and secure proof that she entered the UK on a domestic worker visa. Luisa was able to secure alternative employment as a domestic worker in a private household with a good salary, so she is able to save and send money home to her family. When her visa expires she will apply to renew it on the basis of this employment.

### **Case study six**

Marissa who is in her 20s and from the Philippines came to register at Kalayaan with a friend who had been helping her since she ran away from her employer. In this job Marissa had been paid £130 a month and had no day off at all. She was very scared as her employer had made threats that she would be beaten and returned to him if she ran away. Marissa did not have her passport, which had been taken from her by her employer, but she had a photocopy of her valid domestic worker visa.

Kalayaan was able to reassure Marissa that she did not need to be scared of her employer, and that it is actually her employer who had broken the law in his treatment of her. Kalayaan wrote to Marissa's employer, informing him that it is a criminal offence to keep someone's passport against their will and that unless that passport was returned to Marissa via Kalayaan or her embassy within the next seven days the matter would be reported to the police as theft.

The employer returned the passport to Marissa via Kalayaan, but told Marissa that she had to pay him a substantial sum of money for the costs of bringing her to the UK. Kalayaan was able to find Marissa an employment lawyer to respond to Marissa's former employer informing him that Marissa is not liable for these costs and claiming compensation for her treatment in that employment. Marissa is able to find alternative work as a domestic worker and send money home to her family.

These cases demonstrate the importance of domestic workers being able to leave their employers without being in breach of the immigration rules, and so enforce their other rights.

### 3.2 The right to decent working conditions and fair pay

One vital element of the current system for MDWs is that they are recognised as workers, meaning that they can access employment rights. These include the National Minimum Wage (NMW), statutory holiday and sick pay, the right to a contract, wage slips, and a notice period. All these rights ensure some basic protection for MDWs. On leaving an employer, MDWs can go to an employment tribunal or put a claim in to the National Minimum Wage Compliance Team.<sup>27</sup> Clearly, it would be almost impossible to take up these measures while living in the same house as the employer, or if the worker's stay in the UK were dependent on the employer providing ongoing employment.

Unfortunately there are very few cases of MDWs winning employment cases. This is because many workers do not know about their rights. Of those who are informed, many do not want to make claims, as they do not want to 'make trouble'. Or they feel that any disturbance caused by the process could jeopardise a new job. If they do present a case, there are issues around the lack of evidence and of witnesses. Nonetheless it is important that sanctions against employers exist: as without reference to UK employment law there is no doubt that exploitation would increase.

#### **Case study seven**

Rosalin, from the Philippines, unusually had a contract of employment and her employer had also committed to organising payment deductions of Tax and national insurance contributions (NIC) from her salary. In practice, she was only paid two-thirds of the agreed salary. She came to Kalayaan for assistance saying she did not want to leave the job but did want to be paid the amount which had been agreed. Kalayaan wrote to the employer quoting the contract and requesting Rosalin's overdue wages and asking for evidence that the Tax and NIC deductions from Rosalin's salary had been paid to the Inland Revenue.

Rosalin returned to Kalayaan a few days later. Her employer had not mentioned the letter to Rosalin. Her partner however called Rosalin into the kitchen saying he wanted to speak to her. He then showed Rosalin the letter and started slapping her. He pushed her into his car, drove her around and then dumped her in the street.

Rosalin reported the matter to the police and is presenting a case for assault against the employer's partner. She has won a settlement for her employment case against her employer.

This case not only demonstrates the importance of MDWs being able to access UK employment law to win compensation when they are cheated of their earnings. It also shows the risks of challenging an employer while still employed and living in their home. The employer's response to Rosalin requesting she keep to their agreement is shocking. We can only imagine how much worse the situation could have been, had Rosalin had no statutory protection to deter further violence.

### 3.3 The right to health care

MDWs are entitled to access health care as they are recognised as being 'ordinarily resident' in the UK. As workers who are contributing to the UK economy this is a basic individual right.

Nonetheless, MDWs still have difficulty actually registering with a doctor. Primary Care Trusts (PCTs) are not given any precise guidelines as to who can or cannot access health care (and what 'ordinarily resident' means, exactly). So it often happens that people are not allowed to register at all, even when they are eligible for health care. Matters are further complicated when workers are not in possession of their passport, so are unable to provide surgeries with any identification. Kalayaan, together with Médecins du Monde, currently works with MDWs to support them in registering at doctors' surgeries.

### 3.4 Working with authorities to combat abuse

One of the most common reasons MDWs come into contact with authorities is when reporting abuse on having left an employer. It is important to note that the only reason MDWs are able to report abuses to the authorities, such as the police, is because they are not in breach of the immigration rules, having left an employer. Otherwise the risk of deportation or removal would be too high.

The incidence of employers withholding workers' passports is common, despite it being a criminal offence to keep someone's documents against their will. Thirty-four per cent of MDWs registered at Kalayaan in 2006 were not in possession of their own passport. As mentioned elsewhere in this report, other forms of abuse including physical and sexual violence are, unfortunately, uncommonly reported by MDWs. Workers are often anxious and uncertain about reporting these crimes to the police. This may be because of what their employers have told them, in order to prevent them from contacting the police for help; or because of the way they may have been treated by the police outside of the UK. MDWs often initially come to the attention of the police after they have run away from an employer, who reports this to the police. The case is then referred to the Missing Persons Unit.

Kalayaan works with the police to increase awareness of the situation of MDWs in the UK, and the fact that many of these workers have been trafficked to the UK for labour exploitation. It also encourages the police to take a proactive approach, which would include asking questions of employers about the whereabouts of a worker's passport, their living conditions, salary, and so on, in order to establish if there is any cause for concern over serious abuse.

If the authorities are to meet the government's commitments to combat trafficking for labour exploitation and provide protection for victims, demonstrated by its signatory to the Council of Europe Convention on Combating Human Trafficking, it is vital that MDWs are supported to come forward and report abuses. They will clearly not do so if there is any concern that they may be detained for immigration offences. Despite some positive examples of police protection and support for MDWs, there are unfortunately still cases where a preoccupation with immigration status seems to be the main concern: where MDWs are seen as potential immigration offenders rather than as victims of crime.

#### **Case study eight**

Ramila from India was raped by her employer. After the rape she was thrown out by the employer. But because she was on a domestic worker visa and not in breach of the immigration rules she could call the police, get assistance and support through Kalayaan and eventually get back to work with a new family.

This example illustrates how the current rules facilitate co-operation between domestic workers, NGOs, and the police, thereby stopping abusive treatment.

Under the new proposals Ramila would have not been able to contact the police without facing deportation and then removal from the UK. In her case, as with many domestic workers, this would mean she would have been returned to India with the debts she incurred to take up a job abroad (initially in Kuwait) in the first place. This puts her in an invidious position and strengthens the position of abusive employers.

### 3.5 The right to organise

The Transport and General Workers' Union (TGWU) (now Unite) has a long history of supporting MDWs in the UK. The TGWU/Unite has always recognised MDWs as workers and supported them to organise and to demand and defend their rights. It is especially important for MDWs who are usually isolated within separate private households to organise so that they can defend their interests as a group, access moral support and training in negotiating their rights directly with their employers on an individual basis, and make links with workers in the same and other sectors.

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, giving workers a space for personal development and independence from their employers, and training in employment and other rights. The support of the unions has also been central 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.

The existing policy for MDWs, which was introduced in 1998, is progressive and has been recognised by the International Labour Organisation (ILO) as an example of good practice.<sup>28</sup> Challenges remain around enforcing and accessing these rights in the UK. In the context of the government's current commitments to protect victims of trafficking and to work towards the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, it is important that the government continues to protect this vulnerable group of workers through labour legislation.

## 4 The impact of the proposed changes to the immigration system on MDWs

If the proposed changes to the immigration rules for MDWs become law, domestic workers will enter the UK as 'domestic assistants', on a modified business visitor visa. They will only be allowed to remain in the UK for six months. They will be unable to change employer, and may lose access to employment rights.

The main consequence will be increased vulnerability due to being trapped in the household with no possibility of leaving. Additionally, MDWs may no longer be recognised as workers, and therefore lose access to employment rights. Having entered as visitors for the purpose of work, there could be confusion around their immigration status, leading to increasing distrust of MDWs among embassy officials, police officers, and health care employees. Ultimately, MDWs will be unable to seek help or access services.

Anti-Slavery International recommends in *Trafficking for Forced Labour: UK Country Report* that the proposals are dropped. It states that the proposals would contribute to MDWs being trafficked; that 'the impact of trafficking in human beings needs to be assessed as an essential part of changes in migration policies'; and that legal channels by which workers migrate should be 'seen as a tool to prevent trafficking'.<sup>29</sup> The House of Lords and House of Commons Joint Committee on Human Rights recommend in their report on human trafficking that the proposed changes would mean that 'domestic workers who are trying to flee a violent employer would be less likely to do so, and less likely to approach public authorities for help or to report their abuse'.<sup>30</sup>

### 4.1 The dire consequences of the 'domestic assistant' visa

Under the proposed points-based system for immigration to the UK, MDWs will enter on a modified business visitor visa. This visa will only allow its holder to remain in the UK for six months, with no possibility of renewing the visa, and, most importantly, without being able to change employer legally whilst in the country.

Once MDWs are forbidden to change employer legally, they will become even more vulnerable to exploitation. Whenever an abusive employment situation occurs and MDWs leave their employers, they will become 'illegal'. They will therefore be susceptible to further abuse by other, unscrupulous, employers who may take advantage of a worker's irregular immigration status. Immigration status will revert to being a tool used by employers to control MDWs, as it was before the previous change in legislation in 1998.

Moreover, the underlying problem will remain that MDWs will lack information regarding the conditions of the visa, in much the same way as they do now. But the consequences will be much worse, because conditions under the new legislation will be much stricter. Considering that even now, domestic workers who do not know they are allowed to leave their employers still do so, because their conditions of work and pay are unbearable, it seems unlikely that they would not do the same under the new legislation, with the difference being that doing this will result in their illegality.

The government is unlikely to ask wealthy employers not to bring the domestic workers they employ into the UK, as Lord Reay already remarked during the first Kalayaan campaign:

Looking at our national interest, if wealthy investors, skilled workers and others with the potential to benefit our economy were unable to be accompanied by their domestic staff they might not come here at all but take their money and skills to other countries only too keen to welcome them. (Lord Reay, Hansard Col. 1052, 28 November 1990)

If wealthy employers decide to come to the UK for a period longer than six months, bringing their domestic workers with them, it becomes even more unrealistic that they will make the worker leave after six months. Generally, domestic workers, whatever the period of time they have been working for the family, are not easily replaceable because they have a highly personalised relationship with their employer, living, and working, within the household.

The lack of incentives to make a worker leave, and the added difficulty of enforcing sanctions on employers within a private household make it even more likely that workers will end up overstaying their visa without any control of the situation. Policing employers to ensure that domestic workers leave the UK after six months would be extremely costly and difficult, and is therefore unlikely to happen.

A related issue is deciding where the domestic worker should be returned to. The most likely decision would be to send the worker back to the country of origin. This would create a series of problems for the domestic worker. MDWs may have to return home to unpaid debts, which they incurred to migrate in the first place. Then they risk being trafficked back into the country or accumulating more debt to restart their migratory project. It is also unclear who will pay the costs of MDWs' travel outside of the UK, and how workers can be protected from dismissal and destitution as a result of being undocumented in the UK due to government legislation.

Ultimately, preventing domestic workers from accessing the right to change employer and renew their visa would increase the risk of domestic workers being trafficked. The 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children gives the following definition of trafficking:

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Forced labour can be identified through several component elements, such as threats or actual physical harm to the worker, restriction of movement and confinement, withholding of wages or excessive wage reductions, retention of passports and identity documents, and threat of denunciation to the authorities.<sup>31</sup>

All of these elements characterise the relationship between some employers and their MDWs, even currently already. It is not unlikely that such conditions will become even more widespread, once MDWs are more tightly tied to their employers.

Therefore, the proposed legislation would allow employers to do exactly what is described above: recruit persons by means of the use of coercion and of a position of vulnerability, for the purpose of exploitation in terms of forced labour. The new immigration provisions for domestic workers would make it virtually impossible to prevent forced labour from occurring, and may indeed even encourage it: it would be left unpunished. As such, the new legislation is in direct contravention to the Home Office stated policy on trafficking:

The criminal trading of people, including children, as commodities, whether for sexual exploitation, forced labour or any other form of exploitation, has no place in the United Kingdom or a modern world.<sup>32</sup>

## 4.2 Further loss of access to rights and services

In the proposed changes to immigration law, the new modified visa for domestic workers will be a 'domestic assistant' visa. This means that MDWs will no longer be legally defined as 'workers'. They will therefore lose all entitlements to employment protection. As a result, there will be no legislation that can be applied to MDWs which states how much they should be paid, how many hours they should work, what holidays they should be entitled to, and under what conditions they should live and work within the household. Employment rights, however poorly they are accessed, provide an ultimate safety net for domestic workers. Once they are taken away from MDWs, employers will be able to treat them in whatever way they see fit. MDWs will lose all potential (and actual) protection, and will therefore be unable to fight poor and abusive working conditions.

Additionally, the new legislation will prevent MDWs from accessing health care. As 'domestic assistants', MDWs will not be 'ordinarily resident' in the UK and therefore not allowed to use the health care system. It can be deduced from statistics on average salaries that MDWs will not have the necessary funds to access private health care, and therefore will find themselves deeply vulnerable if they become ill.<sup>33</sup>

Under the proposed legislation, it is unclear how MDWs will be able to obtain the support of the police. The lack of resources, which is at the root of current issues in terms of non-investigation of crimes committed against MDWs, will only worsen as domestic workers who are suffering abuse and exploitation will only be able to access support if they are recognised as victims of trafficking. This is problematic as resources to support victims of trafficking are

already overstretched. The police are unlikely to provide sufficient resources to investigate a case of trafficking for forced labour, unless it is large-scale and linked to organised crime. This is almost never the case for MDWs. In Kalayaan's experience, individuals who have been trafficked for forced labour are not in any case usually identified as victims of trafficking.

Ultimately, the proposed changes in legislation will contravene several articles of the Universal Declaration of Human Rights, such as:

**Article 3:** Everyone has the right to life, liberty and security of person.

**Article 4:** No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

**Article 5:** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 7:** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 25:** Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The changes in legislation will make it impossible for MDWs to enjoy the same rights as other workers in the UK, and to access the protection of the law. It is unlikely that they will enjoy a standard of living adequate for their health and well-being, as working and living conditions will not be monitored by the government. The degrading treatment of MDWs will not be punished; it will be possible for MDWs to be held in servitude. Finally and most importantly, MDWs will lose the right to liberty and security of person, as they will be trapped within the household, and employers will have the right to treat them as they please.

### 4.3 Dubious solutions: pre-entry and port of entry checks

According to the current rules, potential MDWs who apply for a visa to enter the UK should always be interviewed at a UK mission abroad before their application is accepted. These interviews are meant to ensure that MDWs are not suffering abuse or exploitation, and to identify abusive employers before they enter the UK. The British government has stated that these interviews will be the main instrument through which it will be able to prevent exploitation of MDWs under the new proposed system. This seems an unrealistic solution, as, to date, the interviews have been extremely ineffective in both preventing abuse and keeping MDWs informed of their rights and the terms of their visa.

One overarching concern is that not all MDWs who apply for a domestic worker visa are interviewed before entering the UK. In the case of domestic workers who frequently accompany their employer to the UK, interviews are rarely granted, because it is assumed that the work situation has not changed. This is obviously problematic, as many domestic workers interviewed at Kalayaan have stated that their employers became more abusive over time, or only after entering the UK.

Table 4. **MDWs registered by Kalayaan in 2006 and 2007 who were interviewed at a UK mission abroad before obtaining a visa\***

	2006	2007
Workers interviewed at embassy	73%	58%

\*Statistics produced using Kalayaan's registration database for Jan to Dec 2006 (N = 195) and Jan to mid-Aug 2007 (N = 97).

Embassy interviews should provide information to MDWs regarding their employment and immigration rights, visa regulations, and resources available to them in the UK. Kalayaan worked with the Home Office to produce a booklet with this vital information in several languages. But most embassies we contacted have no copies of the leaflet. When they do, it is only available in English, and therefore inaccessible to workers who do not speak the language. It emerged during interviews with MDWs at Kalayaan that no worker was told about their rights in the UK during the interview. This was confirmed by workers registered at Kalayaan.

Table 5. **MDWs registered by Kalayaan in 2006 and 2007 who received information or leaflet regarding their visa at a British embassy\***

	2006	2007
Received information/leaflet at embassy	12%	18%

\*Statistics produced using Kalayaan's registration database for Jan to Dec 2006 (N = 195) and Jan to mid-Aug 2007 (N = 97).

The record with UK missions abroad is even poorer in terms of identifying 'bad' employers. There are several reasons for this. Firstly, workers are often accompanied by their employer or a representative of the employer. They are very unlikely to denounce the employer under such conditions. In some cases, although there has been no abuse in the home country, abuse begins when the worker and employer are in the UK, as workers find themselves with added responsibilities (see section 3.2).

Table 6. **MDWs registered by Kalayaan in 2006 and 2007 who had an interview at a UK mission accompanied by their employer or a representative of the employer\***

	2006	2007
Employer/representative of employer present	53%	65%

\*Statistics produced using Kalayaan's registration database for Jan to Dec 2006 (N = 195) and Jan to mid-Aug 2007 (N = 97).

Secondly, it is extremely unrealistic to expect a worker who is in a skewed power relationship with an employer, and whose family in the home country is dependent on her earnings, to jeopardise her situation, and possibly lose a job, by disclosing abuse or exploitation. MDWs may also be told by their employers to lie during the interview. This highlights the fact that employers are well aware that the treatment they impose on domestic workers would be illegal in the UK, and know how to avoid such treatment being discovered.

**Case study nine: Chitra, India** <sup>34</sup>

Chitra worked for a family in India for nine months before applying for a domestic worker visa to accompany them to the UK.

When she went to the British embassy to have an interview, her employer sent someone from his office with her to translate. Chitra was told to lie by her employer regarding her salary (she was told to say she was being paid 6,800 rupees, equivalent to £80, rather than her actual salary of 2,500 rupees, or around £30) and her time with the family (she had to say she had worked for them for three or four years). Chitra does not speak English so she does not know what else had been said at the interview by her employer's representative. She was not given any information on the domestic worker visa and had no idea what her rights would be once she arrived in the UK.

Chitra arrived in the UK with her employer's business partner, to whom all questions by immigration officials were directed.

She ran away from her employer after just two months, as she was sexually abused, not paid and overworked. Since she has left she has been threatened by her ex-employer, who has said she will give the police in India her photo, so she will be arrested as soon as she goes back.

The port of entry could offer another potential opportunity to identify cases of abuse, but, in addition to the concerns listed during the pre-entry stage, lengthy immigration queues and short processing time make this unlikely.

Interviews, whether at UK missions abroad or at the airport, cannot provide fail-safe ways of detecting and deterring abuse of MDWs. This reliance on pre-entry and port-of-entry checks as means to prevent forced labour shows a lack of understanding of the specific situation of vulnerability of MDWs. It also highlights the fact that their ineffectiveness in identifying abusive employers has not been recognised. Interviews, whether they take place in UK missions abroad or at airports, are not a solution to the problems which will be brought about by the proposed changes.

If the migrant domestic visas are changed to 'domestic assistant' status, MDWs will lose all the rights and protection they won in 1998 in recognition of their particular vulnerability to abuse. They will gain nothing in return. Not only will abusive employers be entering the UK freely with their domestic workers – since pre-entry and port-of-entry checks will fail in their aim – but domestic workers will not be able to access any rights or services at all. Maintaining the current system, and improving the dissemination of information to MDWs and authorities in the UK and abroad, would prove a much better solution to the problems experienced by MDWs, and a more effective way to protect this vulnerable group of migrants.

## 5 Conclusion and policy recommendations: why the domestic worker visa must not be scrapped

As set out in this paper, there are several arguments to be made against the scrapping of the domestic worker visa.

MDWs are an extremely vulnerable group of migrants, susceptible to abuse. By taking away the safety net of access to immigration and employment law, there will be an increased risk of them becoming victims of trafficking for labour exploitation.

By not allowing MDWs to legally change their employer, abuse will continue to go unpunished. Employers will be able to mistreat MDWs and keep them in conditions akin to slavery, without the risk of the migrant running away and reporting them to the competent authorities.

The new system of limiting MDWs' stay to six months, taking into account the amount of misinformation among MDWs and the power employers hold over them, will greatly increase illegality. Arguably, employers who are in the UK for longer than six months will have an interest in keeping their employees beyond the time allowed, especially when such workers are taking care of children or elderly relatives, and an emotional attachment exists between the worker and the family. In the worst cases, employers will make MDWs overstay their visa in order to take advantage of their irregular immigration status and keep them in exploitative conditions.

It is unrealistic to expect employers who want to settle in the UK to leave their domestic workers behind. The risk is that they will again be brought into the country on visitor's visas or as family members, as occurred prior to the introduction of the visa in 1998.

MDWs often contract debts with agencies to leave their country of origin and go and work abroad. If return is imposed after six months, and payment of adequate wages cannot even be guaranteed under UK employment law, there will be an increased danger that heavily-indebted migrants will fall victims of re-trafficking into the UK.

Maintaining the current system of domestic worker visas is not costly to the government. The costs associated with decisions taken in the UK, such as renewals of visas, are recovered in fees and charges.<sup>35</sup> MDWs have no recourse to public funds. They are only able to apply for visa renewal and stay in the UK if there is a demand for their labour. The current system allows MDWs to access justice and redress through existing structures of criminal justice and employment law. Removing protections would mean these workers, often identifiable as victims of trafficking, could only be protected under the Council of Europe Convention Against Trafficking in Human Beings. Specific facilities would have to be put in place, at considerable cost to the UK taxpayer.

The Home Office has acknowledged that the situation of MDWs has improved with the rights given to MDWs in 1998.<sup>36</sup> Under the new legislation, MDWs would lose all protection from being mistreated and abused; the government would abandon a system which has been considered to be extremely progressive since it was implemented in 1998. Moreover the position is inconsistent. Despite the Home Office's commitment to fighting trafficking into the UK, the new immigration system would precisely encourage trafficking, by leaving MDWs under the full control of their employers. The 'domestic assistant' visa will increase the risk of migrants from poor countries being trafficked into the UK to becoming slaves who clean and care in the shadows of affluence.

Graeme Hopkins, Managed Migration Policy Project Manager for the Border & Immigration Strategy, has stated in a letter to the director of Oxfam GB:

[...] The Minister is hopeful that it will be possible to put in place a solution that will provide the right level of protection while also protecting the immigration system from abuse.

We would make the following recommendations to maintain and improve the rights of migrant domestic workers:

- ◆ MDWs remain outside the new points-based approach to immigration into the UK, and the current system of migrant domestic worker visas be maintained.
- ◆ MDWs retain the right to change employer, which often represents the only safety net against the unseen abuse and exploitation that takes place within the household. To remove this basic right would effectively deny MDWs the right not be held in slavery or servitude, in contravention of Article 4 of the Universal Declaration of Human Rights. It would also go against the recommendations of the House of Lords and House of Commons Joint Committee on Human Rights, as expressed in their report on human trafficking, that the proposed changes would mean that 'domestic workers who are trying to flee a violent employer would be less likely to do so, and less likely to approach public authorities for help or to report their abuse'.<sup>37</sup>
- ◆ MDWs continue to be recognised as workers in the UK, and as such continue to be protected by employment law, including entitlement to the National Minimum Wage. They remain able to take action against abusive and exploitative employers, especially in the context of the government's current commitment to combat trafficking and forced labour, demonstrated by its signatory to the Council of Europe Convention on Action against Trafficking in Human Beings, and stated in the UK Action Plan on Tackling Human Trafficking.<sup>38</sup>
- ◆ MDWs retain the right to apply for visa renewal from year-to-year, provided that they remain in full-time employment in the same sector. This ensures that MDWs remain legal and visible while in the UK.
- ◆ A route to settlement remains open to MDWs, who can currently apply for ILR after five years in the UK.
- ◆ The current system should be improved, particularly by promoting active dissemination of information among MDWs by UK missions abroad. This would ensure that MDWs are aware of their rights and duties when they enter the country.
- ◆ Training of embassy workers, immigration officials and police officers is necessary so that MDWs are not faced with prejudice when they do seek help to escape abusive employment situations. This would decrease their vulnerability as officials at every step of the immigration process would be aware of the specific issues pertaining to MDWs.
- ◆ Better information should be given to health workers to address the obstructions MDWs currently face when attempting to access health care.
- ◆ Whenever a new domestic worker visa is issued, registration of new employers with the Inland Revenue should be enforced. The Inland Revenue would then be able to ensure that National Insurance and tax contributions for the domestic worker are paid, thus increasing employers' responsibility, and decreasing the chances of MDWs being blamed for a situation over which they have no control.

## Notes

1. The requirement for domestic workers to apply for ILR used to be four years until 2006.
2. Data obtained from the Border and Immigration Agency under the Freedom of Information Act: 'Diplomatic' domestic worker visas only allow domestic workers to renew their visa if they work for a diplomat *within one mission* (the individual employer can change, but the mission has to remain the same one). 'Visitor' domestic worker visas are granted when the employer enters the country with a tourist visa, whereas the 'other' visas are granted in all other cases (i.e. when the employer has any other visa). In practical terms, there is no difference between a 'visitor' and an 'other' visa, as they carry the same conditions for renewal.
3. Data obtained from the Border and Immigration Agency under the Freedom of Information Act.
4. The International Labour Organization (ILO) in the International Standard Classification of Occupations (1988) uses the following job description for a 'domestic helper/cleaner': 'Domestic helpers and cleaners sweep, vacuum-clean, wash and polish, take care of household linen, purchase household supplies, prepare food, serve meals and perform various other domestic duties.' Such a job description is actually fairly reductive. For a more in-depth discussion on the issue of definition, see Anderson, B. (2000). *Doing the dirty work? The global politics of domestic labour*. London: Zed Books.
5. For further discussions on the question of demand for domestic work, the following references should be consulted: Agustin, L. M. (2003). 'A Migrant World of Services', *Social Politics*, 10(3), 377-96, Anderson, B. (2000). *Doing the dirty work? The global politics of domestic labour*. London: Zed Books, Anderson, B. (2007). A Very Private Business: Exploring the Demand for Migrant Domestic Workers. *European Journal of Women's Studies*, 14(3), 247-64, Boyle, P. (2002). Population geography: transnational women on the move (Vol. 26, pp. 531-43), Kofman, E. (2000). *Gender and international migration in Europe: employment, welfare, and politics*. London: Routledge, Cox, R. (2006). *The servant problem: domestic employment in a global economy*. London: I.B. Tauris.
6. Interview conducted with Ramani (Indian MDW) on 17 July 2007 at Kalayaan, London.
7. Statistics produced using Kalayaan's registration database for 2006 (N = 326) and 2007 (N = 211).
8. Interview conducted with Analyn (Filipina MDW) on 3 September 2007 at Kalayaan, London.
9. Interview conducted with Chitra (Indian MDW) on 31 July 2007 at Kalayaan, London.
10. Interview conducted with Padma (Indian MDW) on 3 September 2007 at Kalayaan, London.
11. Interview conducted with Riza (Filipino MDW working for a Saudi employer) on 9 September 2007 at Kalayaan, London.
12. Interview conducted with Teja (Indian MDW working for a Pakistani employer) on 24 September 2007 at Kalayaan, London.
13. Interview conducted with Visala (Indian MDW) on 20 August 2007 at Kalayaan, London.
14. Interview conducted with Udaya (Indian MDW) on 3 September 2007 at Kalayaan, London.
15. Interview conducted with Sashi (Indian MDW) on 6 August 2007 at Kalayaan, London.
16. Interview conducted with Sashi (Indian MDW) on 6 August 2007 at Kalayaan, London.
17. Interview conducted with Ramani (Indian MDW) on 17 July 2007 at Kalayaan, London.
18. Interview conducted with Chitra (Indian MDW) on 31 July 2007 at Kalayaan, London.
19. Interview conducted with Bina (Indian MDW) on 9 September 2007 at Kalayaan, London.

20. For an in-depth discussion of the issue of passport retention among migrant domestic workers, see Kalayaan. (2003). Research report on passport retention by employers of migrant workers. London: Kalayaan.
21. Kate Roberts, Kalayaan Community Support Worker, interviewed on 8 August 2007 at Kalayaan, London.
22. A list of documents required to renew a passport for each embassy can be found in Kalayaan. (2003). *Research report on passport retention by employers of migrant workers*. London: Kalayaan.
23. Interview conducted with Visala (Indian MDW) on 20 August 2007 at Kalayaan, London.
24. Interview conducted with Sashi (Indian MDW) on 6 August 2007 at Kalayaan, London.
25. Interview conducted with Camilla Brown and Kate Roberts, Kalayaan Community Support Workers, on 8 August 2007 at Kalayaan, London.
26. Interview conducted with Camilla Brown and Kate Roberts, Kalayaan Community Support Workers, on August 8 2007 at Kalayaan, London.
27. The National Minimum Wage Compliance Team is an arm of the Inland Revenue charged with the task of enforcing the minimum wage with extensive powers to bring infringing employers to the tribunal.
28. Draft ILO Multilateral Framework on Labour Migration Non binding principles and guidelines for a rights- based approach to labour migration, Geneva, 31 October – 2 November 2005. Annex II 'Examples of best practice, VI Prevention of and protection against abusive migration practices', pt 82
29. Skrivankova, Klara (2006) *Trafficking for Forced Labour. UK Country Report*, London: Anti-Slavery International.
30. House of Lords, House of Commons Joint Committee on Human Rights 'Human Trafficking'. Twenty-sixth Report of Session 2005-06, Vol. 1.
31. See ILO. (2004). *Human Trafficking and Forced Labour Exploitation: Guidelines for Legislators and Law Enforcement*. Geneva. as cited in Anderson, B., & Rogaly, B. (2005). *Forced labour and migration in the UK*. London: TUC.
32. Home Office. (2007). *UK Action Plan on Tackling Human Trafficking*: Home Office. Foreword.
33. Brown, C. (2006). *King's Fund: Health Project for Migrant Domestic Workers, January 2004 December 2006*. London: Kalayaan.
34. Interview conducted with Chitra (Indian MDW) on 31 July 2007 at Kalayaan, London.
35. As stated in Home Office. (2006). *A Points-Based System: Making Migration Work for Britain*: Home Office.
36. Note of Immigration Law Practitioners' Association (ILPA) meeting with James Quinault (Director, Managed Migration Strategy) re: Managed Migration Points Based System. 28 September 2006
37. See note 30
38. See note 32



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