

Published by the Migrant Rights Centre Ireland  
in association with Dublin City University 2006



# **NO WAY FORWARD, NO GOING BACK**

Identifying the problem of trafficking  
for forced labour in Ireland



MRCI  
MIGRANT RIGHTS  
CENTRE IRELAND



DCU



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The Migrant Rights Centre Ireland is a national organisation working to promote the rights of migrant workers and their families. Based in Dublin, the MRCI provides direct support to migrant workers throughout Ireland. We also work with migrant workers to become involved in the issues concerning them, and support their inclusion in Irish society. Influencing policy development and campaigning for positive social change are core aspects of MRCI's work. In addition, we are active in supporting locally-based initiatives as well as networks at local, national, European and global levels.

Photographs by Pete Pattison

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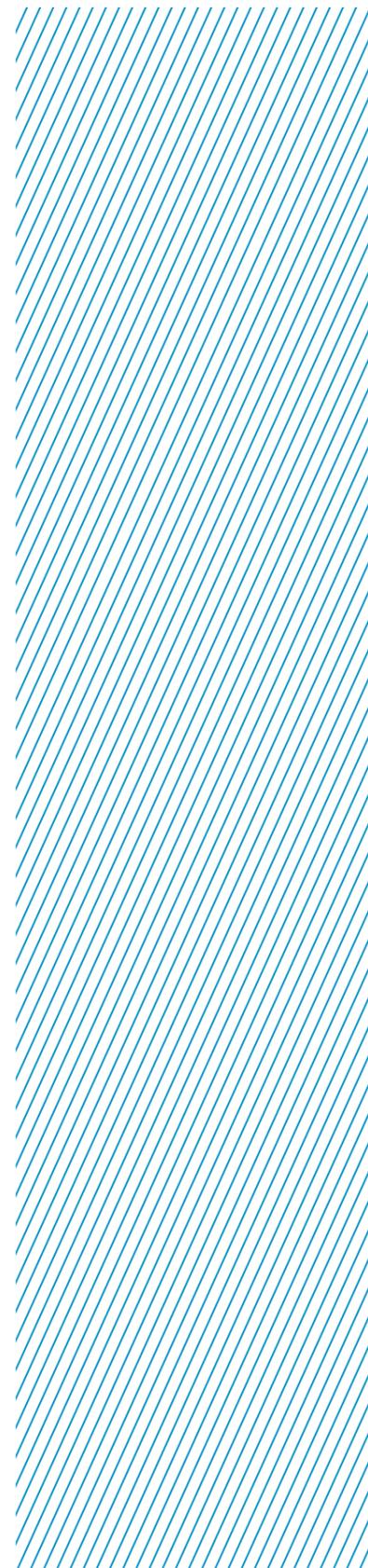
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## Acknowledgements

This report has been prepared following a European-funded initiative led by Anti-Slavery International that focused on the existence and extent of trafficking for forced labour in Ireland, UK, Portugal and the Czech Republic. We are very appreciative of the support which Anti-Slavery International have given us throughout this project, and look forward to future collaborations. This publication is a joint effort with Dublin City University who partnered the MRCI throughout the project. Professor Ronnie Munck, Director of DCU's Migration and Integration Programme, supervised the research on behalf of MRCI and we are very grateful for his support. A special thanks also to the steering group who advised on the implementation of the project, in particular David Joyce of ICTU, Said El Bouzari, Richard Fallon of the Equality Authority, Virginija Petrauskaite from MRCI, Ronnie Munck from DCU, and Anastasia Crickley of NUI Maynooth. Roger Plant from the ILO provided invaluable support and his presence at the Roundtable organised to present the findings of the research is much appreciated. The photographs that appear in this publication have been provided by Pete Pattison, an independent photographer who is currently working on a project with Anti-Slavery International. The participants in these photographs are migrant workers who have experienced modern-day slavery including trafficking, and MRCI wishes to acknowledge their willingness and generosity in giving us their trust and time. Above all, MRCI wants to thank the migrant workers who participated in the study. Their bravery and willingness to participate was driven by a desire to prevent others from having to go through similar painful experiences. We salute this bravery and acknowledge that our work in the MRCI would not be possible without the solidarity and participation of so many migrant workers who take great risks and effort to create a better Ireland for all. Finally, I want to acknowledge the work of Deirdre Coghlan of DCU and independent researcher, who has driven this work from the beginning. Her enthusiasm, sensitivity, flexibility and humanity has resulted in a report that reflects both the human dimension of trafficking and the policy context which impacts so directly on the lives of those forced into a trafficked situation.

**Siobhán O' Donoghue**  
Director MRCI



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The modern scourge of human trafficking has already caught the world's attention. But the focus has usually been a restricted one, on the plight of young women and girls trapped in forced commercial sexual exploitation. And yet, the more governments and others conduct proactive research on trafficking and exploitation, the greater the realization that women, children and also men can be trafficked into various forms of economic exploitation beyond the sex trade.

On a subject like forced labour where the facts remain largely hidden, and where there has been limited media or public policy attention, it is always difficult to assess the true dimensions of the problem. Yet the ILO's 2005 report, *A Global Alliance Against Forced Labour*, in providing both global and regional estimates of forced labour and trafficking in its different forms, began to shed some much-needed light on this. Forced labour exists today in almost every country and every kind of economy, affecting a minimum of 12.3 million persons worldwide, with some 80 per cent of this exacted by private agents. There are some 360,000 victims of forced labour at any one time in industrialized countries, about a quarter of a million of these in Europe. In Europe the victims are almost invariably vulnerable migrants, from Eastern Europe and developing countries. While sex exploitation predominates, at least one third of the persons – and perhaps forty per cent or even more – are trafficked into forced labour or other forms of economic exploitation.

Since our Global Report was issued in May 2005, the ILO has seen a surge of interest in documenting and coming to grips with these problems. The ILO's Special Action Programme to Combat Forced Labour (SAP-FL) has conducted its own research, in European countries including France, Germany, Italy and Portugal. Other European countries including the Netherlands and Sweden are also conducting their own proactive research and investigations. Greater efforts are also being made by such regional bodies as the European Union and the Organisation for Security and Cooperation in Europe (OSCE) to understand the problems and their underlying causes, and seek the appropriate policy response in coordinated fashion.

The present report by the Migrant Rights Centre Ireland should be welcomed, as part of broader

efforts to grapple with a complex but deeply disturbing problem of our times. While the project admits to being small-scale and experimental, it should serve to open debate in Ireland, as in the rest of Europe, concerning the measures that need to be taken to prevent forced labour emerging as an unwanted feature of modern labour markets. Forced labour is the antithesis of the decent work agenda for which the ILO stands, and can also be the underside of contemporary globalization. Thus all countries must be alert to the very real risk of unacceptable forms of coercion pervading their own labour markets.

Ireland has also taken a strong lead in global action against forced labour and trafficking. Irish Aid (Dept. of Foreign Affairs) has provided generous support to the ILO's SAP-FL programme since its inception in 2002. The ILO is now building a Global Alliance Against Forced Labour, seeking to eradicate forced labour everywhere by 2015. We believe that this is a realistic goal, provided that modern forced labour receives policy attention, and that sufficient resources are made available for sustained programmes of awareness raising, prevention, law enforcement, and also protection and compensation for the victims. Governments, employers, trade unions, civil society, academia and others can jointly contribute to this goal. And a vital role will always be played by an organization like MRCI, which has direct daily contact with the migrant workers themselves, and which is well equipped to bring their concerns to the attention of policy makers.

**Roger Plant**  
**Head, Special Action Programme**  
**to Combat Forced Labour**  
 ILO, Geneva  
 December 2006

This report provides an overview of the situation with regard to trafficking for forced labour in Ireland, in sectors other than for sexual exploitation. The Migrant Rights Centre Ireland (MRCI) and Dublin City University (DCU) conducted the research during 2005 and 2006. The report aims to explore the existence of trafficking for forced labour in Ireland and to identify effective policies necessary to support people trafficked for forced labour. The research methods involved a combination of questionnaires, interviews and case study analysis.

This small-scale research project does not claim to be definitive or exhaustive and much work remains to be done to identify and address the problem. Nevertheless, from the research a profile of trafficked victims and their experiences in Ireland is emerging. The problem clearly exists and from this study it would appear to be located predominantly in certain sectors such as the restaurant industry, agriculture, domestic work and the construction industry.

The analysis highlights the complexities of the experiences of migrant workers who have been trafficked for forced labour. The definition adopted in the United Nations Palermo Protocol on Trafficking in Persons (2000) (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children) makes trafficking in persons an international criminal offence. However, there are still difficulties in defining trafficking, and conflicting interpretations of what does and does not constitute trafficking. The findings show that physical abuse, confinement, coercion, deception and exploitation can and do occur to people trafficked for forced labour. However, it was also found that in many cases of trafficking, coercion is more subtle, involving late payment of wages, confiscation of papers, constant threat of not renewing work permits or threat of denunciation to the authorities followed by deportation.

Motivations for migrating varied according to the country of origin and personal circumstances, but overall a dream to secure a better future for themselves and their families created the motivation for people to migrate. Although most of the workers were coming to jobs that could be categorised as 'low skilled' this does not mean that they were unqualified. Many of them had post second-level education. The participants were promised work in agricul-

ture, construction, restaurants, nursing, circus work, childcare and food production. They were all told they would be earning good money, in most cases their accommodation would be provided and they believed they would be in a position to send money home to their families. With one exception all of the participants in this study entered the country legally, mostly on valid work permits. The participants paid substantial sums of money and travelled voluntarily. In addition, none of the participants identified themselves as having been trafficked. They believed the false promises of traffickers, intermediaries, agencies or future employers.

The reality of the working and living conditions was very different from that portrayed by the intermediary or the agency involved. The majority worked excessive hours and their living conditions were often extremely poor, with overcrowding, lack of privacy, lack of sanitary facilities and poor heating being the main problems. Caravans, converted sheds and old farmhouses were used to house workers on farms and on construction sites.

The most serious demonstration of forced labour is the immediate use of coercion or violence in order to restrain and retain a worker. In general, however, employers/traffickers were able to exert control over the victims in subtle ways. Traffickers routinely told workers that they would not renew their work permits; some had their passports confiscated and threats were made regarding their families back home. In many cases they were verbally abused. Some workers were compliant with the traffickers' demands because they believed they could not return to their home countries until they had paid off their loans and there was no other way to provide for their families. These threats forced workers to put up with ever-deteriorating working conditions and made them fear, or increased their fear of, law enforcement and prison.

The majority of migrant workers interviewed expressed dismay at what they saw as the Irish State's unwillingness to protect them. The Department of Justice, Equality and Law Reform is preparing legislation that will transpose into Irish law EU directives and UN commitments in relation to trafficking, including trafficking for forced labour, but they are not in a position to say when the

legislation will be enacted. The Criminal Law (Trafficking in Persons and Sexual Offences) Bill 2006 intended to give effect to such commitments was published during 2006 but unfortunately in its current form the Bill does not address trafficking for forced labour. The Immigration, Residency and Protection Heads of Bill published in the later half of 2006 also ignore the issue of trafficking. In addition, the Report of the Department of Justice, Equality and Law Reform and An Garda Síochána Working Group on Trafficking in Human Beings (May 2006) did not acknowledge or include in its scope the issue of trafficking for forced labour. Consequently, in the absence of formalised procedures or a structured approach, the victims of trafficking for forced labour can be viewed by State agencies simply as undocumented workers, and are in danger of being deported to their country of origin. Furthermore, as undocumented workers they have to live without access to social protection such as social welfare, housing, etc.

This lack of formalised procedures impacts on the work of NGOs and trade unions as victims need access to visas, accommodation, financial assistance,

medical assistance, education (language classes) etc. However, without the discretionary help of individual members of the Garda National Immigration Bureau (GNIB) and the Department of Enterprise, Trade and Employment, NGOs and trade unions would find it impossible to provide essential support.

The research indicates that measures to address trafficking in human beings fall into three distinct areas: those which address our response to, and protection of, victims; those which address our understanding of trafficking; and those aimed at preventing trafficking. The problem is not just one of punishing the traffickers; it is also a matter of protecting and assisting the victims. The former UN High Commissioner for Human Rights Mary Robinson emphasised the need to place human rights at the centre of any measures taken to combat trafficking. However under the terms of the Palermo Protocol on Trafficking States are not obligated but merely encouraged to protect and assist victims. It is vital that the human rights elements of the protocol are implemented by the Irish State if the problem of trafficking is to be addressed and the needs of trafficked victims are to be met.

## 1.0 Introduction



**EVERYONE HAS THE  
RIGHT TO LIFE, LIBERTY  
AND SECURITY OF  
PERSON.**

Article 3, Universal Declaration of Human Rights

## 1.0 Introduction

International awareness of the problem of human trafficking has increased, and many reports highlight that it is a growing criminal industry that exploits people and violates basic human rights on a number of levels. Until recently the main concern of research and public opinion has been with the appalling treatment of women trafficked for sexual exploitation. In recent times, however, there appears to have been a growing realisation that men, women and children are trafficked for a variety of purposes including begging, cheap and expendable labour, forced marriage and sexual exploitation. The International Labour Organisation (ILO) points out that while there is growing international acceptance of the need to combat both of the main forms of trafficking - for the purposes of sexual and labour exploitation - very little progress has been made with regard to labour exploitation (ILO 2002, p.3).

This is partly due to the difficulty in obtaining reliable data. Wylie (2006) points out difficulties in researching this area such as problems associated with the criminality of the act, the vulnerability of persons trafficked, confusion surrounding defining trafficking, the lack of systematic collection of information and the politics of publishing data. However, these difficulties should not discourage research in this area. To allow this to happen would, according to Wylie (2006), allow trafficking and the human rights abuses connected with it to remain 'unilluminated and unchecked'.

Human trafficking affects countries throughout the world, as countries of origin, transit, and destination or sometimes a mix of all three. Increasingly in Europe many people end up being trafficked for forced labour as domestic servants, in sweat-shops, on construction sites, in agriculture, in textile and garment factories, in the transport industry and in restaurant chains, on plantations and in mines (Aradau, 2005, p.17). The problem of trafficking for labour exploitation, though little documented or understood, is of increasing importance for Europe. A focus on trafficking for labour exploitation is strongly emphasised in the European Commission's 2001 Strategy Paper, which refers specifically to "labour exploitation in conditions akin to slavery". The EU Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings obliges all EU member States to harmonise their domestic criminal legislation on trafficking by 2004, including adopting a common definition of trafficking consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

This report was prepared arising out of a project that looked into the situation of workers trafficked and exploited in sectors other than the sex industry in four countries (Ireland, the United Kingdom, Portugal and the Czech Republic). The project, led by Anti-Slavery International, had the aim to identify and assess other forms of trafficking and to determine as accurately as possible why it is happening. It did not seek to provide definitive answers. Given the limited capacity of the scope of the research, this report aims to provide an impetus for policy-making, to increase discussion of the topic in public and to stimulate further research into the issue. The results of the study conducted have led to the drafting of recommendations for policy-making, collaborative approaches and law enforcement in this area.

Section two introduces the research methodology and the definitions used in the project. The research uses the internationally recognised United Nations definition of trafficking and the International Labour Organisation definition of forced labour.

Section three provides an overview of the Irish context of trafficking for forced labour, including the legal provision and support mechanisms available.

Section four analyses the findings from the interviews and questionnaires and looks at the issues emerging for migrant workers.

Section five contains three case studies that provide an overview of the experience of trafficking for forced labour from the individual's perspective. The section concludes with a reference to the human and labour rights abuses experienced by the three individuals.

Section six lists the conclusions and recommendations in order to effectively deal with the issue of trafficking for forced labour and to protect those who find themselves in this situation.

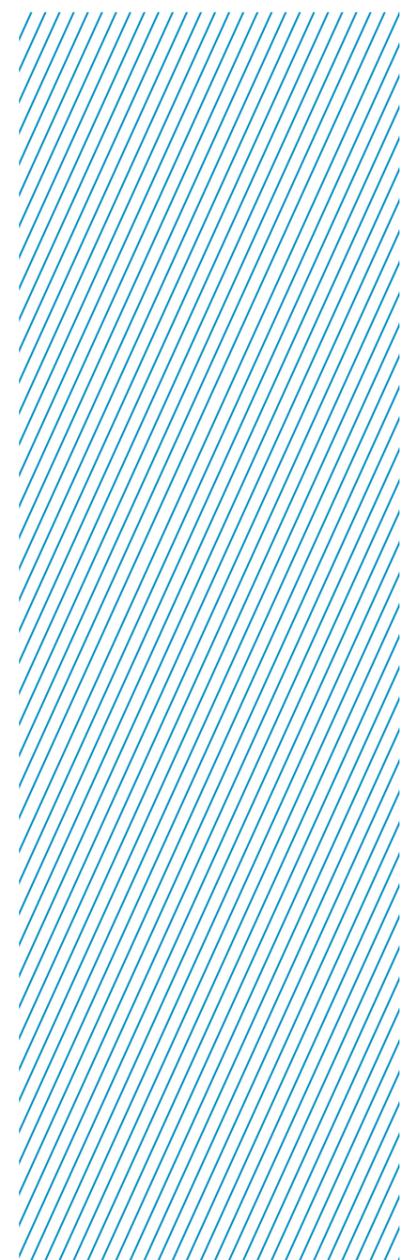
## 2.0 Research Methodology and Definitions



**NO ONE SHALL BE HELD IN SLAVERY OR SERVITUDE; SLAVERY AND THE SLAVE TRADE SHALL BE PROHIBITED IN ALL THEIR FORMS.**

Article 4, Universal Declaration of Human Rights

The first priority of the research was to develop a better picture of the nature of trafficking for forced labour in Ireland. However, conducting research in this area presents many challenges, methodologically and ethically. This section details the approach used to overcome some of these challenges.



### 2.1 Methodology

Some methodological difficulties were experienced in relation to establishing a representative sample, due to the fact that trafficking is an illegal activity, and due to the lack of knowledge of the subject in Ireland and absence of any earlier research on which to draw. The representativeness of the sample was therefore not taken into account in the choice of people interviewed. The sample of participants (which were accessed through the Migrant Rights Centre Ireland) should be viewed as a convenience sample.

The research adhered to ethical principles of confidentiality, anonymous data, consent and ensuring pressure was not put on the people contacted to participate in this study. All the interviews were held at the MRCI where the participants were familiar with the surroundings and the staff.

The research methods for the project involved a combination of questionnaires, interviews and case studies analysis. 105 questionnaires were sent out to professionals in the following categories:<sup>1</sup>

Questionnaires Sent		Questionnaires Received	
Civil Society/NGOs	30	Civil Society/NGOs	21
Welfare/Service provision institutions	25	Welfare/Service provision institutions	6
Immigration/law enforcement institutions	25	Immigration/law enforcement institutions	7
Employment sector	25	Employment sector	6
<b>Total =</b>	<b>105</b>	<b>Total =</b>	<b>40</b>

Semi-structured interviews were also conducted with fifteen migrant workers<sup>2</sup> and five professionals<sup>3</sup>. The interviewer encouraged the respondents to tell their stories yet ensured that all topics were covered in order that comparative analysis can be made across countries<sup>4</sup>.

Three case studies were analysed in detail in order to provide an overview of the human and labour rights abuses the person experienced, highlight the complexity of the situation and identify the relevant international treaties, and if possible national legislation, addressing the exploitation.

### 2.2 Definitions

The following definitions were used in conducting this study:

**Trafficking:**  
 “Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force

or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour<sup>5</sup> or services, slavery or practices similar to slavery, servitude or the removal of organs.” *Article 3 of the UN Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.*

**Forced Labour:**  
 The term “forced or compulsory labour” shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” *Article 1(1) of ILO No. 29*

The International Labour Organisation suggests six “indicators of forced labour”:<sup>6</sup>

01. Threats or actual physical harm to the worker.
02. Restriction of movement and confinement, to the workplace or to a limited area.
03. Debt bondage: where the worker works to pay off a debt or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt.
04. Withholding of wages or excessive wage reductions, that violate previously made agreements.
05. Retention of passports and identity documents, so that the worker cannot leave, or prove his/her identity and status.
06. Threat of denunciation to the authorities, where the worker is in an irregular immigration status.

**Trafficking vs. smuggling:**  
 “The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or a permanent resident.” *UN Protocol Against Smuggling in Migrants*

The definition is intended to distinguish smugglers, whose main occupation is transporting migrants via illegal channels, from traffickers, who combine transportation - , not necessarily illegal, with exploitation.

However, categorising these crimes can be difficult and some commentators argue that creating a workable distinction between smuggling and trafficking is impossible. Many smuggled migrants are exposed to abuse and exploitation either while being transported or on arrival, confounding attempts to paint neat lines between smuggling and trafficking (Laczko, 2002 and Anderson and O’Connell Davidson, 2003).

<sup>1</sup> A copy of the questionnaire is contained in Appendix I.

<sup>2</sup> Ten men and five women from Bangladesh, Morocco, Pakistan, China, Romania, Estonia and the Ukraine.

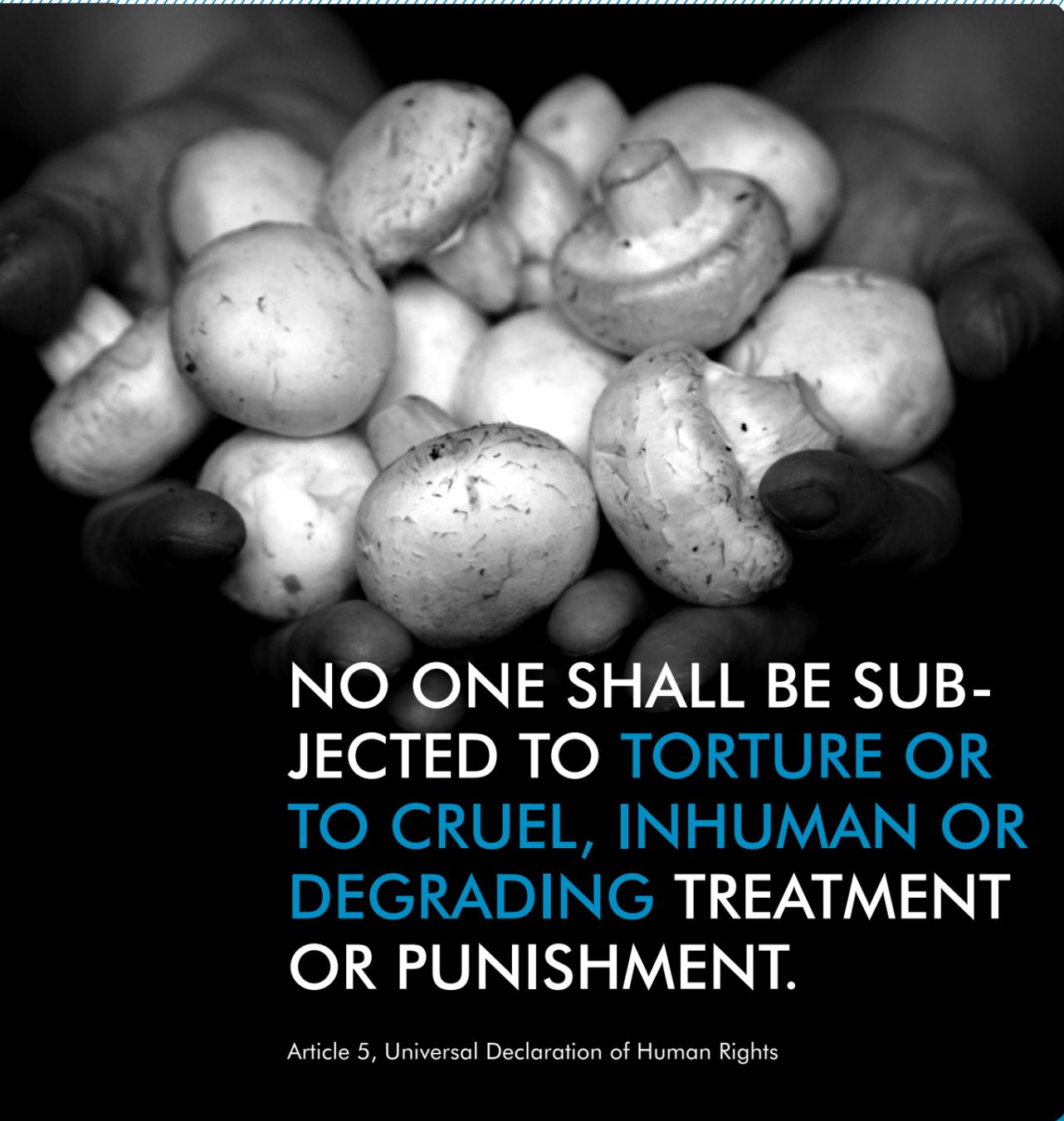
<sup>3</sup> Two case workers from a migrant support organisation, a community development worker in an area with a large migrant workforce (outside of Dublin), an employer from the Sikh community and a trade union official (plus an off the record conversation with an official working in the area)

<sup>4</sup> A copy of the topics covered at the interviews is contained in Appendix I

<sup>5</sup> The Protocol itself does not offer a clear definition of what is meant under the term forced labour. Therefore ILO Convention No. 29 on Forced Labour (1930) and ILO Convention No. 105 on Abolition of Forced labour (1959) are crucial when discussing the trafficking for forced labour issue.

<sup>6</sup> See the ILO Human Trafficking and Forced Labour Exploitation: Guidelines for Legislators and Law Enforcement (2004), Geneva. In Anderson B & Rogaly B, supra note 2, at p. 16.

# 3.0 Context of Trafficking In Ireland



**NO ONE SHALL BE SUB-  
JECTED TO TORTURE OR  
TO CRUEL, INHUMAN OR  
DEGRADING TREATMENT  
OR PUNISHMENT.**

Article 5, Universal Declaration of Human Rights

## 3.1 Introduction

Ireland's long history as a country of emigration is well known and documented. From the time of the Famine (1845) until the 1960s the average annual net emigration from Ireland consistently exceeded the natural increase in the Irish population, which shrank from about 4.4 million in 1861 to 2.8 million in 1961. Employment expansion in the 1970s resulted in net inward migration, but the 1980s were again characterised by a dramatic return to high emigration rates and in 1988-89 alone, 70,000 people (approximately 2% of the population) emigrated (Mac Einrí 2005).

From the mid-1990s Ireland's exceptional economic performance created an unprecedented demand for labour which caused a reversal of Ireland's migration history, and it is now a country experiencing inward migration. A recent report based on data from the Central Statistics Office (CSO) shows that in 2005 non-Irish nationals in employment represent 8% of total employment. This compares with below 3% in 1998 (Beggs and Pollock, 2006). Furthermore, the Economic and Social Research Institute (ESRI) projects that Ireland will need 50,000 immigrants a year for the next decade to maintain economic growth.

This dramatic change in the composition of the workforce has not occurred without difficulties. NGOs, trade unions and media reports have provided evidence that some migrant workers are experiencing a combination of exploitative and abusive conditions. Conroy (2003, p.10) claims that the Irish context has been fertile for the development of contemporary trafficking in human beings for both labour and sexual exploitation.

While awareness of exploitation and abuses of migrant workers in Ireland has been growing, awareness of human trafficking to Ireland has only recently begun to be acknowledged. NGOs have been arguing that a problem affecting the rest of Europe was unlikely to have passed Ireland by. However, there are no official statistics on trafficking in Ireland and the lack of research for the reasons outlined in the introduction has meant that available information in this area is largely anecdotal. In addition, Ireland follows the general perception that where trafficking occurs it is usually women who are trafficked for sexual exploitation. This perception contributes to a misunderstanding as to what constitutes trafficking for forced labour.

## 3.2 Ireland a country of origin, transit or destination?

The very limited amount of research conducted in this area and evidence from NGOs working in this area suggest that Ireland is a country of destination and transit. In a recent report on migration and Northern Ireland it was claimed that many undocumented migrants might have entered from the Republic and some may have been placed in work by unscrupulous recruitment agencies. It also suggests that movement of undocumented migrants may be occurring in the opposite direction (Jarman, 2005). A case study in this report highlighted the way that migrants can be brought to Ireland legally on one visa and then moved to the UK on another visa. Illegal entry into Ireland is probably easiest via Northern Ireland, which can be easily accessed from the UK. Conroy (2003) points out that the border between Ireland and Northern Ireland is relatively unmanned with thousands crossing it on a daily basis and that smuggling of goods and adults takes place. Furthermore, because of the Common Travel Area agreement between Ireland and the UK there are no passport controls for Irish and UK citizens travelling between the two countries (Ruhs, 2004, p.7).

## 3.3 Forms of migration which leave people vulnerable to exploitation

Many analysts have argued that policies designed to control and restrict immigration can fuel markets for trafficking and smuggling. Workers who migrate legally under a work permit system that ties them to an employer are vulnerable to exploitation and abuses (Anderson and O'Connell Davidson, 2003, p.8). Ireland operates a work permit system that has come in for a lot of criticism.<sup>7</sup> Work permits are generally for a period of one year and are issued to the employer. Seventy-four per cent of all work permits relate to areas of work in the so-called 'low skills' category (MRCI, 2005: p 10). It has been argued that the current system effectively binds employees to their employer exposing them to the risk of exploitation. This has been criticised as a form of 'bonded labour' (Immigrant Council of Ireland, 2004). The Employment Permit Act 2006 has recently come into force. While welcoming a number of changes, e.g. the provision for the employee to apply, permits issued for up to two years, greater flexibility to move jobs in theory, MRCI and others are concerned that those most vulnerable to exploitation including trafficking for forced labour will not be in a position to benefit from

<sup>7</sup> Ireland also operates a visa/work authorisation which is issued directly to the employee. It is restricted to specific skilled occupations for which workers are in short supply. It is valid for 2 years and holders of this authorisation are allowed to change employers after arrival in Ireland as long as they have authorisation to work and reside in the country.

such changes. Neither is it possible at this stage to ascertain the real impact on the lives of migrant workers employed under this system. It is still relatively difficult for an employee to locate a new employer and secure a new work permit. The provision of tied accommodation can act to make an exploited worker unwilling to assert his or her rights, as he or she knows that this might result not only in summary dismissal from the job, but also in immediate eviction from the accommodation, leaving him or her both jobless and homeless.

Migrant workers experiencing poor and exploitative conditions arising from the actions of unscrupulous employment agencies can be slow to come forward out of fear of losing their employment or jeopardising the employment of their colleagues. The Irish Congress of Trade Unions (ICTU) claims that the lack of regulation of recruitment agencies in non-EU/EEA countries compounds this already complex problem (ICTU, 2006).

Many women migrate on their own, leaving behind families dependent on remittances they send back. Women are particularly vulnerable to sexual abuse and gender-based violence and discrimination during the process of migration, especially when compelled to migrate in an irregular status. The nature of work undertaken by many women migrant workers also leaves them vulnerable to exploitation and abuse and most are confined to unregulated and gender-segregated sectors of work. Domestic work is one such area in Ireland that is serviced primarily by migrant women, who are often targets of abuse and exploitation by employers.

Furthermore, migrant workers without legal status are a natural target of exploitation, obliged to accept any kind of job and any working and living conditions.

All of the above factors are compounded when, due to language barriers, the migrant worker lacks access to impartial information on their obligations and entitlements.

### 3.4 Legal provisions on trafficking for forced labour in Ireland

Ireland has a range of legislation covering the areas of employment and immigration. The main pieces of legislation in the area of trafficking are:

#### 1. Child Trafficking & Pornography Act 1998 to 2004.

The Act penalises a variety of crimes in relation to

trafficking in children for sexual exploitation and the manufacture and distribution of child pornography. However it does not criminalise trafficking for the purposes of labour exploitation.

#### 2. Illegal Immigrants (Trafficking Act), 2000.

While this act refers to trafficking it deals with smuggling. Its main objective is 'to criminalise the activity of smuggling or facilitating the illegal entry of persons to Ireland' (Conroy 2003, p14). It has been criticised for not defining or distinguishing between smuggling and trafficking (Irish Refugee Council, 2001, p.14).

The Criminal Law (Trafficking in Persons and Sexual Offences) Bill 2006 was published with the intended purpose of giving effect to Ireland's European and International commitments in this area.

These include:

01. Council of Europe Convention on Action Against Trafficking in Human Beings (2005).

02. Council Framework Decision on Combating Trafficking in Human Beings (2002)

03. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organised Crime (2000) (known as the Palermo Protocol on Trafficking).

04. Council Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography (2003).

05. Protocol to UN Convention to the Rights of Children (2000).

The Criminal Law (Trafficking in Persons and Sexual Offences) Bill states 'labour exploitation' means (a) forced labour or services (b) slavery or practices similar to slavery (c) servitude. This is not expanded upon in the Heads of the Bill which exclusively address trafficking for sexual exploitation. The Bill does not contain provisions that will ensure victims of trafficking either for sexual or labour exploitation receive essential protection.

Ireland is also obliged to comply with human rights obligations under international law. "These treaties give general protection to workers, including in relation to remuneration and fair wages, safe and healthy working conditions, reasonable working hours, and non discrimination; they give specific protection to women and children" (Anderson and Rogaly, 2005, p.15).<sup>8</sup> The most comprehensive international treaty dealing with migrant workers is The Convention on the Rights of all Migrant Workers and their Families (1990) but to date (in common with its EU neighbours) Ireland has not ratified it.

### 3.5 Support services for people trafficked into Ireland

There is no State agency charged with the provision of support services to victims of trafficking for sexual exploitation or forced labour other than some limited support for unaccompanied minors. In relation to victims of trafficking for sexual exploitation Ruhama is an NGO working with women engaged in prostitution. They have recently employed their first dedicated trafficking caseworker. In 2005, they received a once-off grant from the Department of Health and Children to meet the needs of trafficked victims (Parliamentary Debates, 5/10/2005).

NGOs working with migrants also provide some support. This is done on an ad hoc and case-by-case basis and relies on the discretion of individual members of the Garda National Immigration Bureau (GNIB). In the absence of formalised procedures or structured approach the victims can be viewed by State agencies as undocumented workers, and are in danger of being deported to their country of origin.

### 3.6 Level of awareness of trafficking for forced labour

As stated above, there is little research on, or reporting of, trafficking for forced labour in Ireland. Where there is reporting of trafficking, it tends to address the issue of trafficking for sexual exploitation.

In 2003 the IOM published a report on 'Trafficking in Unaccompanied Minors in Ireland' (Conway, 2003). This small-scale investigative study examines the legal framework for addressing the trafficking in minors, and finds evidence of trafficking and smuggling of

children into Ireland for the purposes of both labour and sexual exploitation.

An overview report on Finland, Ireland and Sweden (Candappa, 2003) stated that evidence suggests that Ireland was being used as a destination as well as a transit country for the trafficking of women and children for sexual exploitation. But with no statistics, the extent of the problem was not known, "including whether trafficking for labour exploitation is also an issue".

The completed questionnaires for this research project indicated that those who were aware of the existence of trafficking for forced labour predominantly came from the civil society organisations/NGOs and other researchers. Professionals from the category of welfare/service provision institutions had some awareness of the problem based on information from third parties. Only one employer claimed to have any knowledge of the issue, while no one from the immigration/law enforcement institutions indicated any awareness. The sectors in which the forced labour took place were identified as agriculture, food distribution, restaurants, private households, construction, the cleaning industry, meat processing, security and the health care industry.

In answering the question as to the extent of the problem in Ireland, the range of replies went from "Not widespread but prevalent to an unacceptable degree" to "The problem is widespread." One respondent stated, "It is widespread but hard to put a figure on it. It is difficult to know if it is getting worse or whether awareness of the issue is increasing."

<sup>8</sup> International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention to Eliminate Racial Discrimination; Convention to Eliminate Discrimination Against Women; Convention Against Torture; Convention on the Rights of the Child; Convention on the Status of Refugees (all have been ratified by EU members).

# 4.0 Research Findings



**EVERYONE HAS THE  
RIGHT TO  
RECOGNITION EVERY-  
WHERE AS A PERSON  
BEFORE THE LAW.**

Article 6, Universal Declaration of Human Rights

## 4.1 Introduction

The analysis contained in this section highlights the complexities of the experiences of migrant workers trafficked for forced labour in industries other than the sex industry. While the definition adopted in the United Nations Palermo Protocol on Trafficking in Persons (2000) makes trafficking in persons an international criminal offence, there are still difficulties in defining trafficking and conflicting interpretations of what does and does not constitute trafficking still exist. The findings show that physical abuse, confinement, coercion, deception and exploitation can and do occur to people trafficked for forced labour. However, it was also found that in many cases of trafficking coercion is more subtle, involving late payment of wages, confiscation of papers, constant threat of not renewing work permits or threat of denunciation to the authorities followed by deportation. The fact that abuses can vary in severity and thereby generate a continuum of experiences rather than a simple either/or dichotomy further complicates a meaningful definition of trafficking (Anderson and O'Connell Davidson, 2003, p.9). Furthermore, the findings show that trafficked people frequently enter the state legally and many of the victims do not identify themselves as trafficked.

## 4.2 Situation of workers before departure and on entering the country

### 4.2.1 Background of workers

With one exception those interviewed came from countries that were experiencing high levels of unemployment. There was great poverty and little hope of improving their situations if they remained at home. Women in particular wanted to ensure that their children had a chance to remain in education. In combination with the desire for a higher standard of living and lack of money for their children's education, other reasons for migrating mentioned were health problems of family members, marriage problems and human rights abuses. Motivations varied according to the country of origin and personal circumstances but overall a dream to secure a better future for themselves and their families was their primary motivation to migrate.

Although most of the workers were coming to jobs that would be categorised as 'low skilled' this does not mean that they were unqualified, many of them had post second-level education. This is in line with research

based on the 2002 census of population which revealed that over half of non-Irish nationals working here have third level qualifications and a further 30% have completed second level (Killeen, 2006). The chance of earning good money means they were prepared to work in jobs that they were clearly overqualified for.

### 4.2.2 Recruitment

Some of the workers were approached by an intermediary and offered employment in Ireland. In most cases they or their families knew this person. One of the participants, Farah, explained how she came to Ireland from Bangladesh. Her family circumstances were very difficult and her husband was unemployed. A man known to her family approached them and explained that he could get well-paid work for Farah in a hotel in Ireland. The family decided that this was a good opportunity for her. She was charged over €6,000 and the family had to borrow this money. Farah explained that five other women travelled with her to Ireland, all of them had paid the same man large sums of money.

Some workers went through an employment agency and others still were made aware of jobs in Ireland through an active recruitment process in their home countries. With one exception, they all paid money to get to Ireland, ranging from €300 to €10,400. In twelve cases this was paid before departure. Two of the participants did not have the financial means to pay the intermediaries before departure. They were told they could pay this debt when they started work. On arrival in Ireland the debt was used to exercise control over them and subject them to exploitative conditions of work. Most of the money was borrowed from family and friends on the understanding that the worker would send money home to repay the debt. In one case, the family sold their land to pay the intermediary.

In some cases it was clear that there was collusion between the employer and the recruitment agency. *"The employer travelled to the Ukraine and handpicked prospective mushroom pickers from a group that the agency had organised. The employer apparently preferred to employ workers with little to no English, who were in many instances more vulnerable and less vocal in the interviews. He apparently refused to employ those who had fluent English and had a good deal of experience in the agricultural sector. The women also noticed a staff member from the agency visited the farm on one occasion"* (Caseworker B.).

A trade union official described how an Irish recruitment agency was sourcing labour in Nepal, primarily for the meat industry. *“They sent a standard letter to the meat companies saying they (the workers) will cause you no problems, you can pay them the minimum wage and you can decide how much money you can charge them for accommodation. They are better off here with some money than over there with no money”*. The official spoke to the agency pretending to be a prospective employer and was told that he was not obliged to pay the registered rate that applied to the meat industry. He was told he could pay the workers the minimum wage and below it if there was a training element in the work. *“She knew all the hoops you could jump through and really what she was saying is there are several ways you can screw them”*. When he asked how much the workers were paying the agency she hung up.

A caseworker with an NGO in Cork claimed that people from the Czech Republic and Slovakia had recently arrived in large groups for jobs arranged through a liaison between home country agencies and Dublin/UK-based agencies. In some cases they had paid their own accommodation costs on arrival in Dublin and in all cases they paid their fare to the specific location (the promised jobs were in the south of the country). In one incident 30 individuals were offered interviews, not jobs, when they arrived. Only 5 out of 30 were recruited. In all cases they paid between €250 and €500 to the agency in the home country. The agency in Ireland said they could get the remaining workers jobs in Belfast. But by then the workers did not trust the agency.

With some of the participants interviewed it was not always possible to establish if the agency/agent had relationships with the employers. According to some interpretations of the trafficking protocol, the person who facilitates the migration profits from the movement but since they do not directly organise or control the exploitation of the migrant’s labour they fall short of being a trafficker (Anderson and Rogaly, 2004, p.19). Depending on how narrow or broad an interpretation of the Palermo Protocol on Trafficking governments choose to enact, the inability to prove that collusion exists between an agency and an employer could decide whether someone is a victim of trafficking and entitled to state protection, or whether they are exploited and undocumented workers and thus in danger of being deported.

### 4.2.3 Expectations of work

The participants were promised work in agriculture, construction, restaurants, nursing, circus work, childcare and food production. They were all told they would be earning good money, in most cases their accommodation would be provided and they believed they would be in a position to send money home to their families. *“This was an opportunity of a lifetime for me and my family,”* according to one participant. Only one of the participants entered the country without a work permit and he was led to believe from the recruitment agency that the fee he had paid included the cost of his work permit. The remaining participants entered the country legally and with valid work permits.

All of the participants travelled voluntarily. The vast majority also paid large sums of money before departure. In addition, none of the participants identified themselves as having been trafficked. They believed the false promises of traffickers, intermediaries or future employers. The consent of a victim of trafficking to the intended exploitation is irrelevant where any of the following means have been used: “force coercion, abduction, deception, abuse of power or actions taken while one is in a state of vulnerability or while one is in the control of another person” (Jordan, 2002, p.11). Plant (2003, p.4) argues that, “It is usually only at the place of destination that the elements of force and coercion are detected, meaning that the migrant worker becomes a victim of trafficking under the terms of the Palermo Protocols”.

## 4.3 Working conditions

### 4.3.1 Hours and pay

The reality of the working conditions was very different from that portrayed by the intermediary or the agency. One participant who expected to be working in the construction industry found himself on a mushroom farm without a work permit. Another believed she would be working in a hotel but on arrival was expected to work as a masseuse. The majority of the workers worked excessive hours. The domestic workers interviewed in this study generally worked from 7.00am until 10.00pm or 12.am. In one case, a domestic worker worked 7 days a week from 5.00am until 10.00pm. She did not have any days off. She was paid €150.00 per month (Migrant Support Worker A).

The circus worker said that sometimes they had to work ‘non stop’. After the circus had finished they would be asked to move overnight to start up again the next day at a new venue. Sometimes this went on for 7 days. It was endless hard physical work. He was paid €180 per week. Working hours for workers on the mushroom farms varied depending on the growth of the mushrooms. *“On average the workers all worked between ten and seventeen hours per day, and in some cases in excess of 100 hours per week”* (Community Worker B). In general women picked and packed the mushrooms and were paid according to unit production (per punnet of mushrooms weighed). They were paid between €60 and €250 per week depending on production. There was usually at least one man employed whose main duty was working with chemicals.

The restaurant workers also worked excessive hours ranging from 60 to 120 hours per week. *“I was working 7 days from 8.00 in the morning until 2.00 in the night. In the morning I started distributing menus door to door and after that I started preparing for the lunch, cleaning, everything. I was also serving because there were too much customers. There was another person with me as well. I was helping inside and outside the kitchen. When the lunch was finished at 3.30 I would get a break and then after that I would start washing the dishes. Then at 5.30 I would open and until 7.00 I was serving outside. At 8 or 9 there would be more customers. Then a girl would come and I would work in the kitchen completely, preparing the food and washing dishes. After 12.30 it was closing time and I was cleaning the dishes and mopping until 2 in the morning”*.

This man was paid €50 per week. The other restaurant workers were paid €160 - €170 per week.

The majority of the participants in the study had deductions made to their wages. These were used to explain the difference in the promised wage at the recruitment stage to the actual wage they received. Deductions were made to repay debts, for work permits and for accommodation. *“He took different amount of money every week. Over 2 years I give him €5,000 for work permit”* (Amir, restaurant worker). Another restaurant worker was promised between €300 and €400 per week. On arrival he found he would be earning €150 per week but after deductions for his work permit and accommodation he received €50. One employer looked for €10,000 from 4 workers when their permits were due for renewal and threatened them with deportation if they refused to pay. In the case of

one domestic worker, deductions were also made if the employer believed something was damaged or broken in the course of the worker’s duties.

Again, depending on how narrowly or broadly the Palermo Protocol is interpreted, it may be difficult to determine whether the cases were exploitative and illegal rather than incidents of forced labour. Anderson and Rogaly point out that, *“there are numerous elements to the employment relation: hours of work, rates of pay, job content, work rate, working practices, living conditions, length of the contract, and so on. Is it enough for a worker to be deceived about just one of these elements by a recruiter, or must s/he be entirely duped about every aspect of her work in order to qualify as a trafficked person?”* (2004, p.18)

### 4.3.2 Health and safety issues

Both participants that worked on the mushroom farm experienced health problems. Migrant Support Worker B, who dealt with a group of 15 workers from a mushroom farm, claimed there were serious health and safety issues on the farm. *“Almost all of the workers reported some degree of deterioration in health whilst working on the farm. Many developed allergies as a result of over-exposure to chemicals in the mushroom tents. For some this resulted in hair loss, skin abrasions, nausea and shortness of breath”*.

Michael worked in construction and had a serious fall on the site. *“We had just started into this job and I fell from ten metres high. There was bad weather and a lack of safety measures. Then there was three or four days when I thought they would have to cut my left leg. It was very badly broken in 3 or 4 places”*. To date Michael has had five operations on his leg. The sub-contractor Michael worked for had no insurance and he is aware that some other workers have had accidents working with the same employer. *“Sub-contracting can make it more difficult to discover where responsibility lies. It is often unclear who is the employer of a person at the end of the sub-contracting chain. As employers become smaller, so the possibility of adequate compensation decreases”* (Anderson and Rogaly, 2004, p. 53)

## 4.4 Social Control

Many of the workers were actively discouraged from mixing with the local community. Some of the women

were told that they could not develop a relationship with any of the local men without their employer's permission. The trade union official described another group of farm workers whose only outing was a shopping trip each Saturday. They were brought into town by their employer at 2.30 pm and brought home at 5.00 pm. He also told of two incidences of employers sacking some of their workers when they heard a trade union had been contacted. This left the remaining workers very fearful of their own positions. Domestic workers were regularly told not to communicate with anyone if they were out of the house. One woman was berated by her employers when they discovered she had accepted a lift from a neighbour, from the children's school. *"Isolation that is deliberately contrived by the agent or employer means that victims are unable to complain and seek assistance, thus making it very difficult for them to escape forced labour"* (Anderson and Rogaly, 2004, p.50).

#### 4.5 Living conditions

The living conditions of the workers were often extremely poor, with overcrowding, lack of privacy, lack of sanitary facilities and poor heating being the main problems. Caravans, converted sheds and old farmhouses were used to house workers on farms and on construction sites. While the domestic workers appeared to have better accommodation, sometimes they had to share this with the children in their care.

Michael, the construction worker, lived in a caravan with his wife and another worker. After he had an accident he had to use crutches. *"It was very tough. We don't have toilet. We had to go 50 metres to the next building. You can imagine me on two crutches but I had to do it"*. The employer's wife also complained about the amount of electricity they were using and wanted them to wear their coats indoors in order to reduce the usage.

The restaurant workers mostly complained of overcrowding. *"He was living in accommodation in a box room. There were five lads sharing that room. There were 2 bunk beds and another bed and he was on the floor."* (Trade union official)

Adil shared his caravan with six other workers from the circus. He had very little room. He said the performers had very different working conditions to the manual workers. They worked shorter hours, had contracts and had different caravans with washing facilities in them.

According to Adil his employer cared more for the animals than for the workers. They would often have to work long hours without a break for food. *"The boss he come and ask if the elephant had to eat and drink but no one came to ask me if I eat or drink"*.

The trade union official described the conditions of a group of farm workers that were living in a converted shed. *"There was an aga cooker in the centre and the beds were along the sides and they showed me what they had to do at night: pull out the beds to the centre for heat. The roof of the shed was galvanised and with the heat from the cooker the condensation was dripping down. They had black plastic covering their beds. It was horrific. The men's quarters were a little bit more civilised. It was probably the old farmhouse but neither the shed nor the farmhouse had sanitary facilities. They had to use another shed. These two sheds were bringing in an income of €400 to this employer. If they took any vegetables off the farm they paid for them"*.

The above examples illustrate how some of the workers were not only dependent on the employer for work, but also for accommodation and sometimes even for food. Anderson and Rogaly claim that employers may foster this type of dependency with the intention of using it to prevent workers from leaving indecent work (2004, p 39).

#### 4.6 Threats and coercion

The most serious demonstration of forced labour is the immediate use of coercion or violence in order to retain a worker. A domestic worker and trade union official reported incidences of physical abuse. During the two years Rana worked as a domestic worker she was often physically abused. She was beaten and locked in a bathroom if her employer felt she had not listened or completed her work properly or if she became upset and cried. In general, however, employers/traffickers were able to exert control over the victims in more subtle ways. These indirect but implicit threats, and a lack of viable alternatives, suffice to guarantee the compliance of the worker (IOL, 2005b, p.61).

Threats related to workers' immigration status were very common. While the construction worker was recovering from his accident, for example, he was still in a lot of pain but his employer wanted him to start back to work. *"He asked me to start work again for the company so I said I'm not really able to work but just some slight job here and there... I said give me a few weeks to see*

*how I feel but I did not feel good I felt pain. But he say if you don't start work I will have to cut your work permit and you will be illegal. I did not know that this was not possible. But at that time I believed him. "... is a small place and Garda will probably know and they will probably put me on a plane and send me home and I was very afraid so I had to start to work"*. Sometimes they were told that they were illegal and would be jailed or deported if they tried to leave: *"He was threatening me, do whatever I say, don't argue with me, you are living in my house and this is a small country you won't hide anywhere from me. I can deport you as well"* (Nasir, restaurant worker).

Traffickers routinely told workers that they would not renew their work permits; some had passports confiscated and threats made regarding their families back home. In many cases they were verbally abused. Some workers were compliant with the traffickers' demands because they believed they could not return to their home countries until they had paid off their loans and there was no other way to provide for their families. These threats forced workers to put up with ever-deteriorating working conditions and made them fear, or increased their fear of, law enforcement and prison. It is very easy for someone who does not speak English to be linguistically isolated and therefore less likely to escape or seek help.

#### 4.7 Exiting the situation

Exiting from a trafficked situation is very difficult. As discussed above, traffickers know how to make people feel vulnerable and afraid. Sometimes it took great courage to risk seeking help. Always present were the obvious threats of being reported to the authorities, of deportation, in some instances violence, against themselves, and, perhaps more powerfully, against their loved ones. When Amir, a restaurant worker, took a case against his employer he threatened to kill him. Amir's family are in Pakistan and he was extremely afraid when his employer told him he knew where his son went to school.

For migrant workers, social networks are crucial for finding jobs and accommodation and they are also crucial when they find themselves in exploitative situations. They can provide practical support with accommodation, money, and information on where to seek help and who to trust. Although information may be available from other sources, social networks are generally more trusted. Most of the workers interviewed for this report

arrived at the MRCI on the advice of, or with, someone they knew and trusted. *"It is great that people can approach you because sometimes they are very afraid... They know I speak the language and they trust me. I bring them here (MRCI). When I come here (the MRCI) are very helpful."* (employer from the Sikh community).

One domestic worker from Pakistan spent six and a half years with her employers before being in a position to escape. At a local school she met an Indian woman and over a period of two years a friendship developed between the two women. Eventually with her help she contacted the MRCI.

Vigilant members of local communities have contacted trade unions and NGOs and alerted them to what they believed are exploitative situations. *"I get people ringing my house and telling me things. They would say I'm ringing to tell you of a problem in such an area. They won't tell you their name but they know I work in this area. You can get contacted by a Parish priest, a Garda or someone you have helped before will bring someone else along to you"* (Trade Union official).

#### 4.8 Future plans

Although it was clear that the workers' experiences in Ireland were extremely difficult and in some cases dangerous, most of them wanted to remain here and be allowed to bring their families. All of the workers experienced high levels of stress, most clearly demonstrated by one who contemplated suicide. However, they still believed that it was possible to build a better life for themselves and their families. Others wanted to return home but only when they had paid off any debts incurred coming here, or until their children were educated and they had helped their families. It was very important for them to have some positive outcome from their migratory experience. They all wanted to work here legally. *"Look at me, I look different, I look like an Arab and a Muslim and I need protection. I can only have that if I'm legal"* (Adil, Circus worker). Many expressed the wish to be able to change employer when they wanted and not have their legal status affected. *"An amnesty would help those here now who are in trouble, who are illegal. Those people have suffered enough. But the work permit should let people work for someone else"* (Employer D).

Another factor which contributes to the vulnerability of migrant workers, is that the Irish immigration system is

complex and a range of Government departments and agencies are involved in the administrative procedures. This imposes particular difficulty for migrant workers in establishing what their obligations and entitlements are. This can be compounded if the workers have not got sufficient English. *“I don’t know Irish law. I don’t know who to go to and I don’t have good English when I come here”.* (Nasir, restaurant worker).

#### 4.9 Spread of nationalities and genders over sectors

From a research project of this small size it is impossible to discuss figures in any meaningful way. Furthermore, due to the fact that trafficking is an illegal activity and the lack of factual information, the representativeness of the sample was not taken into account in the choice of people interviewed. It is therefore possible to have missed out on a sector completely. However, from the interviews conducted and the completed questionnaires the following were identified as sectors where examples of trafficking for forced labour could be found. (See table below.)

**“There was a time when you felt that the mushroom industry was a main offender and it still is and the meat industry was a main offender and it still is, but now it is happening everywhere”**

(Trade union official).

Sector	Trade	Gender	Country of Origin
Agriculture	Mushroom Farms Fruit/Vegetable picking	Female	Eastern Europe
Food Processing	Meat Processing	Male	Brazil, Nepal
Services	Restaurant Workers Domestic Workers	Male Female	Pakistan, Bangladesh, India Pakistan, Bangladesh, Philippines
Caring Professions	Care workers	Female/Male	Philippines
Other	Construction Security Firms	Male Male	Eastern Europe

#### 4.10 Ireland as a transit country

The analysis discussed so far is in relation to cases of potentially trafficked individuals into Ireland. The following example is included to demonstrate that Ireland can be used also as a country of transit.

Leanne, a qualified nurse from China, answered an advertisement from an Irish Language school. They promised the prospective students English classes and employment as nurses in Ireland. She paid €10,400 to the school. Her family borrowed the money for Leanne to come to Ireland. On arrival she discovered that there were no jobs, the school had no building of their own and rented out rooms from other schools. Leanne learned that to work in an Irish hospital she needed to register with the Irish Nursing Board and pass an English exam. She spent one year at this school and did not take the English exam due to the poor quality of the teaching.

At the end of the year the school informed the students they had jobs for them in the UK and if they refused to take these they had to return to China as their student visas would expire. Most of the students went to the UK to work as care assistants. Leanne learned from the students that the working conditions were very bad. She decided to stay in Ireland and attend another language school in order to take the required English exam. Language school staff wanted her to pay them €1,000 as they claimed they had paid for a work permit for her. In order to have her visa renewed she needed her attendance record. The school refused to give this to her unless she paid them €650: *“I really did not know what to do. I’m helpless. I’m scared. I can’t go back to China.*

*How to face friends and family? I was very depressed. At last one of my friends told me to try and get help at a Citizens Information Centre. I tried to come to that place to get help. I told them my story and the staff gave me the address of Migrants Rights Centre and then I came to here. I don’t know who can help me. You see I had no attendance record, no visa. I become ill. I could not go back China. The staff at the MRCI rang up GNIB and arrange for an interview for me. I was very nervous. But I had no choice. I had to go to change my situation. The officer was very kind and told me if I attended the school that I would be able to renew my visa”.*

The language school appears to have operated as an educational establishment and a recruitment agency and moved people from one country to another legally.

#### 4.11 Difficulties in helping victims

The professionals interviewed for this report all stated that without formalised procedures to deal with trafficking, the victims are more likely to be viewed as undocumented and in danger of being deported. The trade union official explained, *“We don’t have proper legal directives and have to rely on the discretion of individuals. I remember a young guy I was dealing with who had become undocumented through no fault of his own. He thought his work permit was in the post and when he queried it with the boss a number of times he was chucked out onto the street. He had been living in a house owned by the boss. Now I took his case on and I was told by a senior official in Justice that if he is undocumented then send him home. There was no excuse for breaking the law. We had to fight this case and we did get him documented and we did get him sorted out. Now these are the issues we have to deal with”.*

A representative from the MRCI outlined the difficulties they experienced in a presentation on trafficking to the Dáil Joint Committee on European Affairs *“Our work has demonstrated that it is often the case that people who have been trafficked do not identify themselves as such. They see themselves first and foremost as workers and do not feel they have been trafficked having paid money to get here. The fact that they ended up being trafficked is not readily identified. We do not tend to report cases we come across in our ongoing work because we have not identified support systems that can be of use to people. We try to negotiate solutions with the GNIB to give people temporary legal status on a case-by-case basis. We were advised*

*unofficially that people were accommodated overnight in Clover Hill Prison and other such places when they made a statement about being trafficked and that the tendency was to return a person to his or her country the next day. That fear is a big factor in the decision not to make a complaint or report what is happening”* (Parliamentary Debates, 5/10/2005).

This lack of formalised procedures impacts on the work of NGOs and trade unions, as the victims generally need access to visas, accommodation, financial assistance, medical assistance, education (language classes) etc. *“It’s not the same as dealing with a group of Irish workers, you are not dealing like with like. They can go home to their mothers, fathers, boyfriends or wives whatever, they have a soft place to fall. I think we are only dealing with the tip of the iceberg when we talk about trafficking and exploitation of people that are coming in here”* (Trade Union official). However, without the discretionary help of individual members of the GNIB and the Department of Enterprise, Trade and Employment, the support they are giving would be impossible.

An unofficial interview was conducted with a member of GNIB. He believes that the existing legislation is very poor and does not protect workers, and that there are large grey areas which prevent the Director of Public Prosecutions taking cases to court. He is aware of cases of domestic workers that are being treated like slaves but when he contacted the Labour Inspectorate they explained that they are powerless to enter a private home. He is also aware of abuses taking place in the restaurant industry and believes that more cases of exploitation and abuse exist than they come across, as the Gardaí are often the last people to be informed and the workers are terrified of the trouble they might bring on themselves by reporting their situation.

#### 4.12 Addressing the issue

The majority of professionals working in the area agreed that the problem of trafficking for forced labour could only be addressed through the adoption of a partnership approach. While recognising that the State has the primary responsibility to protect victims of trafficking, there is a need to join forces and make use of insights and capabilities of NGOs in ensuring that the State responses keep the interests of the most vulnerable to the fore. Such cooperation could result in innovative thinking about how to improve responses to trafficking. *“What would help would be partner agencies to statutory*

## 4.0 Research Findings

groups. This is where there is a network of groups that link in with each other and keeps each other informed. These groups include NGOs and statutory organisations. Partner agencies to statutory groups exist with some groups but less inroads have been made into migrant workers groups” (from completed questionnaire).

### 4.13 Difficulties with the definition of trafficking

While the adoption into Irish legislation of the Palermo Protocol on trafficking in persons will make trafficking in persons a criminal offence, it may not solve the problem of defining who has been trafficked. It has been argued that the Protocol’s failure to define many of the constituent elements of trafficking, such as ‘exploitation’, ‘coercion’ and ‘vulnerability’, allows space for conflicting interpretations of what does and does not constitute trafficking (Anderson and Rogely, 2004, Anderson and O’Connell Davidson, 2003). With States likely to interpret these terms differently it seems unlikely that the Protocol will achieve a harmonisation of national laws on trafficking. This is evident in the Criminal Law (Trafficking in Persons and Sexual Offences) Bill 2006, where the attempt to include definitions does not bring any greater clarity to the understanding of ‘forced labour.’ The Bill states that ‘labour exploitation’ means (a) forced labour or services, (b) slavery or practices similar to slavery, (c) servitude. As stated previously the provisions of the Bill itself do not address trafficking for forced labour.

Another complex issue surrounds the question of consent. While some of the conditions of work endured by migrant workers technically constitute forced labour, there can be cases where the workers endure these conditions on a largely voluntary basis (ILO, 2002, p.5). Despite appalling conditions, workers may accept a situation of exploitation, because they believe it is the best or only option available to them. It has also been demonstrated in this report that it may not be voluntary as subtle forms of coercion can be used to compel workers to remain in exploitative situations. The issue of consent alone therefore does not tell us whether a person has been trafficked or not.

Many commentators have been highly critical of the Palermo Protocol, notably because it addresses trafficking within the context of organised crime, rather than within the framework of migrants’ rights. The Protocol does not acknowledge the responsibility of States for creating the conditions within which trafficking

flourishes. It frames anti-trafficking measures as migration control measures. In addition, it does not put any obligation on States to promote and protect the human rights of victims. They are encouraged to do so but the ultimate decision to implement such measures is left to States themselves.

Another way of addressing trafficking is to view it as a labour problem. The ILO and the report of the European Experts Group on Trafficking in Human Beings (EEG) have identified forced labour exploitation as the crucial element in the Trafficking Protocol. To counter trafficking effectively, the group observes that policy interventions should focus on the forced labour outcomes of trafficking no matter how people arrive into these conditions rather than (or in addition to) the mechanisms of trafficking itself. Thus, if the problem of labour exploitation is emphasised, the means of transportation is less important. The ILO argues that placing the emphasis on forced labour and exploitation would help solve the current confusion between trafficking and smuggling and between innocent and guilty victims (Aradau, 2005, pp.36-37).

However, it is also acknowledged that these difficulties regarding interpretation of the Protocol should not be a justification for sacrificing other fundamental aspects of the Protocol. “By using such terminologies as ‘shall adopt’ or ‘shall protect’, the Protocol leaves the door open to NGOs to lobby for the inclusion in their national laws of provisions guaranteeing the respect of human rights of trafficked persons (Guichon, 2003, p.6).

### 4.14 Summary

This section presents the experiences of people identified as trafficked based on an analysis of the interviews conducted. The findings highlight the complexities of the experiences of migrant workers trafficked for forced labour in industries other than the sex industry. The experiences provide a window into the often violent and abusive world of trafficked people in Ireland today. However, they also demonstrate that subtle forms of coercion are also used to compel workers to remain in exploitative situations. Furthermore, the findings show that trafficked people frequently enter the state legally and many of the victims do not identify themselves as trafficked. Finally, the Protocol’s failure to define many of the constituent elements of trafficking creates difficulties in defining trafficking, and conflicting interpretations of what does and does not constitute trafficking still exist.

## 5.0 Case Studies



**EVERYONE, WITHOUT ANY DISCRIMINATION, HAS THE RIGHT TO EQUAL PAY FOR EQUAL WORK.**

Article 23.2, Universal Declaration of Human Rights

### 5.1 Introduction

Three case studies are analysed in detail in this section. They provide an overview of the experience, from the individual's perspective, of trafficking for forced labour from the individual's perspective, and demonstrate the complexity involved that is typical in situations involving trafficking.

### 5.2 Nasir

Nasir is a qualified chef from Pakistan. He was married and had children but his marriage broke up. His children and parents are still living in Pakistan. He worked in a restaurant before coming to Ireland. A visitor to the restaurant liked his cooking and offered him a job in Ireland. While he did not know about Ireland he believed that life in Europe would be far better than life in Pakistan. He had heard how European legislation looked after people's human rights. His employer promised him accommodation, a car and a good salary, between €300 and €400 per week. He did not pay his employer any money before coming to Ireland. He entered Ireland legally as his employer had obtained a work permit.

On arrival in Ireland he was expected to start work immediately. He lived in his employer's house. He worked seven days a week and never had a day off. His working day started at 8.00 a.m. and did not finish until 2.00 a.m. the following morning. He had a short break after 3.30 p.m. That was the only break he got. He worked as a chef but also had to wash dishes, prepare the food and clean up after meals. In addition he was required to deliver menus and take-away meals to housing estates in the surrounding area. To deliver the food and menus he drove the owner's car without insurance. Nasir's salary was €150 per week. He received €50 as the employer deducted €100 per week towards the cost of his work permit. Overall, he believes his employer deducted €7,500 from his salary.

Nasir was verbally abused and threatened with deportation on a continuous basis. The employer told him that, as Ireland was a small country, if he left he would find him. His employer went through his bags while he was at work. His passport went missing while he was living in his employer's house.

Business in the restaurant was not good and the employer told Nasir that he could find work elsewhere. He told him that he held his work permit but that he could get a job anywhere until business improved. He had to leave his employer's house and had difficulty in getting somewhere to stay. For the first few nights he was sleeping on the floor in a local Mosque. Friends from the mosque took him to their home. He got some work; the situation was similar to the first restaurant, long hours and little money but he was not being threatened.

After a few months, his original employer came and said he had work for him again and as he had his work permit Nasir had to work for him. Although he knew conditions would be bad working for this man he returned believing he had no other option. "I went back to him because some people told me that you need your visa to keep yourself legal... I just came back for the sake of this thing. I was just bearing the hardship of my life just because of my papers. I don't want to be illegal".

He had an accident one night while delivering take-aways. He received minor injuries and no other car was involved. As a result of this incident he came in contact with the local Garda and subsequently immigration officials. He told them how he was being treated and they explained that it was a matter for the Labour Court. But they helped him report his missing passport

and, discovering he no longer had a work permit or residence permit, gave him permission to remain for two months.

After the two months he became undocumented. At this stage he did not know where to get help as friends were giving different advice. He was told about the MRCI and went to them for help. Nasir has been offered employment and the MRCI is attempting to assist him.

### 5.3 Rana

Rana is from Bangladesh and is in her mid-twenties. Before coming to Ireland she was working in the textile industry. She is single, her family are not well-off and there is high unemployment in the area she comes from. People from her locality have emigrated to Europe and the US and there were reports of how they had prospered. As a result, emigration is seen as providing a great opportunity within her community. When the opportunity to emigrate arose for Rana it would have been considered very foolish of her not to avail of it.

While working in the textile industry in Bangladesh, Rana met her prospective employer who offered to bring her to Ireland to look after his children. She believed she would be well paid and in a position to send money home to her family. She paid him in the region of €5,000 and he promised to organise her work permit. This money was borrowed from family and friends.

A work permit was organised and Rana entered Ireland legally. She was working minding four children and also had general domestic duties. Her employer had a retail shop and from time to time she had to also work there. She was paid €50 per month after deductions were made for lodgings. Her employer told her that he was sending money home to her father as she had borrowed from friends and relatives to pay him to come to Ireland. Rana subsequently learned that her father had received one payment of €700.

During the two years Rana worked in this house she was constantly verbally abused and at times physically abused. She was locked in a bathroom if her employer felt she had not listened or completed her work properly or if she became upset and cried. Rana became exhausted and very frightened. She had no English and no one to turn to. She had no knowledge of the Irish work permit system. There was another girl living in this house in the same position. It reached a point where she felt she could not continue to work and live under these extreme conditions and decided to try to leave. She decided to approach a regular visitor to her employer's home. She believed he was kind and that he might help her if he knew how desperate her position was.

There were dangers in contacting this man as she had to contact him at his work place. She was also very frightened that her employers would hear about this. Eventually she made contact with him and he agreed to help. Rana calls this man her saviour. She simply left the house and he took her to his home in another part of Ireland. After two months he got a work permit

for her to work in his restaurant. She says she is being paid the minimum wage and is given the correct amount of time off.

Her new employer is now offering Rana a job as a childminder in his home to look after his child. The family wish to employ someone from a similar cultural and religious background to instruct their child in their religious beliefs. Rana would like to return to this type of work as this is what she initially came to Ireland to undertake. She wants to work legally in this sector and repay her debt back home and help her family. The MRCL are helping Rana to sort out a new work permit.

#### 5.4. Andrei

Andrei is a qualified electrical mechanic from Estonia. He is separated and his children, parents and the rest of his family remain in Estonia. He was working in a power station before coming to Ireland. There is high unemployment, little money and a lot of people are emigrating from Estonia. He went to an employment agency where he was told there were plenty of well-paid jobs in Ireland and that he would earn in the region of €400 per week.

Andrei paid the agency €800 and he was promised a work permit for the construction industry. The agent took him to a bus with two other men. Those who had not paid had their passports confiscated.

On arrival in Ireland they were met from the bus and taken to a mushroom farm. He soon learned that he had no work permit. He started work the next day and had to work 15 hours a day, seven days a week. The vast majority of workers were women, with only two men working there. The women picked and packed the mushrooms and Andrei cleaned the floors and worked with the chemicals. There were about 20 people working on the farm. They came from Lithuania, Latvia, Estonia and Ukraine.

He was paid €275 per week. The women were paid by the amount they picked and packed. He lived in accommodation provided by the employer. Four workers shared a house and each paid €25 per week. It was difficult to shop for food as the house was isolated and there was no public transport service. While he worked with chemicals on the farm he was given no protective clothing. He had difficulty breathing and with the help of one worker who could speak English he eventually got a mask.

He asked his employer about his work permit as he was worried about his status in the country. His employer promised him that he was looking after it and that it took time for the Department to process it. If he looked for a day off or complained about his conditions he was told to leave, but he was afraid of being deported. During the time he was there six more workers from Estonia arrived but Andrei was not sure if they came through the same agency. The owner did not like to employ workers who could speak English. He liked to have one worker with sufficient English to translate for him.

Andrei made contact with a friend from Estonia who was also working in Ireland. This man promised to get him a job in a factory. He also learnt that

he would no longer need a work permit as Estonia was soon to become a member of the EU. He left and is now working in a factory in Dublin where he is being paid well and has good working conditions. He plans to stay in Ireland as long as he can earn good money but he thinks that as the cost of living is very expensive he may move again.

#### 5.5 Summary

Although the lack of hard evidence of the scale of trafficking for forced labour in Ireland is a problem, no presentation of facts and figures can convey the reality of the lives of victims of trafficking. These case studies provide an insight into the abusive and sometimes violent world of trafficked people in Ireland. Although the cases are very different, a common thread between them was fear: fear of their employers and fear of officialdom. Physical and psychological abuse coupled with other subtle methods of coercion compelled the workers to remain in the exploitative and abusive situations. Their stories also demonstrate the extent to which their human rights were violated. Although Ireland has yet to ratify the Palermo Protocol, many other international treaties that protect human and or workers rights have been transposed into Irish law. In addition, Ireland has substantial employment rights legislation. Each of these case studies were analysed in detail for possible breaches of domestic and international law. In each case it was evident that substantial breaches were evident. While laws offer some protection to workers the reality is that, in the absence of the implementation of the Palermo Protocol, victims can be viewed as undocumented workers and are in danger of being deported.

# 6.0 Conclusions and Recommendations



**EVERYONE HAS THE  
RIGHT TO FREEDOM OF  
PEACEFUL ASSEMBLY  
AND ASSOCIATION.**

Article 20.1, Universal Declaration of Human Rights

## 6.1 Conclusions

This report has attempted to identify and assess the situation with regard to trafficking for forced labour in sectors other than for sexual exploitation. It is important to reiterate that this small-scale research project does not claim to be definitive or exhaustive and much work remains to be done to address the problem.

Nevertheless, from the research, a profile of trafficked victims and their experiences in Ireland is emerging. The problem exists in a number of sectors such as the restaurant industry, agriculture, domestic work, construction and entertainment. The research conducted also sheds light on coercive practices in relation to recruitment and employment that are being used to exercise control over migrant workers. However until more trafficked persons come to the attention of, and are given recognition by, public authorities and others, it will remain difficult to determine the prevalence of trafficking in Ireland or to definitively profile who is trafficked and their conditions of captivity.

This will involve clarification and agreement on the definition of trafficking as well as recognition that people don't necessarily identify themselves as victims of trafficking. Furthermore, an overemphasis on identifying victims at border crossings will fail, as frequently the workers arrive in Ireland with work permits and it is usually only at the place of destination that the elements of force and coercion arise.

No presentation of facts and figures can convey the horror of the stark reality of the trapped individual. A common thread between all those interviewed was fear; fear of their employers and fear of officialdom. The fear is not only for themselves but can also be for their families back home. Fear of officialdom in some cases can be a cultural phenomenon, but it is primarily a fear of being regarded as illegal with the ultimate sanction of being deported.

Generally, the workers concerned cope with this problem in either of two ways. The first group effectively suffer in silence and will put up with almost anything out of a need to send money home and due to the sense of fear described above. The second group cannot cope with the conditions any more, leave and become illegal, or on discovering that they are illegal feel they have nothing to lose by leaving the employer. The majority of people interviewed expressed dismay at what they saw as the Irish State's unwillingness to protect them.

At present the official response appears to punish the victims while ignoring the perpetrator, thus increasing their vulnerability.

**"People and authorities must be made to understand that human trafficking is about the plight and suffering of people and not about transactions in soulless goods"**

(Aradau, 2005, p.21)

The problem is therefore not just one of punishing the traffickers; it is also a matter of protecting and assisting the victims. The former UN High Commissioner for Human Rights Mary Robinson emphasised the need to place human rights at the centre of any measures taken to combat trafficking. However under the terms of the Palermo Protocol on Trafficking of persons States are not obligated but merely encouraged to protect and assist victims. It is vital that the human rights elements of the protocol are implemented by the Irish State if the problem of trafficking is to be addressed and the needs of trafficked victims to be met.

Finally Anderson and Rogaly point out that forced labour is already proscribed as a violation of fundamental human rights in international and domestic law: 'The bar on cruel, inhumane or degrading treatment is strict. In general, these treaties draw no distinction between citizens and 'aliens' and protect most individual rights irrespective of immigration status' (2005, p.15).

## 6.2 Recommendations

Legislation and measures to address trafficking in human beings must place the protection and respect of the rights of survivors of trafficking at their core. This is an opportune time for the Irish Government as it is in the process of drafting legislation in relation to trafficking and is in a position to design a comprehensive framework that addresses the protection, assistance and prevention of trafficking in humans. With this legislation in place the Government will be able to offer better protection to migrant workers; the migrant workers that have contributed to Ireland's unprecedented economic success and the migrant workers that are needed to maintain it.

The recommendations presented here fall into three distinct areas, those which address our response to and protection of victims, those which address our understanding of trafficking and those aimed at preventing trafficking. The recommendations are grouped to reflect this.

### 6.2.1 Response and protection

#### Meeting international and European obligations

The Criminal Law (Trafficking in Persons and Sexual Offences) Bill is intended to give effect to the Palermo Protocol along with a number of other obligations, in particular the Council Framework Decision on Combating Trafficking in Human Beings (2002). The Bill as it is currently drafted does not address trafficking for forced labour. In addition, it does not contain provisions that seek to ensure that the victims of trafficking are fully protected as advocated by both the Palermo Protocol and Council Framework Decision. The Criminal Law (Trafficking in Persons and Sexual Offences) Bill must be amended to incorporate a focus on trafficking for forced labour. The definition of ‘forced labour’ recommended is as follows: “forced or compulsory labour” shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (Article 1(1) of ILO No. 29). Provisions for the protection of victims must also be enshrined in this crucial legislation.

#### Legal protection for migrant workers and their families

The Irish State has not signed and ratified the UN Convention on the Protection of the Rights of All Migrant Workers and Their Families. This Convention provides an important legal basis for the recognition and protection of migrant workers and their families. The State should sign, ratify and incorporate into domestic legislation the UN Convention on the Protection of the Rights of All Migrant Workers and Their Families to guarantee all migrant workers protection from slavery and forced labour as well as to guarantee them basic labour rights regardless of their status.

#### An emphasis on protection

The Palermo Protocol on Trafficking is not a human rights instrument but primarily a law enforcement instrument, and it is argued that, “the drafters created a strong law enforcement tool with comparatively weak language on human rights protections and victim assistance” (Jordan, 2002, pp.2-3). A law enforcement

approach by itself may endanger trafficked persons. The problem is not just one of punishing the traffickers; it is also a matter of protecting the victims. The human rights elements of the Palermo Protocol therefore need to be incorporated in legislation i.e. provision for the physical and psychological recovery of victims of trafficking, including the provision of appropriate housing, counselling and information, in particular their legal rights, employment and training opportunities.

#### Protection without forced compliance with criminal proceedings

Article 7 of the Protocol only obliges States to “consider adopting legislative or other appropriate measures that permit victims of trafficking to remain in its territory, temporarily or permanently in appropriate cases”. Residency permits and protection offered to trafficked persons that are tied to the duration of criminal proceedings are in effect only a stay of deportation for the purposes of a suspected trafficker’s trial.

**“In the vast majority of cases, the trafficked person is seen primarily as a witness, and as a tool of law enforcement. If this continues to be the case, the right of victims to have access to justice will continue to be denied, and prosecutions will fail because trafficked persons will be neither willing nor able to testify”** (Pearson, 2002, p.35).

Temporary or permanent residency status and access to other services (relating to protection and assistance) should not be dependent upon a victim participating in criminal proceedings. Human rights protections should be available to all victims whether or not they agree to cooperate or testify.

#### Creation of an anti-trafficking agency

The report highlights the complexity of the experiences of migrant workers trafficked for forced labour. There is no single agency with overall responsibility for addressing the many and varied aspects of trafficking of human beings. This has contributed to Ireland’s failure to identify the problem, and more importantly to develop an overall strategy to prevent it or protect and safeguard its victims. This report calls for the establishment of an

agency with overall responsibility for Ireland’s response to the trafficking of human beings. This agency should have responsibility for our international efforts to prevent human trafficking, while developing a coordinated, victim-centred approach to incidents of trafficking in Ireland, by involving all relevant actors, including Government Departments, Employers, NGOs, Trade Unions, and International Organisations.

#### Supporting NGOs to respond

NGOs are providing essential supports for victims of trafficking. NGOs and other non-state agencies are generally the first point of contact with victims. The support ranges from provision of emergency accommodation, to accessing essential health care, seeking legal redress, and liaising with state agencies including immigration officials. The role of NGO organisations undertaking this work must be recognised and supported financially. This is the practice in other jurisdictions and has been found to be most effective in developing good practice and innovative, effective responses to the situation of trafficking.

### 6.2.2 Promoting better understanding

#### Effective training

It is vital for the protection and safety of trafficked persons that they are promptly and accurately identified. Failure to do so can affect their safety and that of their families. Training in identification of victims of trafficking should not be limited to immigration officials but should include other key community members who are likely to come in contact with potentially trafficked persons, such as labour inspectors, social service professionals, NGOs, Gardai, members of the legal profession etc.

#### Awareness-raising at all levels

There is a need for awareness-raising campaigns in the broader community so that individuals who come across potential victims of trafficking are able to act or refer a trafficked person to a place where they can receive help. Awareness-raising campaigns are needed to make trafficking in human beings visible and to sensitise society in general about the violations of human rights that trafficked persons experience. This should target members of the public, migrant workers, NGOs, Trade Unions, etc., and inform them of the remedies available to survivors and where to get help.

#### Building the picture

There is a lack of data in Ireland on trafficking for

forced labour. From this small research project a profile of trafficked victims and their experiences in Ireland is emerging but more research is needed to understand and address holistically the complexities of trafficking for forced labour in Ireland. Ireland has an excellent track record in supporting international action to raise awareness and combat trafficking. This commitment needs to be reflected at national level in light of the growing realisation that trafficking for forced labour is a reality within Ireland.

#### Focus on outcomes not methods involved in trafficking for forced labour

The ILO and The European Experts Group on Trafficking in Human Beings (EEG) have identified forced labour exploitation as the crucial element in the Palermo Trafficking Protocol. To view trafficking as a labour problem would help to address the current confusion between trafficking and smuggling, and between so-called ‘victims of trafficking’ from undeserving ‘partners in smuggling.’ In implementing legislation on trafficking the Irish Government should focus on the forced labour outcomes of trafficking rather than the mechanisms of how people arrived in the situation, i.e. less emphasis should be placed on border crossing and there should be a greater focus on the exploitation aspects of trafficking for forced labour.

### 6.2.3 Prevention

#### Focus on countries of origin

Legislation and measures addressing trafficking for forced labour should not be confined to countries of destination. There should be increased cooperation with countries of origin on providing information about regulations, entitlements and obligations in the employment sector in Ireland, as well as more support for relevant agencies and organisations to disseminate such information among would-be migrant workers.

#### Empowerment of migrant communities

Experience indicates that when communities experiencing high levels of exclusion and isolation are supported to take action and develop their own capacity to engage in the issues affecting them, progress in addressing root causes of their exclusion is more likely and meaningful. Support is required for community development activities with migrant communities in situations of vulnerability, such as ethnic food restaurant workers, mushroom workers, or domestic workers.

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## Irish Organisations

Irish section of Amnesty International  
[www.amnesty.ie](http://www.amnesty.ie)

Centre for the Care of Survivors of Torture  
[www.ccst.ie](http://www.ccst.ie)

Emigrant Advice  
[www.emigrantadvice.ie](http://www.emigrantadvice.ie)

The Equality Authority  
[www.equality.ie](http://www.equality.ie)

Free Legal Advice Centres  
[www.flac.ie](http://www.flac.ie)

Immigrant Council of Ireland  
[www.immigrantcouncil.ie](http://www.immigrantcouncil.ie)

Irish section of the International  
Organisation for Migration (IOM)  
[www.iomdublin.org](http://www.iomdublin.org)

Irish Congress of Trade Unions  
[www.ictu.ie](http://www.ictu.ie)

Migrant Rights Centre Ireland  
[www.mrci.ie](http://www.mrci.ie)

National Consultative Committee  
on Racism and Interculturalism  
[www.nccri.ie](http://www.nccri.ie)

Ruhama  
[www.ruhama.ie](http://www.ruhama.ie)

## European and International Organisations

Anti-Slavery International  
[www.antislavery.org](http://www.antislavery.org)

European Network Against Racism  
[www.enar-eu.int](http://www.enar-eu.int)

International UN High Commissioner  
for Human Rights  
[www.unhcr.ch](http://www.unhcr.ch)

International Organisation for Migration  
[www.iom.int](http://www.iom.int)

International Labour Organisation  
[www.ilo.org](http://www.ilo.org)

ILO Migration Minority Rights Group  
[www.ilo/migrant](http://www.ilo/migrant)

Migration Policy Group  
[www.migpolgroup.com](http://www.migpolgroup.com)

Minority Rights Group International  
[www.monorityrights.org](http://www.monorityrights.org)

Platform for International Co-operation on  
Undocumented Migrants (PICUM)  
[www.picum.org](http://www.picum.org)

UN High Commissioner for Refugees  
[www.unhcr.ch](http://www.unhcr.ch)

United Kingdom Human Trafficking Centre  
[www.ukhtc.org](http://www.ukhtc.org)

## Sample Questionnaire and Interview Topics

## Questionnaire

01. Do you have any information about forced labour in Ireland?
02. Do you have any information about trafficking for forced labour into Ireland?  
If your answer on at least one of the questions 1 and 2 is "YES", please proceed to questions 3 to 10. If your answer is NO in both cases, please proceed to questions 8 to 10.
03. Is this information based on your own experience? If not, who shared the information with you?
04. In what capacity did you come across this information? (as a social worker, lawyer, law enforcement official, other)
05. What are the labour sectors in which the forced labour took place? (for example agriculture, garment industry, food production, construction work?)
06. What were the working conditions? (working hours, payment of wages, freedom of movement, contract of employment, fees/deductions, notice period?)
07. What were the living conditions? (accommodation, rent, payment for food, heating etc., transport, payments of debts, privacy, freedom to leave, control over own belongings/documents)
08. Do you think that forced labour is a widespread problem in your country?
09. Who do you think is most likely to have contact with the migrants trafficked for forced labour?
10. Who do you think should be the key stakeholders addressing the situation of people trafficked for forced labour in your country? (please be as specific as possible)

If you have any materials that you would be willing to share with us to help us in our research, please enclose them.

## List of Topics To Ask Workers

## Initial questions:

01. What information do you have about trafficking into forced labour?
02. Is this based on your own experience? In what capacity did you find this information?

## List of topics to cover:

03. Background of the person: ethnicity, gender, age, family ties, family status (wealthy/poor/in between).
04. Situation before leaving: nationality, country of residence, employment, education, living arrangements, migration history.
05. Transport and initiative for working abroad, immigration status.
06. Promise of work (which sector), conditions and life, including expectations.
07. Reality of work, conditions, including pay, working hours, freedom to leave place of employment, freedom to contact own community in the host country or in the country of origin, freedom to make complaints (union issues), legality of work, legality of immigration status, health and safety provisions on the job.
08. Living conditions: accommodation provided, rate, privacy, freedom to leave, control over belongings.
09. Pressure and deception: violence, (physical, sexual, threats (specific)), passport or ID card retention, incarceration, debt, forced deductions from wages.
10. Exit from situation: police raid, contacted someone, etc.
11. Medium and long-term plans: how is future envisioned? What would help now and what would have helped then?
12. What is your view on the spread of nationalities and genders across sectors? What evidence do you have for this?

13. What sources and/or people would you recommend we include in our research?

14. Any other relevant comments/questions/materials, e.g. contracts (blacked out names) if willing to share.

#### List of topics to ask Professionals

##### Initial questions:

01. What information do you have about trafficking into forced labour?

02. Is this based on your own experience? In what capacity did you find this information?

##### List of topics to cover:

03. Transport and initiative for working abroad, immigration status.

04. Promise of work (which sector), conditions and life, including expectations.

05. Reality of work, conditions, including pay, working hours, freedom to leave place of employment, freedom to contact own community in the host country or in the country of origin, freedom to make complaints (union issues), legality of work, legality of immigration status, health and safety provisions on the job.

06. Living conditions: accommodation provided, rate, privacy, freedom to leave, control over belongings.

07. Pressure and deception: violence (physical, sexual, threats (specific)), passport or ID card retention, incarceration, debt, forced deductions from wages.

08. Exit from situation: police raid, contacted someone, etc.

09. What rights/help are you aware trafficked people could ask for/who else are actors in this field that are you aware of? Who else would you approach?

10. Medium and long-term plans: how is future envisioned? What would help now and what would have helped then?

11. Policy development in organisation: what works? What is being changed? Who else do you work with on this issue?

12. What is your view on the spread of nationalities and genders over sectors? What evidence do you have for this?

13. What sources and/or people would you recommend we include in our research?

14. Any other relevant comments/questions/materials, e.g. contracts (blacked out names) if willing to share.

#### Relevant UN Treaties

**MWC:** International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

**CCPR:** International Covenant on Civil and Political Rights

**CCPR OP1:** International Covenant on Civil and Political Rights First Optional Protocol

**ESCR:** International Covenant on Economic, Social and Cultural Rights

**CERD:** International Convention on the Elimination of All Forms of Racial Discrimination

**CEDAW:** Convention on the Elimination of All Forms of Discrimination Against Women

**CEDAWOP:** Convention on the Elimination of All Forms of Discrimination Against Women – Optional Protocol

**CRC:** Convention on the Rights of the Child

**CAT:** Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

**CATOC:** Convention Against Transnational Organised Crime

**PPSPTP:** Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (supplementing the United Nations Convention against Transnational Organised Crime)

#### Relevant ILO Instruments: ILO Conventions:

**C19** Equality of Treatment (Accident Compensation) Convention, 1925

**C26** Minimum Wage-Fixing Machinery Convention, 1928

**C29** Forced Labour Convention, 1930

**C81** Labour Inspection Convention, 1947

**C87** Freedom of Association and Protection of the Right to Organise Convention, 1948

**C88** Employment Service Convention, 1948

**C95** Protection of Wages Convention, 1949

**C96** Fee-Charging Employment Agencies Convention (Revised), 1949

**C97** Migration for Employment Convention (Revised), 1949

**C100** Equal Remuneration Convention, 1951

**C103** Maternity Protection Convention (Revised), 1952

**C105** Abolition of Forced Labour Convention, 1957

**C111** Discrimination (Employment and Occupation Convention), 1958

**C117** Social Policy (Basic Aims and Standards) Convention, 1962

**C118** Equality of Treatment (Social Security Convention), 1962

#### Relevant ILO Instruments: ILO Conventions:(Cont'd)

- C122 Employment Policy Convention, 1964
- C131 Minimum Wage Fixing Convention, 1970
- C132 Holidays with Pay Convention (Revised), 1970
- C138 Minimum Age Convention, 1973
- C142 Human Resources Development Convention, 1975
- C143 Migrant Workers (Supplementary Provisions) Convention, 1975
- C155 Occupational Safety and Health Convention, 1981
- C156 Workers with Family Responsibilities Convention, 1981
- C157 Maintenance of Social Security Rights Convention, 1982
- C158 Termination of Employment Convention, 1982
- C168 Employment Promotion and Protection against Unemployment Convention, 1982
- C177 Home Work Convention, 1996
- C181 Private Employment Agencies Convention, 1997
- C182 Worst Forms of Child Labour Convention, 2000
- C183 Maternity Protection Convention, 2000
- C184 Safety and Health in Agriculture Convention, 2001





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