

Who Needs Them? Care Work, Migration and Public Policy

Bridget ANDERSON

Senior Research Fellow

Centre on Migration, Policy and Society (COMPAS)

data, citation and similar papers at core.ac.uk

brought to you

provided by Portal de Revistas Científicas

Recibido: 16-02-11

Aceptado: 16-09-11

ABSTRACT

This paper examines how immigration policies on migrant care workers are both pragmatic 'policy solutions' and also reflect and construct social ideas and relations about gender, labour and nation, with a particular focus on the UK. It first considers the regimes that construct the supply and demand for low waged workers in social care to analyse how the creation of a migrant workforce results from the intersection of a wide range of policies and 'systems effects'. The role of migrant labour in the care sector is however, not reflected in immigration policy, and the paper examines the crucial symbolic dimension which can be overlooked in policy literature. To look at this more closely it considers the two immigration categories that have been available for care work in private homes, au pairs and domestic worker visas, which reflect and construct assumptions about the doing of domestic work in the UK, about the relation between family and work, and ideas of equality, slavery and freedom.

Keywords: immigration policy, nation, social care, migrant workers, domestic labour, gender

¿Quién los necesita? Trabajo de cuidados, Migración y Política Pública

RESUMEN

Este artículo examina cómo las políticas de inmigración sobre los trabajadores migrantes del sector de los cuidados son "soluciones políticas" pragmáticas, a la misma vez reflejando y construyendo ideas y relaciones sociales en torno al género, el trabajo y la nación. El texto se centra fundamentalmente en el caso del Reino Unido. En primer lugar, considera los regímenes que construyen la oferta y la demanda de trabajadores, con bajos salarios, del sector de los cuidados, analizando cómo la creación de una fuerza de trabajo migrante resulta de la intersección de una amplia gama de políticas y "efectos de los sistemas". El papel de la mano de obra migrante en el sector de los cuidados no se refleja, sin embargo, en la política de inmigración. El artículo examina la dimensión simbólica crucial que se puede pasar por alto en la literatura política. Para ver esto más de cerca, el texto considera las dos categorías migratorias que han estado disponibles para el trabajo de cuidados en casas particulares, au pairs y visas de trabajadoras domésticas, que reflejan y construyen supuestos sobre el trabajo doméstico en el Reino Unido, sobre la relación entre la familia y el trabajo, así como ideas de igualdad, esclavitud y libertad.

Palabras clave: política de inmigración, nación, *social care*, trabajadores migrantes, servicio doméstico, género.

REFERENCIA NORMALIZADA

Anderson B., (2012). Who Needs Them? Care Work, Migration and Public Policy. *Cuadernos de Relaciones Laborales*. Vol. 30, núm. 1, p. 45-61.

SUMARIO: Introduction. 1. Who Cares in Britain?. 2. It's so easy, anyone could do it!. 3. Us and Them: The symbolic function of immigration control. 4. Conclusion. References.

Introduction

The reasons given for the concentration of migrant women in paid domestic and care services in the European Union used to be that 'local' women, female citizens, were no longer prepared to do it. Feminisation of the labour market meant that they were often not doing this kind of work *full time* for unpaid 'love' (though of course in practice women continue to work long hours in their own homes in addition to paid work). Low wages and poor conditions meant that they were not prepared to do commodified care work. Domestic and care work, along with other 'poor work' became the preserve of migrants. This story of individualised choice at a personal level has been significantly developed by approaches that set these choices within their institutional constraints and examine the intersections of care, migration and employment regimes (Williams, 2010; Williams and Gavanas, 2008). This in turn draws attention to the role of the state: shifts in gender and employment patterns are revealed as not simply the result of state withdrawal, but are in large part consequences, intended or otherwise, of state policy and practices. Social changes are not simply exogenous pressures on states, but are shaped and reflected by them (Orloff, 2006).

These policies have varied considerably within Europe even while they produce an overall gender and national order that appears very similar in its 'top line'. Care and domestic labour are predominantly the responsibility of women, even in gender conscious Sweden (Calleman, 2007), though state provisions for parental leave, taxation regimes and working hours for instance vary significantly between states (Williams and Gavanas, 2008). Care work is increasingly performed by non-citizen women, whether it is in care homes, or within private households, but again they are governed by very different migration regimes: some states recognise demand for migrant care labour more readily than others (notably those where care work in the home is more common acknowledged) and allow for this category of entrant, while others have carers working on a wide variety of visas. Women work illegally in both types of states.

In practice then states play an important role in the shaping of demand for *migrant* care workers, and this is not simply through its policies on care work and labour migration. However, the issues raised by immigration are not only those of 'unintended consequences' and conflicting or confused policy agendas. When it comes to the employment of migrants it is important to recognise that liberal democratic states must also be seen to have care for the 'national interest'. Tensions between employers and public perceptions of the national interest are manifest in immigration policies where states must be seen to prioritise the interests of the 'nation' and 'the people' in ways that go beyond simply a response to the demands of capital. These policies then are not only functional but highly symbolic and

politically contested terrain that assume intense public significance. In particular, immigration controls aren't simply instrumental responses to the needs of employers but are important to state legitimacy which is, through immigration policy, linked to ideas of nation building and preservation (Honig, 2001). Immigration controls are not then simply about allowing in or out individual units of labour, or family members etc. As authors like Sara Van Walsum (2008), Mae Ngai (2004) and Eithne Liubheid (2002) have so brilliantly demonstrated, gender and sexuality are important components of fixing who the 'right' kinds of women are, (mothers, daughters, workers), who can be allowed entry.

In this paper I will consider how immigration policies are both pragmatic 'policy solutions' and also reflect and construct social ideas and relations about gender, labour and nation, with particular reference to social care and domestic work. Such an approach must be grounded in specificities, and I will focus on the UK. I will first consider the regimes that construct the supply and demand for workers in social care to consider how the creation of a migrant dependent workforce results from the intersection of a wide range of policies and 'systems effects'. This dependence however is not reflected in immigration policy, which has a crucial symbolic dimension which can be overlooked in policy literature. To examine this more closely I will take the two immigration categories that have been available for care work in private homes, au pairs and domestic worker visas, which reflect and construct assumptions about the doing of domestic work in the UK, about the relation between family and work, and ideas of equality, slavery and freedom.

1. Who Cares in Britain?

The social care sector in the UK incorporates a wide variety of services, including social work, care homes, disability and family support schemes etc. It includes work that has been highly professionalised, such as occupational therapists, as well as 'the direct care workforce' who provide daily support to people. It is this direct care workforce that I want to focus on, particularly those who comprise its largest part, care assistants and home carers. These may work in institutions like elder care homes, or they may provide domiciliary care, caring for people who are living in their own homes. They account for approximately 730,000 of the 2 million workers in social care as a whole (Moriarty, 2010; Cangiano et al. 2009). Over 80% of social care workers are women, and the proportion of migrants working in the sector has risen sharply. In 2008 some 18% of the workforce were 'foreign born' with most of those being relatively recent arrivals (Cangiano et al 2009)¹. These figures are likely to significantly underestimate numbers of workers who are providing live-in care that is paid for out of the care users' own funds.

¹ It should be noted that data quality, while improving, is still poor (Moriarty, 2010).

The social care sector was subject to significant new regulation under the Labour government of 1997-2010. Many workers were required to undergo a criminal records check and a registration requirement for certain jobs was introduced. Care service providers were inspected to ensure they had minimum standards of staffing and qualification targets and training programmes were introduced to encourage improved standards. The government also piloted 'cash for care' schemes, and in 2007 it was announced that 'personal budgets' were to be rolled out across the country. This means that funds from the state towards care provision are available for them to spend as they wish rather than commissioned through local government (Moriarty, 2010).

Access to publicly funded social care is means tested according to national rules (for institutional care) and local authority criteria (for care provided at home). The cost continues to be a major challenge. Labour costs account for about half of the costs of home and residential care provision (Wanless, 2006) but minimum staffing requirements mean that employers cannot reduce the worker/care user ratio. While publicly funded, services are often delivered by the private sector, which is where most of the workforce is employed (Eborall and Griffiths, 2008). Privatisation of service providers means that companies must have an eye to their profits as well as to care users and employees and there are significant wage differentials between private and public sectors. However, levels of pay throughout the sector have remained very low, despite the improvement in qualifications and standards. It is difficult to see how they can be raised without a wholesale reorganisation of social care or significant increases in tax. Neither of these seems particularly likely in the current political and economic climate in the UK.

What factors have combined to produce a concentration of migrants in institutional eldercare and in care provision in private households? These are both sectors where the employment is highly concentrated in private hands². In institutional care migrants are particularly concentrated in the private sector: 79% of recent migrants are employed by a private organisation compared to 54% of UK born workers (Cangiano et al., 2009). It is not only the low wages that make this an unattractive job for citizens. The material constraints of care work mean that some workers have to be available to work unsocial hours – some people need 24 hour care, while unpaid carers may also look for relief at weekends and evenings for instance. Care homes or care users may be in locations that are difficult to reach by public transport which has been deregulated over decades leading to poor and costly provision for many areas. The ageing population of the countryside for example (itself a product of a wide range of public policies, rural under development and costly private housing resulting in an exodus of young people to the towns), means either that workers have to be prepared to stay overnight, or to spend long (unpaid) periods travelling. All this is particularly difficult for women who have also to juggle

² For ease of analysis I have not considered domiciliary care

their own reproductive responsibilities (care for their children or ageing relatives as well as maintaining a home), especially as wages are not sufficient to enable them to buy in these services. A combination of policies then, incorporating not just care workforce issues, but housing and transport costs, can make the sector unattractive to local workers and it is unhelpful to see this simply in terms of them ‘preferring to collect welfare benefit’ (Anderson and Ruhs, 2010).

So why is it that migrants are more likely than citizens to work in this sector? Do not the same considerations apply? Of course one must beware of inventing figures like ‘the migrant’ and ‘the citizen’ and there are many citizens who do work in the sector. But migrants and citizens are differentially constrained. For example, migrants are more likely to be young among A8 nationals (i.e. citizens of East and Central European states that joined the European Union as part of 2004 EU Enlargement) and not to have dependants. If they do have dependants they may have travelled alone, for personal reasons or for reasons associated with their visa. That is, their reproductive responsibilities may be more limited, but equally may be commodified or taken up by ‘global care chains’ (Hochschild, 2000; Yeates, 2003) facilitated by international wage differentials and exchange rates. UK state policies that impact on reproductive labour performed ‘at home’ therefore do not have the immediate impact on segments of this population that they do on female citizens. They may be more prepared to work unsocial hours etc., at least for the period of their initial stay in the UK. Living in, rather than a logistical challenge, may be a positive advantage, as new arrivals can find it difficult to find affordable housing, particularly if they do not know people with whom they can share. They may also bring with them a ‘temporary mindset’ meaning that they are more prepared to tolerate poor work as they expect to be able to move on from it in a way that citizens are afraid they might not (Anderson, 2010). Once they have mastered the language, know their rights, have increased their social capital, they might expect to move on. Importantly therefore, many of these differences between migrants and citizens diminish with length of stay and constraints operating on both groups are likely to converge over time.

2. It’s so easy, anyone could do it!

The gendered nature of “skill” and its reliance on specific specialisms and measurable achievements makes it peculiarly unsuitable for capturing the requirements of domestic labour. Indeed the roots of the concept of ‘skilled’ are precisely that it is *not* applied to the general requirements of reproductive labour and the management thereof (Cockburn and Ormrod, 1993). Care work is designated as at skills level 2 according to the Standard Occupational Classification. That is it requires education up to the compulsory level, but typically also experience or on the job training. Arguably this does not capture the considerable personal reserves and experience required. Good care work relies on a wide range of competences and capacities, from the management of personal relations, empathetic listening skills,

knowledge of how to lift, bathe and feed, how to identify a medical emergency, and so on. Attempts to rectify the low skill reputation of institutionalised care work through professionalization, training and qualification development have not been accompanied by improvements in wages and have so far proved unsuccessful. There have been no concerted efforts to professionalise domestic work in private houses – or rather, over the long period when reproductive labour has been professionalised it has been moved out of the private household, giving us (predominantly female) nurses, teachers, therapists etc.

The idea that care work is low skilled has multiple consequences. One of them, as previously discussed, relates to wage levels. Another is the lack of a formal career path, limiting individual's career development within the care sector. There is an 'informal' career path that some have mapped (from worker in private household to worker in institutionalised care, or from private institution to NHS/local authority provision), but while conditions and pay may improve they are still harsh and the work difficult (Cangiano et al. 2009). For many people care work is in consequence a 'low status job for life', rather than 'the first foot on a career ladder'.

Another is that 'low skilled' workers are generally imagined as replaceable, one with another. It is useful to think of this in terms of the Aristotelian distinction between 'artifices', the skilled labourer selling that which is his (his skill), and the operarii or unskilled worker, who allows others to make use of her ('hands') (de Ste Croix, 1982). Operarii are fungible: if one is simply being made use of then what matters is the user, in current times the employer or labour user, rather than the pair of hands they are using. The idea that 'anyone' can do low skilled work – if only they had the time, the inclination or the necessity – is key to many states' labour, welfare and immigration policies. It is the low skilled who must be protected from undercutting (and from their own idleness) through restricting non-citizens' participation in labour markets.

There has been a noticeable shift since the early 1990s of the language of skills in British social policy. There has been a move away from skills as signifying formal training and credentials towards 'skills for life'. These cover a broad range of competences, transferable across occupations, from 'problem solving' to team working, communication, customer handling and so on. They are particularly required as a result of technological change (Autor et al., 2003) and the move to a service economy (Anderson and Ruhs, 2010). Soft skills are particularly important in sectors where social relations with service users are important to the delivery and quality of the work. That is, the job is done in a way that contributes to a good experience for the user rather than simply to complete the task. Despite being 'low skilled' then, this work can't be done by 'anyone'. This emphasis on so-called 'soft skills' means that qualifications are often not a sufficient measure of abilities. Thus some social care service users actively express a preference for what are deemed 'personal qualities' and experience over formal qualifications (Cangiano et al, 2009).

This shift has not, however, been reflected in immigration policy and rhetoric. In its 2008 introduction of the Points Based System to govern immigration, the gov-

ernment established the Migration Advisory Committee (MAC) to provide advice about whether jobs were skilled, whether they were in shortage, and whether it was 'sensible' to allow non-EU migrants to fill them. In order to decide whether a job is skilled the MAC uses top down and bottom up measures (MAC, 2008). The top down measures assess the level of formal qualifications held by people within an occupation, the average earnings (which must meet a certain level). Many care workers do not have formal qualifications, and as we have seen, the financial pressures on wages mean that they are also unlikely to earn much above the minimum wage. Indeed the emphasis on formal qualifications and earnings has been found to penalise female migrants. In Tier 1, the category of entry for 'highly skilled migrants' two thirds of applicants are men, and in the skilled Tier 2 category, 78% are men, not at all a reflection of the British labour market more generally (Murray, 2011).

There is an ostensible mismatch then between immigration policies which have taken little account of the implications of its emphasis on the 'highly skilled' and the demand for low waged, flexible workers from the social care sector. One reason that this has not been on the policy horizon until relatively recently was the fact that many of the care workers were not entering on employment visas. As Cangiano et al (2009) point out, most recent migrants working in the care sector, and, one could add, also those working in private households, entered the UK via non-labour channels. This does not mean that they are working irregularly, rather that they are working on a variety of visas – students, working holidaymakers, dependants etc, and they have been recruited from within the UK rather than directly recruited from abroad. However, these means of entry are being significantly restricted, through measures such as numbers of student visa holders and their right to work being increasingly limited and spouses being required to pass English tests before entry. This, combined with raised hurdles to acquisition of settlement and citizenship, is likely to have significant consequences for direct care in the medium and long term, which until now has managed a *modus vivendi* within the system.

3. Us and Them: The symbolic function of immigration control

The work of migrants caring in care homes and in private households has for a period been invisibilised by immigration policy, and the dependence of the social care sector on their labour passed relatively unnoticed. However, the introduction of a Points Based System in 2008 drew attention to migrant care workers. While commentators have warned that simply stopping migrants' routes into social care work without overhauling social care itself will put pressure on an already creaking system, the government seems set to continue on this course. It seems that the ideological drive to be tough on migrants, particularly those who are deemed 'low skilled' has won out over the instrumental 'making migration work for Britain'. This indicates the importance of the symbolic function of immigration, immigration controls as spectacle, and as important to the 'stateness of states' (de Genova, 2010;

Anderson 2009; Torpey, 1999). In order to consider this more closely I want to examine the two visas that have been specifically issued for 'low skilled' care work: the au pair visa and the domestic worker visa, in order to see what they reveal about the ideologies of the nation, family and work that underpin policy regimes and how state legislation and rhetoric manage and reproduce contradictions around family, work, public and private, citizenship and membership.

Like soldiering, the work of making homes is a key site for the production of nationhood. Families are supposed to be where nations are constructed, through blood, affection and sacrifice, they underpin 'British life' yet interestingly (again, as with soldiering) work in private homes is not a sector that is considered to be unsuitable for non-citizens. This is in part perhaps because the vulgar physical labour of housework is imagined as separated from the emotional labour of caring, particularly maternal care. However, domestic work in private households is a highly segmented labour market, and certain types of work, such as daily cleaning, in certain areas of a country may be more likely to be done by nationals or by migrants. It is a labour market that is marked by complex relations between nationality and race, revealing the volatility of the concept of 'migrant'. Many 'migrants' are UK nationals, having obtained citizenship after a period of stay in the UK. Equally, many UK born working in the sector are racialised minorities (Moriarty 2010).

'Migrants' by which I mean people who do not have the right of abode in the UK (this group includes EU nationals as well as foreign nationals who are subject to immigration controls) often work as live-in domestic workers, and in fact for many years the only visas available for domestic work were for au pairs and domestic workers accompanying their employers, i.e. jobs where the work was imagined as live-in. The visas signalled an acknowledgement that live in domestic work does happen in the UK, but it is exceptional and the visas were imagined as devised to deal with quite specific situations. Nevertheless, they have been routinely reformulated and these shifting categories are highly dynamic, suggest both the difficulty of incorporating domestic labour into the standard model of immigration controls and the difficulty of accommodating the idea of work within the ideal of the family.

Au Pair Visas

As a practice the idea of young people moving to work in households as a transition to setting up their own family has a long European history. In the early modern period of north western Europe late marriage meant a long gap between puberty and marriage, and an estimated three fifths of English young people in the 16th-18th centuries were sent to work in other households under a system of 'life cycle service', a period of protected transition from the family home to adulthood. For the majority of life-cycle servants this was a transient phase, and while elites did not send out as many young people as they hired, much movement was lateral or nearly lateral across classes and relations were familiar. Young people moved into the homes of others of the same, or perhaps slightly better, social status and relations were familiar but they were regarded as "junior members", subordinate but integral (Cooper, 2004). They performed a range of tasks including hauling water, doing

laundry, gathering wood, and looking after children. These tasks were gendered, with childcare being predominantly the job of female life-cycle servants.

This bears a strong similarity to the way that the au pair regime is imagined: that it is the movement of young people, in modern times, mainly females who are childcarers, it is transient and imagined as middle class. The notion of au pairing as “cultural exchange” I would suggest echoes these types of historical practices and is related to life stage in immigration practice and in the imaginations of the au pair and the host family. This is an arrangement whereby one person’s stage in the life cycle, as young, without dependants, inexperienced, flexible, fits another household’s life stage – overstretched, in need of “help” with demanding young children. It draws on an idea of home as a particularly safe space for girls before they settle down, offering them the opportunity for ‘social progress’ without exposing them to the dangers of the market. The 1969 Strasbourg Convention formalised this process, by marking an agreement between certain European countries to facilitate cultural exchange for young people at the same time as providing help to families with young children. The Convention emphasised in the preamble that au pairs do not belong to the ‘worker category’, and described the movement of au pairs as constituting ‘an important social problem with legal, moral, cultural and economic implications’ that required special moral protections, (Preamble Strasbourg Convention).

In the UK, the immigration status of au pair was limited to people coming from named European states aged between 17 and 27. Applicants had also to be single, with no dependants, and coming for the purpose of ‘cultural exchange’. The relation between au pair and host family was explicitly one of fictive kin, and they were expected to live as ‘part of the family’. Host families provided accommodation and board and in return the young person could be expected to ‘help out’ for a maximum of twenty five hours plus twice weekly babysitting, in exchange for ‘pocket money’. Au pair visas could not be renewed and were valid for a maximum of two years (with a possible six month extension). The only possible “switch” was to a spouse visa. Across Europe these regulations vary widely: in Norway and Denmark for instance, the movement of young people for cultural exchange more obviously includes people that might be better designated as ‘domestic workers’ from Thailand and the Philippines (Stenum, 2008; Øien, 2009). Immigration rules both reflect and construct notions of what an au pair “is” and in the UK this meant young, European (often then coded as “white” and Christian cf Cox, 2006), and, until 1993 when the rules changed, female.

They also made requirements of the family that is suitable for ‘cultural exchange: they must be English speaking, have a spare room, and not need too much ‘help’. If they had a pre-school age there must be another carer available, presumably either a parent/mother or a nanny. While the immigration rules described the contours of the au pair and host families, these were filled out by agencies, whose literature illustrated the wholesome au pairs and happy families they were to be welcomed into. Nevertheless it is in general the au pair that is monitored and regulated rather than the host family, and this is true both as regards immigration controls and agencies. In practice it seems that there was considerable “abuse” of the au pair system by

host families. Research conducted in 2004/5 found that many hard pressed families were very different from the au pair ideal, and using au pairs as the cheapest available form of childcare for e.g. single mothers working shifts (Anderson, 2007). Moreover, au pair agencies reported considerable difficulties in managing the assumptions of whiteness of both host families and au pairs. The latter caused particular problems as generally, unlike au pairs', host families' photographs were not required for agency registration.

Immigration rules not only regulated the type of people who could be subject to the au pair arrangement, but they also described the kind of relationship that would pertain. The au pair visa institutionalised three ideas around the role of young non-citizens in British family homes: firstly that it was not work, secondly that they were 'equal' and thirdly that they were temporary. Au pairs were not 'migrant workers'. Au pair agencies were extremely active in lobbying the Labour Government in the processes up to the introduction of the 1998 National Minimum Wage Act. They successfully secured an exemption for people who were being paid but living as "part of the family" (the 'family worker exemption'). 'Equality' signified not getting paid, after all, wives and daughters don't get paid, but only servants, who are, implicitly, not equal. Thus their labour was not 'work' because au pairs were 'equal'. Thus the invisibility of the economic basis of the household was maintained, even as non family members were accommodated. The Immigration Directorate's Instructions on au pairs at height of the au pair policy suggest that the amount of money allocated to an au pair was an important indicator of the nature of this relationship. "Reasonable allowance" was defined as up to £55 a week as "Any sum significantly in excess of this might suggest that the person is filling the position of domestic servant" (IDI March 2004 Chapter 4 Section 1, Annex A paragraph 4). Work in households was equated with servitude rather than the 'home making' of the au pair and family members (implicitly coded as female).

While, 'au pair', quite literally, designates 'equal' in French, the question of who, in practice, the au pair is equal to, can be unclear. In the context of a history of life cycle service a certain equality of familial status might be referred to, that is the arrangement is between equal family types, one middle class family might host an au pair and send their daughter as an au pair to her parents' family. However, internally, families are not equal institutions but intensely hierarchical. Are au pairs equal to big brothers, sisters, aunts, mothers or fathers? (If s/he was a 'helping pair of hands' in the same way as an older sister this does seem to be a rather romanticised view of what might be expected from many teenage children living in one's house.) Moreover, the 'equality' only extended to within the home. Unlike other young people living in the household, the au pair was not allowed to take on any form of paid employment as to do so would breach immigration conditions. The family is imagined then not only as a space of equals, but as the private sphere, completely separated from the market, and what happens in public does not impinge on the relations within the private sphere.

The idea of the 'au pair' depended for many years on the architecture of immigration controls. This began to change with the free movement of European citizens,

but the scheme expanded in the early 2000s to include citizens of Eastern European states who still required a visa to come to the UK. On the eve of EU Enlargement in 2004 most au pair visa holders came from the new accession states, particularly the Czech Republic. However, following EU Enlargement nationals from the new accession states (A8 nationals) were free to work in the UK wherever they wanted, which caused considerable anxiety for many host families (Anderson et al., 2006). All A8 national workers however had to register with the “Workers Registration Scheme”. Interestingly, Workers Registration Scheme data puts ‘domestic staff’ in the top five occupations for A8 nationals, but ‘au pairs’ who are living in with the family do not have to register. While this means that this dataset is likely to underestimate the importance of domestic work to new arrivals, it is also significant that some domestic workers/au pairs are registering with the WRS. The importance of au pairing not being constructed as work seems to be diminishing with the opening of EU borders when people attained (alleged) equality of citizenship status.

This is confirmed by the position of Romanian and Bulgarians (A2 nationals). Post EU Enlargement there was been a significant growth in these nationals working as au pairs in the UK³. Romanian and Bulgarians will find however that, should they wish to be au pairs this is now considered a ‘category of employment’ and, although they do not need a visa they will require an accession worker card. These ‘au pairs’ then are now constructed as workers, but are highly constrained. In particular, unlike previous au pair visa holders they can work only for the named employer on their accession worker card. In early 2004, au pair agencies reported host families as specifying that they wanted Romanian, Bulgarian or Turkish au pairs because they can’t legally “run off”, and indeed the agencies in turn were recommending visa nationals: “My Romanian is going up..... because Romanians can’t get other jobs” (Anderson et al. 2006). As under the old system they are not able to take on any supplementary employment.

The au pair visa, with the exception of the accession workers card (which is of course not a visa per se) was abolished in November 2008. The scheme was incorporated into the Youth Temporary Mobility scheme which is applicable to only 6 states and is aimed at those who ‘wish to experience life in the UK’. Those who enter under this scheme may both work and undertake ‘au pair placements’, but what precisely is meant by ‘au pair placement’ is, unlike previously, not defined. There is no need to distinguish au pairing from working in private households, because this group are allowed to work. Thus the discursive idea of the au pair has a strong hold, and the disappearance of the visa has not meant a disappearance of the practice and type of arrangement. There are still large numbers of ‘au pair’ agencies, and it continues to signify a type of arrangement that is not straightforwardly an employment relation, often relying on fictive kin, to distinguish itself from a service relation. The current dominance of non-EU 15 states suggests a shift in the equal-

³ <http://www.runnymedetrust.org/uploads/file/LivingTransnationally-2008.pdf>.

ity of familial status aspects of au pairing: British nationals registered with au pair agencies tend to be looking for families in Austria, Spain and Holland, or further afield in Canada, the USA or Australia. There are very few who are looking for places in Czech or Poland (Øien, 2009).

The history of the au pair visa demonstrates the shifting but mutually dependent nature of citizenship, family, work and gender, and the attempts to accommodate this within liberal discourses of equality. While the au pair visa has, for the moment, largely disappeared from the UK (it is still an important yet under researched component of immigration controls in other European states such as Sweden and Denmark), the contradictions and tensions that gave rise to the immigration status continue to underpin domestic arrangements in unknown numbers of British households.

Domestic worker visa holders

While the au pair visa was issued for non-citizens living with British families, the domestic worker visa was designed for non-citizens entering the UK and living with *non-citizen* families. It began as an immigration concession outside the rules in 1977. This followed a general tightening in immigration controls which meant that 'low skilled' workers were not being given visas to work in the UK. The domestic work concession encompassed a wide range of visas. Some would be given a visitor's visa with an 'employment prohibited' stamp, others had permission to enter to work for their employer, with the name of the employer written on their visa, others were given permission to enter as family members. The practice seemed to depend partly on the individual visa issuing officer but also it later transpired on the point of origin of the family and worker. More particularly African domestic workers accompanying families from Africa were usually given family member visas, while Filipinos accompanying families from the Middle East were given visas with the name of the employer on them (Anderson, 1993).

The employers of these domestic workers were generally wealthy foreign nationals, though they did also include returning British expats. The abuse and exploitation that was a consequence of this kind of employment relation gradually became public, and a lively campaign against the immigration arrangements was expressed as the imposition of 'slavery' in modern times. I have to confess that my first publication, *Britain's Secret Slaves: migrant domestic workers in the United Kingdom*, contributed to this campaign (Anderson, 1993). The campaign generated considerable publicity and engaged the popular imagination. While it was recognised, even at the time, that there was a problem with the presentation of foreign employers (often Arab) 'importing slavery' and barbaric practices, public sympathy seized on images of abusive (male) employers, and this also generated considerable parliamentary support. These families, in stark contrast to the host families of au pairs, were not imagined as safe spaces for women, but as cruel and exploitative places where the threat of physical and sexual abuse was ever present. Moreover, the contrast represented the UK as a site of free labour and space of equality that is (nearly) free from 'slavery', and where any sign of the slave trade would be ruthlessly stamped out. Following any high profile public event, the domestic worker

support group, Kalayaan, would receive calls from well intentioned members of the British public, offering opportunities for workers who had been abused to come and work for them. These opportunities would often be unpaid, but offering rooms with ‘a lovely view’ or the chance to be with ‘a really nice family’. This ideal of the UK as a place of free labour, of British families as havens was a feature of responses to the campaign in the 80s and 90s that has continued to the present day.

In this way the British government was caught between a very public falling short of liberal democratic ideals, and ideas of ‘Britishness’ and the demands of a very specific group of wealthy employers:

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, 1990

The response to this campaigning was to print leaflets, conduct pre-clearance interviews, and require that domestic workers had been employed for 12 months previous to coming to the UK. However, reports of abuse continued, and in 1998 the new Labour government finally agreed to give domestic workers accompanying their employer the right to change employer in the case of abuse, the right to settlement, and to be subject to employment protections. Since then they must be paid the minimum wage and have holiday pay etc. they can also, in theory, access employment tribunals and join trades unions. But a crucial requirement of this is that they are *not* “family workers” i.e. are not “employed to live as members of the family” (House of commons library research paper 99/18 19th February 1999: 4). In contrast to au pairs then domestic workers entering the UK accompanying their employer are constructed as workers and work does not signify servitude and inequality, but ‘not slavery’ and free labour. Employers must demonstrate evidence of written terms and conditions of employment, must undertake to provide a separate bedroom for their worker, or, if they are not to live in, that the worker will have access to adequate accommodation. Those who had entered under the previous regime were to be regularised as they had “become illegal through no fault of their own”⁴.

Rather than life cycle service then this model is closer to the model of the nineteenth century English domestic worker, where those who were still resident were physically and psychically more distanced from the families they lived with, where class (for some domestic workers now, race), rather than life stage was what deter-

⁴ This latter is an interesting description as it does intimate the state construction of irregularity at the same time as circumscribing it – strongly implying that there are others who become ‘illegal’ through their own fault. Domestic workers are a special category of workers. Thus at the very moment of winning their campaign, the power of the state to set borders is reinscribed (Nyers, 2010).

mined one's role in the family. Middle and upper classes were no longer providing servants, even before the post World War 1 decline, and poorer houses increasingly had no paid workers at all (Cooper 2004). These families would no more consider "exchanging" their children with the households of those providing servants than British families would consider their sons and daughters going to work as domestic workers for, say, Indian families in India. Importantly however, this kind of commodified relation is classified as work.

Because it is considered unskilled, the hard won right to be treated as workers came under pressure only 10 years later in 2008. The domestic worker visa could not be accommodated within the new Points Based Immigration system. Given that the UK was no longer supposed to be granting visas to 'low skilled' non EU migrants, the domestic worker visa represented an anomaly. Rather than a working visa it was proposed to give them a 6 month 'business visitor visa' which would not give domestic workers any employment rights, and would tie them to the employer with whom they entered. This visa would not be renewable, and would be issued for the purpose of enabling employers to train up an Eastern European (who would not require a visa) to do the work and replace the original domestic worker when she returned.

The government had not reckoned with the symbolic importance of this particular group of migrants. While accounting for a very small proportion of entrants and even smaller proportion of long stayers, domestic worker visa holders continue to have a lot of support from those who feared a return to 'modern day slavery'. Domestic worker visa holders and other campaigners protested that the continuing high rates of abuse and exploitation by first employers meant that tying them to abusive employers in this way would mean in effect that the UK government was facilitating 'trafficking'. The government's initial response was interesting: they claimed that trafficking prevention measures would be put in place that would ensure all employers and workers would be interviewed before entry and at the border, and if the employer was suspected of maltreating the worker they would be refused entry. Trafficking and slavery would not be allowed on British soil. It is not hard to imagine the consequences for a domestic worker if she and her employing family are returned to the state from which they came (not usually the state of citizenship of the domestic worker, but the state of citizenship of the employing family). While this proposal stops abuse from happening in the UK territory, it is at the cost for the worker of far greater risk and powerlessness on the territory of another state. State intervention would not be neutral and prevent harm, it would actively increase the risk of harm to a vulnerable person, but it would prevent the harm from occurring on British territory. The suggested response to the problem reveals the importance of keeping Britain a national space of liberal freedoms, at the same time as disavowing interest in human rights outside of British territory, even when the British state has had an active role in creating vulnerability. It ties rights very explicitly to presence of the territory, even if this presence is not legally endorsed. The outcome of this is not yet clear, as the government had to temporarily back down from its proposals, and an announcement will be forthcoming in the next few months.

4. Conclusion

Labour migration policies are not straightforwardly a reflection of a collaboration between the national state and employers. Understanding the contradictions that they represent requires an analysis that is sensitive to two sets of considerations. The first is the consequences of ‘systems effects’, stemming from the institutional structure and regulatory framework of labour markets, as well as their social (gendered, racialised, classed) nature (Anderson and Ruhs, 2010). Thus simply changing immigration regulations irrespective of the wider context will not work in the interests of workers, employers and consumers or clients. The employment of migrant workers may be symptomatic of issues that do not essentially derive from immigration policy, though immigration policy may create a feedback effect, increasing dependence on low waged migrant workers. These issues may extend outside of the labour market and include much broader policy and social relations. Secondly, immigration policy serves a crucial symbolic function of delineating the nation and the people. It is a powerful means of delineating ‘us’ and ‘them’ which has particular resonance at times of economic crisis, when inequalities within states are increasing, and large numbers of citizens are facing unemployment and poverty. Those who are concerned to counter public anti-immigrant sentiment have tended to focus on the ‘demand’ for migrant labour, but more attention is needed to craft arguments, and indeed our own thinking, on ‘us and them’.

References

- Anderson, B., and Ruhs, M., (2010). Migrant Workers: Who Needs them? A Framework for the Analysis of Staff Shortages, Immigration and Public Policy in Ruhs, M. and Anderson, B. eds *Who Needs Migrant Workers? Labour shortages, immigration, and public policy* Oxford: Oxford University Press.
- Anderson, B. (2010). Migration, Immigration Controls and the Fashioning of Precarious Workers Work, *Employment and Society* 24(2): 300-317.
- Anderson, B. (2009). "What's in a name?" Immigration controls and subjectivities: the case of au pair and domestic worker visa holders in the UK *Subjectivity* 29: 407-424.
- Anderson, B. (2007). A Very Private Business: exploring the demand for migrant domestic workers" *European Journal of Women's Studies* 14(3): 247-264.
- Anderson, B., Ruhs, M., Rogaly, B., Spencer, S. (2006). *Fair Enough? Central and East European Migrants in Low-wage Employment in the UK*. London: Joseph Rowntree foundation.

- Anderson, B. (1993). *Britain's Secret Slaves: An investigation into the plight of overseas domestic workers* London: Anti-Slavery International and Kalayaan.
- Autor, D, Levy, F., and Murnane, R. (2003). The Skill Content of Recent Technological Change, *Quarterly Journal of Economics*, 118 (4): 1279-333.
- Cangiano, A., Shutes, I., Spencer, S., and Leeson, G. (2009). *Migrant Care Workers in Ageing Societies: Research Findings in the United Kingdom* Oxford: COMPAS.
- Cockburn, C., and Ormrod, S., (1993). *Gender and Technology in the Making* London: Sage.
- Cooper, S. (2004). From family member to employee: aspects of continuity and discontinuity in English domestic service 1600-2000, in A. Fauve-Chamoux ed. *Domestic Service and the Formation of European identity: Understanding the Globalization of Domestic Work, 16th-21st Centuries*. Bern, Switzerland: Peter Lang.
- Cox, R., (2006). *The Servant Problem: Domestic Employment in a Global Economy*, London: I.B.Tauris
- De Genova, N., (2010). *The Deportation Regime: Sovereignty, Space and the Freedom of Movement* in De Genova, N. and Peutz, N. (eds) *The Deportation Regime: Sovereignty, Space and the Freedom of Movement* Durham: Duke University Press.
- De Ste Croix, G. (1982). *The Class Struggle in the Ancient Greek World* London: Duckworth.
- Eborall, C., and Griffiths, D. (2008). *The state of the Adult Social Care Workforce in England 2008: The Third Report of Skills for Care's Skills Research and Intelligence Unit*, Leeds: Skills for Care.
- Honig, B. (2001). *Democracy and the Foreigner*, New Jersey: Princeton University Press.
- Hochschild, A. R. (2000). Global Care Chains and Emotional Surplus Value, in W. Hutton and A. Giddens (eds) *On the Edge: Living with Global Capitalism*, pp. 130-46. London: Jonathan Cape.
- Luibheid, E. (2002). *Entry Denied: Controlling Sexuality at the Border*, Minnesota: University of Minnesota Press.
- Migration Advisory Committee (2008) *Skilled, Shortage, Sensible: The recommended shortage occupation lists for the UK and Scotland*, London: UKBA

- Moriarty, J. (2010). *Competing with Myths: Migrant Labour in Social Care* in M. Ruhs and B. Anderson *Who Needs Migrant Workers? Labour shortages, immigration, and public policy* Oxford: Oxford University Press.
- Murray, A. (2011). *Britain's Points Based Migration System* London: Centre Forum.
- Ngai, M. (2004). *Impossible Subjects: Illegal Aliens and the Making of Modern America*, New Jersey: Princeton University Press.
- Nyers, P., (2010). *Abject Cosmopolitanism: the Politics of Protection in the Anti-Deportation Movement* in N. de Genova and N. Peutz eds *ibid.*
- Øien, C. (2009). *On equal terms? An evaluation of the Norwegian au pair scheme.* Fafo-report 2009:29.
- Orloff, A. (2006). *From maternalism to "Employment for All": State Policies to Promote Women's Employment Across the Affluent Democracies"* in J. D. Levy ed. *The State After Statism: New State Activities in the Age of Liberalization*, Cambridge, MA.: Harvard University Press.
- Stenum, H. (2008). *Au Pair in Denmark: Cheap Labour or Cultural Exchange?* Copenhagen: FOA-Trade and labour.
- Torpey, J. (1999). *The Invention of the Passport: Surveillance, Citizenship, and the State*, Cambridge: Cambridge University Press.
- Van Walsum, S. (2008). *The Family and The Nation: Dutch Family Migration Politics in the Context of Changing Family Norms* Newcastle Upon Tyne: Cambridge Scholars Publishing.
- Wanless, D. (2006). *Securing Good Care for Older People: Taking a Long-Term View* London: Kings fund.
- Williams, F. (2010). *Migration and Care: Themes, Concepts and Challenges* *Social Policy & Society* 9(3): 385-396.
- Williams, F. and Gavanas, A. (2008). *The intersection of childcare regimes and migration regimes: a three-country study'* in H. Lutz (ed) *Migration and Domestic Work: A European Perspective on a Global Theme*, Aldershot: Ashgate.
- Yeates, N. (2004). *Global Care Chains* *International Feminist Journal of Politics*, 6(3): 369-391