

Promoting and Protecting the Rights of Migrant domestic Workers in CARICOM¹

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1. Key trends in the migration of CARICOM's domestic workers

Historically the main flows of domestic workers from CARICOM outside the Caribbean region were to the United Kingdom, Canada, and the United States, largely via regularized schemes. This organized migration attracted not only working class but middle class women (Trotz, forthcoming). More recently, women have been recruited from the Caribbean as temporary workers in the hotel industry in the United States (Thomas, 2008) but *today there are no existing domestic worker schemes between any Caribbean country and any other country*. Thus while, for example, Jamaicans are a significant presence among temporary foreign workers (TFWs),² the number of domestic workers among them is insignificant. In 2008 the great majority of Jamaica's TFWs in Canada were male agricultural workers and women constituted only 616 out of a total of 7,320 – 170 in agriculture, 70 babysitters and nannies, and another unstated number in occupations including housekeepers, food and beverage servers, and light duty cleaners (Dunn and Gibb in Canadian Development Report 2010, p. 57). Further, in 2009, as a result of recession, there was a sharp drop in the request for nannies in the most recession-hit provinces: Ontario, Alberta and British Colombia (p. 58).

Using the census category “elementary occupations” as a rough guide,³ domestic workers constitute about one-fifth of female employment in CARICOM countries (www.laborstat.ilo.org/stp/guest). It is not known how many of these are migrants. What we do know is that since January 2010, after CARICOM Heads of Government extended the Caribbean Single Market and Economy/Free Movement of Persons (CSME/FMoP) facility to domestic workers who had acquired certification⁴, CARICOM domestic workers have been able to migrate to work in the region using the CSME/FMoP facility or the pre-existing work permit system, or to continue to work “illegally”. Whichever route they take, statistics on their numbers and flows within the CARICOM area are woefully deficient.

What evidence *is* available shows that the numbers using both the CSME/FMoP facility and work permits is insignificant. The FMoP has so far facilitated the movement of the educated elite,⁵ and for all sectors, only 15% of the 18,300 work permit holders in the region in 2008, for example, were CARICOM nationals (Brown et al, 2010, pp. iv-v). These findings lead inescapably to the conclusion that the intraregional migration of CARICOM domestic workers is largely a migration of undocumented workers.

¹ The focus is mainly on the Anglophone countries in CARICOM partly because the limited data facilitates this, but also because these are the countries involved in the shift from extraregional to intraregional migration of domestic workers.

² Jamaica, Mexico and the Phillipines constitute one-quarter of all temporary foreign workers in Canada

³ There is no separate category for domestic workers, but domestic workers are the majority of women in elementary occupations.

⁴ This could be either an existing national qualification (dubbed a National Vocational Qualification or NVQ) or a new qualification, the Caribbean Vocational Qualification (CVQ) (Steven MacAndrew, by mail, August 18, 2011).

⁵ The majority of this “educated elite” are women. The previous categories were university graduates, media workers, musicians, sportspersons, teachers, nurses, holders of associate degrees, and artisans with a CVQ.

The main sending countries of CARICOM migrant domestic workers are Guyana and Jamaica and the main receiving countries Barbados and Trinidad & Tobago⁶ (Brown et al p. vii). The authors explain this in terms of the level of international capital flowing into those countries. This explanation is contradicted by the fact that Guyana is attracting a high level of investment but hemorrhaging migrants of all classes.⁷ Instead, what seems to drive migration from Guyana and Jamaica are the economic conditions caused by the duration of Structural Adjustment Programmes in those two countries.

If we omit the migrations that take place after calamitous political turmoil or “natural” disasters, we are left with domestic workers of different categories migrating in different ways and in pursuit of different strategies:

- Domestic workers with certificates migrate legally, sometimes through an agency, and may use migration to household domestic work as a stepping stone to work in the tourist industry. Given the kinds and levels of qualifications domestic workers need for certification (in Guyana, for example, the two existing courses at the Carnegie School of Home Economics to gain a National Vocational Qualification are a diploma in Catering and Hospitality and a Household Management course, both of which last for two years), we can anticipate that this trend will increase.

- “Undocumented” domestic workers may migrate into or from CARICOM member states, using one country as a jumping off point to another. According to Ferguson (2003), “Some territories, less economically developed, act as trans-shipment points for undocumented migration. In June 2003, *El Caribe* (a newspaper in the Dominican Republic) reported that the small Eastern Caribbean island of Dominica served as a point from which Haitian and Dominican migrants (i.e. from the Dominican Republic) were ‘shipped off’ to destinations like Guadeloupe, St Martin and the US Virgin Islands (p. 7).

- The largest group of domestic workers travel as visitors and stay on to work as domestic workers, saving money on accommodation, food and clothes so they can send home remittances to meet an immediate expense like paying school fees or repairing a house, or to make a larger investment such as building a house.⁸ Some are unaware that they can move legally under the CSM/FMoP. Others may be aware of the facility but be unwilling or unable to use it because of the duration and cost of the training or a fear or reality of not being able to do the required course work and exams (in the Guyana example cited above, these include Maths and English). Women in the main sending countries whose economies have been battered by years of Structural Adjustment Programmes and the concomitant loss of jobs, are forced to make survival decisions which often negate any possibility of long-range planning, especially for their own development. They navigate large, spreading informal sectors, often engaged in more than one area of waged informal work at the same time, or moving from one to the other, and they often travel between countries, traversing the CARICOM and wider Caribbean region as they historically have, without work permits or certificates. For Guyanese (and no doubt other CARICOM nationals), the habit of what Guyanese call “back-tracking” – migrating by routes

⁶ Antigua & Barbuda is also a key receiving country.

⁷ 89% of Guyanese with tertiary education are migrating. F. Docquier & A. Marfouk, “Measuring the international mobility of skilled workers,” World Bank Policy Research Working paper No. 3381 (Washington DC: World Bank, 2004); Prachi Mishra, “Emigration and brain drain: Evidence from the Caribbean,” IMF Working Paper 06/25 (Washington DC: IMF, 2006).

⁸ The strategy is facilitated by differences in rates of exchange, from Barbados where US1 = Bds \$2, to Guyana where US\$1 = G\$200.

which bypass Immigration ports - is so deeply entrenched in the country that it has acquired the status of a norm.

Particularly for undocumented domestic workers, discrimination and indeed, harsh treatment by Immigration officials, are prevalent. Allegations of sexual abuse have usually been refuted by the authorities in the receiving countries but are so persistent that they demand investigation. Migrant domestic workers also face discrimination from some other CARICOM citizens, bordering on, when not actually expressing, disrespect and contempt. They live with a constant fear (and sometimes threat) of deportation; this is of course particularly true for those who are undocumented. A related problem is ill-treatment by some employers who take full advantage of their vulnerability. Race/ethnic prejudice is sometimes a problem particularly for Guyanese of Indian descent in countries that are predominantly of African descent.⁹ Migrant domestic workers feel the absence of organizational support, including from “national” organizations which, in defending “decent” nationals of their countries against attacks, even join in the attacks of those who are “illegal”, i.e., undocumented.

Another major concern is the difficulty even documented migrant domestic workers face taking their children with them. There is a growing phenomenon of the children of migrant domestic workers – particularly the children of single mothers - left to fend for themselves, either completely or under the nominal care of other adults who may be relatives, friends or mere acquaintances. Huggins (2010, unpublished) argues that the failure to introduce the CSME Protocol on Contingent Rights¹⁰ which was put forward as a way to provide a “seamless provision of services to children and others throughout the region as they move within the CSME” (Caricom Secretariat, “Caricom moves forward with Contingent Rights Protocol”, in Huggins p 39) is a critical gender issue, given the overwhelming responsibility that women in CARICOM have for unwaged caring work in the household. It is also a major human rights and development issue.

The worst case scenario for domestic workers in the region is forced labour; while there are examples of non-migrant workers suffering this abuse it appears to be a more critical problem for migrant workers in the region. The report on a 2005 IOM “exploratory assessment” of trafficking in the Caribbean region stated “The findings from this report point to some level of human trafficking in the areas of forced labor, sexual exploitation and domestic servitude”. The research for the report did not reveal the size of the problem but gave some concrete examples. Trafficking was found in all the countries included in the research: among CARICOM countries these were the Bahamas, Barbados, Guyana, Jamaica, St. Lucia and Suriname. (p. 2).

⁹ For example, in some of the public debate in Barbados about the impact of migration of other CARICOM nationals into that country there have been explicit references to the presence of Indo-Guyanese.

¹⁰ There are abundant examples of how this failure plays out. In Barbados, for example, while official policy is that children of eligible skilled nationals with a Certification of Recognition will be automatically allowed in the country, they must apply for a student’s visa. Officially, spouses are allowed in and can work without a work permit as long as they have no criminal record, in reality immigration officers require spouses to obtain a job offer before they can get a work permit, which is discretionary. The rights of dependents are still to be resolved. Skilled CARICOM nationals with children born in Barbados find it hard to get documents like passports (Brown et al, p. 48). In Trinidad and Tobago, while the authorities are administratively facilitating agreement for spouses to work without work permits, the situation for children is unresolved. Children of skilled CARICOM nationals can accompany parents and have the right of access to primary and secondary education but have no right to free tertiary education. They also have to apply for students’ visas, renewable annually (Brown et al, p. 227).

Unfortunately, there is little or no data from governments and women's groups to support IOM findings.

2. Key policy and other challenges to protecting and promoting the rights of migrant domestic workers in CARICOM

The CSME/FMoP policy provides that CARICOM nationals moving under the CSME/FMoP cannot legally be treated differently from a national of the receiving country. All labour laws of the receiving countries are immediately applicable to them on their entry. The CSME/FMoP therefore adds the legal right to enter any CARICOM country which participates in the CSME to work, without a work permit, to the rights that migrant domestic workers have under international instruments (Steven MacAndrew, Specialist, Movement of Skills & Labour, CSME Unit, by email, Aug 18, 2011).

A presentation to a Retreat of CARICOM Heads of Government in May 2011 by the present CARICOM Chair revealed the deficit in implementation of the CSME, including the slow introduction of the Protocol on Contingent Rights of Community Nationals; and the need to ensure that immigration and other officials who interact with Community nationals in member states, know what the policies and agreements are; and treat Community nationals with respect and courtesy. ("Re-energising Caricom integration", PM Tillman Thomas of Grenada, CARICOM Chair. Presented to the CARICOM Heads of Government at their Retreat, May 21-22, 2011)

Brown et al identify what they call "three main sources of tension" in the implementation process of the CSME/FMoP policy: the absence of an overarching authority structure at the regional level; lack of resources and capacity in member states; and the movement of persons from traditional sending countries to the most recent receiving countries (p. 256). Underlying all of these, however, is the historic tension in CARICOM between nationalism and regionalism. As against the longstanding drive of Caribbean people, now with women in the lead, to treat CARICOM and the wider Caribbean as a single economic and "home" space, with shifts in the main receiving and sending countries corresponding to shifts in economic fortunes, there is an anti-"region" feeling that has erupted as intraregional migration has increased. On the one hand there are genuine fears; the disparities of economic development which fuel the migration place pressure on a few countries, in an environment which is frequently one of great anxiety over the countries' economic future. But on the other hand, in the conduct of Immigration officials and some of the public debate linking the presence of "foreigners" to crime and the deterioration of health and education services there is also xenophobia, compounded in the case of domestic workers by class bias.

3. Key recommendations to promote and protect the rights of migrant domestic workers in the Caribbean

The following recommendations are aimed at winning ratification (where necessary) and implementation of all the regional and international instruments that provide legal protection to the rights of migrant domestic workers in CARICOM: the Caribbean Single Market and Economy/Free Movement of Persons agreement; ILO Convention No. 189; CEDAW and its General Recommendation No. 26 on women migrant workers (2008); and the Committee on the Protection of the Rights of all Migrant Workers and Members of their Families – General Comment No. 1 – Migrant Domestic workers (2010).

These recommendations are:

- 1. Develop comprehensive data on the situation of non-migrant and migrant workers in the region to fill the need for quantitative and qualitative data that can inform an evidence-based campaign for their rights.**

Action known to be already taken or planned: The CSME Unit plans a comprehensive migration information system in 2012 (MacAndrew by email, July 13, 2011), while the Institute for Gender and Development Studies, Mona, University of the West Indies plans a baseline study on the situation of domestic workers in Jamaica (Leith Dunn, by email, July 21, 2011).

Action to be taken should include a recommendation to Ministries of Labor and National Statistics offices on the focus and nature of data that need to be collected, and the sharing of data across jurisdictions – to be incorporated into CARICOM's Statistical Work Program; a recommendation to the CSME unit to ensure that gender is built into its data collection, and if possible, some qualitative profiles are developed in addition to the quantitative data; baseline studies on the situation of domestic workers in member states other than Jamaica (see above); tracking of the migration routes of CARICOM migrant domestic workers, including to Latin America, which is a serious gap even in the thin data base that exists; an update of the 1997 ILO Desk Review, providing an audit of existing domestic legislation as it relates to the protection of the rights of domestic workers, and analyzing the implementation of labour and human rights standards in CARICOM, all with a greater focus on migrant domestic workers, including undocumented migrant domestic workers; and gender- and sector-disaggregated data on remittances.

- 2. Take concrete, practical steps to support the rights of domestic workers, non-migrant and migrant, to legal and social protections.**

Action known to be already taken or planned: Re non-migrant domestic workers in particular there is the work of NUDE and JHWA to draw upon.

Action to be taken to be based mainly on good practices from outside CARICOM, for example, the Toronto Organization for Domestic Workers' Rights (INTERCEDE) which provides a range of support including workshops on health, human rights, stress management, and job searching skills (www.Cic.gc.ca/English/work/caregivers_associations.asp); and MigrAr, a German trade union advice centre for migrants without a secure right of stay which is supported by the public sector union along with other civil society organizations and provides undocumented workers with legal advice, files court cases on behalf of workers who have overstayed their visa, and brings them into union organization (p. 46, ITUC Action Guide). Elsewhere there are joint actions by unions in sending and receiving countries informing workers willing to migrate about their rights in the destination country and providing them with contact details of a union there. In particular, the opening of help centres, shelter or information desks in receiving countries has prevented the worst forms of exploitation and abuses from taking place. In some cases, recruitment agencies were put under a stricter control by the union, forcing them to change their unscrupulous practices (p. 38, ITUC Action Guide). These activities must be supported by a vibrant campaign of public education to ensure that domestic workers know their rights and how to claim them.

- 3. Build a regional network of domestic worker organizations, women's groups and institutions, and trade unions, beginning from, and enlarging on, the alliances formed in the process of lobbying for ILO Convention No. 189.**

Action known to be already taken or planned: The Caribbean Network for Domestic Workers already includes the National Union of Domestic Employees of Trinidad and Tobago (NUDE), the Antigua Trades and Labour Union, and the Jamaica Household Workers Association (JHWA). These groups, along with the Grenada Women's Organisation lobbied for passage of ILO Convention 189 ("Trinidad and Tobago domestic workers hope for legal recognition", Trinidad & Tobago Guardian, Mon, 2011-05-16).

Action to be taken should include at national level, increased action towards alliance building, particularly in the main sending and receiving countries of CARICOM's migrant domestic workers. The alliance building should pay attention to the need to include other kinds of groups including organizations of other informal sector workers. At regional level, there should be a Conference of the main domestic worker organizations, women's groups and agencies, and trade unions ready to support domestic workers, to develop a three-year plan of action to win ratification and concrete steps towards implementation of regional and international instruments protecting domestic workers' rights.

4. Launch a campaign for ratification of ILO No. 189 both as a goal in itself, and as the best way to build a platform from which to address the even more controversial issues related to migrant domestic workers, and in particular to undocumented migrant workers.

Action known to be already taken or planned: A recommendation has already been made that domestic workers and their allies declare October 7, 2011 (World Day for Decent Work) Clotil Walcott Day in honour of Walcott's pioneering work in the region to win recognition of domestic workers as workers; and that a region-wide campaign be launched on that day for governments to ratify and introduce supporting legislation for all the conditions of decent work as defined in Convention 189. At the national level, preliminary work towards a campaign for ratification is most advanced in Jamaica where Friedrich Ebert Stiftung is collaborating with the IGDS at Mona, FES will educate members of the JHWA about ILO Convention No 189 with the aim of strengthening JHWA as an advocate for its ratification. (Judith Wedderburn, Director FES, by email, August 15, 2011)

Action to be taken should include, at national level, identifying and bringing together groups which might form part of the campaign to determine how to work towards that aim and to organize for October 7, 2011 and at regional level, implementation of the proposal for October 7, 2011.

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