



KALAYAAN
justice for migrant domestic workers



Care and Immigration

migrant care workers in private households

Executive Summary

Lourdes Gordolan and Mumtaz Lalani
September 2009



LOTTERY FUNDED

This research was conducted by Kalayaan in collaboration with Dr Bridget Anderson, Centre on Migration, Policy and Society (COMPAS), University of Oxford

This research investigated the role of migrant domestic workers employed to care for the elderly in private households in the United Kingdom. It explored the living and working conditions of these migrant care workers; the ways in which they negotiate their employment and social relationship with their care user; and the impact of race and racism on their experiences of employment. It also highlighted ways in which to promote the inclusion and greater support of migrant care workers. Conducted between January 2007 and October 2009, the study was funded by the Big Lottery Fund and conducted by Kalayaan in collaboration with the Centre on Migration, Policy and Society (COMPAS), University of Oxford.

Methods

Data was collected through a series of in-depth semi-structured interviews with 50 migrant care workers (MCWs).¹ MCWs were drawn from a variety of sources. The initial interviews were collected from Kalayaan clients who were caring for elderly people. Ten migrant care workers were drawn from a similar project on migrant care work conducted by COMPAS (see Cangiano et al., 2009), and the rest were drawn using snowball sampling: MCWs interviewed introduced us to their friends and others who were doing the same type of work. A total of 50 interviews were gathered. A focus group was also conducted with MCWs at Kalayaan.

Employers, representatives from Help the Aged and the Social Care Association, and 10 private agencies who supply care workers were also interviewed to provide a more general overview of the market for

1 Ten (10) migrant care worker interviews were sourced from data gathered by the Centre on Migration, Policy, and Society (COMPAS), as part of a collaboration with the COMPAS project by Cangiano, A., Shutes, I., Spencer, S., Leeson, G. (June 2009) *Migrant Care Workers in Ageing Societies: Research Findings in the United Kingdom* COMPAS, Oxford. Full report available here: <http://tinyurl.com/lm9jty>

elder care.

The interview schedule was designed in consultation with the research project's Advisory Board and feedback on the draft report was provided by a group of migration and social care experts.

Background and terminology

Kalayaan (which means 'freedom' in Tagalog, the Philippine language) is a support and advocacy organisation that works to improve the quality of life of migrant domestic workers (MDWs) and foster their social inclusion.

In this report, we use the term migrant domestic workers to refer to overseas domestic workers who enter the UK with a 'migrant domestic worker visa'. They must enter the UK accompanying their employers or a member of their employer's family, but after entry they are able to change employers if they experience abuse or exploitation. At time of writing, the visa is renewable, and after five years workers are eligible for settlement.²

By 'migrant care workers', we mean migrant workers who provide care to elderly people in private households. They have varying visa statuses, including, MDW, student, ILR, undocumented, or dependent (for example, as a spouse). Although a large number of MCWs interviewed for this project were on migrant domestic worker visas, several had held various immigration statuses.

Kalayaan research has demonstrated that MDWs frequently suffer from abuse, discrimination, low pay (or none), exceptionally long working hours, social isolation, and mental health problems arising from the extreme conditions of their employment³. Because of the domiciliary nature of their work, MCWs experience

2 However, this is likely to change in the context of new citizenship legislation enacted in 2009.

3 Oxfam (2008).

many of the same abuses as MDWs, both physical and psychological.

The phenomenon of migrant care work in the private home

Kalayaan caseworkers have long observed that there have been increasing numbers of migrant workers being employed to care for the elderly in private households. Paid care for the elderly is a growing phenomenon across the European Union (EU), and the UK is no exception.⁴ Commission for Social Care Inspection (CSCI) data in March 2008 reported that a total of 73,540 people received direct payments for care in England.⁵ This government-licensed body also estimated that roughly 145,000 elderly people were funding their own personal care in 2006. There is, however, a lack of information and analysis on what these changes mean for migrant workers, the potential demand generated for migrant labour, and the living and working conditions of MCWs.

Research on migrant domestic workers in the UK has tended to focus on those caring for children.⁶ The research available on migrant elder care that has been conducted in the UK has tended to focus on migrant nurses in the National Health Service (NHS), and on MCWs working in care homes.⁷ While this work does cover an important phenomenon in social care, Kalayaan caseworkers believe that migrant workers are now playing an unrecognised role in providing elder care in private households as well and that these MCWs have specific advice, service, training, and development needs that are not being met. There is thus a requirement for a more thorough exploration of the extent of this phenomenon of migrant care in the private home, which this project seeks to address.

4 Yeandle, S. et al. (1999).

5 Calculations made using Adults Performance Assessment Data and Information, January 2009 data sets, CSCI (January 2009).

6 Anderson, B. (2000).

7 See Bach (2006), Buchan (2002), Buchan (2003), Buchan et al. (2003), Kingma (2003) and Winklemann-Gleed (2006).

This research is particularly pertinent given the government's promotion of direct payment for care. While the take-up by care users is currently low, if this continues to be promoted as empowering care users, then the rights of care workers in general, and of migrant workers in particular – especially given their vulnerability to exploitation – need to be recognised and expressed to policy makers.

Research Findings

Living and Working Conditions

Restrictions and grey areas in policy affect migrant workers' living and working conditions. First, government restrictions on access to NVQ training for migrant care workers places MCWs in a position where they are often forced to provide care services without any official training. Second, employers in private households are not subject to regulatory checks preformed by the Care Quality Commission (CQC). Third, although the Health and Safety Commission provides guidelines for the safety of migrant workers, care workers in institutional settings, and health workers in general, it falls silent when it comes to specific provisions protecting paid care workers working in private households not hired by agencies. These three factors help create conditions which place migrant care workers in a particularly vulnerable position, subject to exploitation by care users, and isolated both socially and legally as a sector. Interview findings reflect how these restrictions affect migrant workers' living and working conditions. These include:

1. Hours of work: expectations of being 'on call' 24 hours a day.
2. Migrant care workers felt that there was no clear understanding with their employer where their jobs began and where they ended.
3. Only 30% of respondents had participated in some form of eldercare training. These situations place both the care user and the care worker in a

potentially dangerous situation.

Employment and Social Relations

The contractual and social relations elements of the employment relationship between migrant care workers and their employers are extremely complex. Contractually, the main distinction, as expressed by MCWs, was whether they worked through agencies, or were directly employed, either by the care user or by a member of his or her family.

1. Agencies can facilitate a highly contractualised employment relationship, resulting in more regulated working conditions. However, the regulating impact of the agency is dependent on the individual practices of the company, and these can vary significantly.
2. In cases where care workers were directly employed by the care user or their family, there was a lack of formalised contracts. Even in cases where migrant care workers did have written contracts, there tended to be considerable discrepancies between the tasks and working hours in the contract, and those required in reality.
3. Some employers appeared to use MDWs dependency on them for maintaining their immigration status as a means to exploit them.

Social relations

The social relations element of the employment relationship complicated the picture further. The imbalance in power relations between the two parties resulted in employers frequently oscillating between a more contractualised relationship, and one that was more familial.

Personalisation of care

This study shows that employers have greater expectations of the care worker when they are paying directly for their own care. It also demonstrates that as greater numbers of individuals take up personal budgets and choose to employ personal

assistants, this can lead to the formation of quasi 'employment agencies' registering a number of self employed personal assistants on their books.

The impact of race and racism on experiences of care work

In private households, racial discrimination is particularly difficult to deal with. The following findings indicate the need for greater support of migrant care workers to deal with these situations:

Discrimination at the point of entry into care work

Both care users and agencies indicated preferences for employing particular nationalities and/or races. Agencies concealed racist remarks through referring to 'national characteristics'. In other cases, the reasons given for employing or not employing people were related to issues to do with their 'culture'.

Discrimination experienced within domiciliary care work

The kinds of stereotypical 'national characteristics' mentioned above as facilitating entry into eldercare in general, and as segmenting the labour market with different groups considered more or less desirable, also affect working conditions and wages which can vary by nationality.

Recommendations

Making migrant care workers visible

We recommend that migrants' organisations, policy makers, and other stakeholders recognise the important contribution that MCWs working in private households make to society through their provision of care of the elderly. This is important both in terms of increasing their visibility, which was one of the underlying aims of this project, but also in terms of harnessing their potential in the future social care workforce. If MCWs working within private households are not recognised as such, their years of experience providing care assistance may be lost since future employers in other care settings may not recognise it, as some of the interviews indicated.

In particular, we recommend that a route for entry and settlement for those providing elderly care in private households be considered. Our research has found that the provision of elder care in private homes is principally *demand driven*. We note that, unlike in other sectors, there is no organised body of employers that can lobby the government or the Migration Advisory Committee about demand for labour. There is a risk that this demand will be met by undocumented workers, with consequences for both workers and care users. Undocumented elder care provision is in nobody's interest.

We further recommend that those working in this sector be given a route to settlement in the UK (currently restricted to Tier 1 and Tier 2 entrants). The work of caring for the elderly is a vital social contribution. The work of care, rather than the immigration status on entry, should qualify migrants for citizenship. Moreover, from this research it is clear that elder care workers do not have the resources or time to undertake voluntary work. It is difficult for them to gain additional qualifications or to earn high wages. This is particularly true given the intense commitment to care users that

so many of our interviewees demonstrated. We recommend that the new requirements of earned and active citizenship recognise the contribution of migrant elder care workers building a humane society that treats its elderly with dignity.

Regulation of care agencies

The fragmentation of care agencies that is likely to result from personalisation means that regulation of agencies is necessary to protect both workers and care users. It is recommended that tests should be applied to agencies operating in this field as is being done successfully under the approach laid out in the Gangmasters Licensing Act (2004). In addition, the problems highlighted in section two concerning employment relationships are likely to worsen in the context of personalisation. Recommendations to ameliorate these issues surrounding employment relations are presented in the section below on employers.

Employers

As we have witnessed, the market for MCWs is largely employer-driven. Employers are free to choose whom they want to provide care and what type of home care arrangement they desire. It is important to respect the dignity and choices of care users. However, the informal nature of many of the home care arrangements where written contracts and terms and conditions were generally not provided by employers can leave care workers in precarious employment situations. Indeed they are often not clear who their employer is (or indeed if they have one at all in the case of self employment). Private employers and care workers should be supported to be clear about the different types of employment relationship that are possible. A model employment contract should be provided to employers. This should include wages (with reference to the minimum wage), hours (including clarifying when workers are expected to be available), holiday and sick pay, days off, and, importantly, provisions for when

the care user dies. This last point was a significant cause of insecurity for some workers, and the death of the care user left them homeless and unemployed. MCWs should also be encouraged to ask for these written terms and conditions from their employers.

Key stakeholders within the care sector and social care organisations will play a vital role in making employers aware of their responsibilities. They can do so by working in conjunction with employers and educating them about the need for written terms and conditions and a model contract in order to ensure the safety of the care user and the care worker. In addition, employers need to be made aware of their responsibilities, particularly with regards to the payment of tax and national insurance contributions and accident and liability insurance. These measures, coupled with the aforementioned care plan, will provide for the protection of both parties and are therefore likely to result in long and fruitful care arrangements. Employers who are also care users must be given support in fulfilling these responsibilities.

The need for care plans

Our findings underline the need for care plans for all care users within the domiciliary care sector. A template of a care plan should be drawn up based on the advice of the Care Quality Commission and UK Home Care Association in conjunction with care home managers. Care plans should include the condition of the care user, their daily schedule and medications. They should also include a risk assessment and a plan of action which the MCW can follow, if necessary, and this should be regularly reviewed and updated. Details of the care plan must be agreed by the care worker, the relatives of the care user and, where appropriate, the care user him or herself. Care plans would help to improve the level of care received by care users as well as ensure the safety of the care user and the care worker particularly in situations where care users became aggressive, distressed or abusive (a scenario which is particularly

pertinent to dementia-related illnesses).

Training

As demonstrated in the section on living and working conditions, many MCWs are performing domiciliary care work without appropriate training which can be dangerous for both the care user and the care worker. We therefore recommend that funding be provided for MCWs to be able to gain access to basic training. Training should include induction training, perhaps modelled around Skills for Care's Common Induction Standards breakaway techniques and, where appropriate, a dementia course run by the Alzheimer's Society. MCWs lack of access to training is further compounded by the fact that they are unable to access government funding for NVQ level 2 until they have been working for three years in the UK.

The provision of funding for training such workers is particularly pertinent to Skills for Care's 'New Types of Worker' Programme and should be viewed in the context of harnessing the potential of this group of migrant workers who possess the skill and commitment to carry out care work. Formalising their training would also ease the transition for those who indicated a desire to work in other care settings once they had obtained ILR. Migrant rights organisations would need to discuss this access to training with their clients in the context of actively choosing to do care work as opposed to working in a variety of positions such as child care.

External support

MCWs performing domiciliary care work in private households are extremely isolated and so when faced with situations beyond the realm of their knowledge, or in instances of conflict with the care user over the terms of their employment, they are left particularly vulnerable. External support from the local council and social care organisations is necessary to ensure the safety of both parties and in order to sustain an acceptable level of care for older

people, especially given the likelihood that there will be an increase in such informal arrangements of care in the context of the ongoing personalisation of care. In light of this, we recommend the following:

- **Helpline for home care workers:** Care and Counsel currently operates a helpline for older people, their families, and unpaid carers which gives advice on issues such as funding and arranging home care. However, paid care workers are not included within the remit of this. An extension of this existing helpline or another dedicated solely to care workers should provide them with advice on access to training opportunities, problems within the job itself and contractual difficulties with their employers.
- **Social care organisations to encompass care workers within their remit:** Many of the existing social care organisations currently provide invaluable support to older people, their relatives and their unpaid carers. This support should be extended to encompass paid care workers and there should be increased coordination between carer organisations and care worker organisations.
- **Increased responsibility for agencies:** Agencies should indicate at the outset what type of employment contract they are offering to MCWs. In addition, policies on racism, physical abuse and complaints should be implemented by all agencies. Templates of these policies should be drawn up and national care organisations should assist in the circulation of these policies to agencies

The full report '**Care and Immigration: migrant care workers in private households**' by Lourdes Gordolan and Mumtaz Lalani is available as a free download from:

www.kalayaan.org.uk

www.compas.ox.ac.uk/publications

13 Hippodrome Place, London W11 4SF. United Kingdom

www.kalayaan.org.uk

Registered charity number 1103847