

# Decent Work Standards

## Global to Local Action on Forced Labour: A Trade Union Response

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Summary Document

July 2013



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Migrant Rights Centre Ireland (MRCI) & Irish Congress of Trade Unions (ICTU)

Activity carried out in the context of the Labour Trafficking FINE TUNE responses Project (project number HOME/2011/ISEC/AG/THB/4000002208). The project is co-financed by the EU Prevention of and Fight against Crime Program (ISEC) 2011 and coordinated by the International Trade Union Confederation (ITUC).





## Introduction

MRCI and ICTU, together with victims of slavery in Ireland and Dr. Philipp Schwertmann (Trade Union Federation of Berlin-Brandenburg), held a seminar in February 2013 to discuss the increasing problem of forced labour and trafficking in Irish society and to explore how the trade unions can further develop their work to address this problem. This event was part of a European Commission-funded project “Fine Tunes” which seeks to embed responses to labour trafficking across a range of civil society and statutory organisations. This project is being led by the International Trade Union Confederation.

## Themes

*‘There is a need to increase the number of victims identified and supported, and the number of cases prosecuted especially in the field of labour exploitation.’ The Organisation for Security & Cooperation in Europe Report on Ireland, 2013.*

**Defining Forced Labour:** Forced labour is ‘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.’<sup>1</sup> It involves:

- Psychological or physical coercion
- Deception or fraud
- Withholding of passports and identity documents
- Withholding wages or very low wages
- Threat of physical violence
- Denunciation to the authorities

MRCI have identified over 180 cases of forced labour over the last 6 years. It has submitted over 22 formal complaints to the Garda National Immigration Bureau to investigate labour trafficking since 2008 yet no one has been prosecuted for forced labour.

MRCI with ICTU have been campaigning for a number of years for a law against forced labour. The government have committed to introducing such a law which will enable prosecutions to be brought forward.



*‘We need to create an environment that is not based on a culture of fear but on a culture of sanctuary.’ John Douglas, General Secretary, Mandate & Chair of ICTU*

<sup>1</sup> International Labour Organisation’s Convention No. 29 (1930)

**Victim Protection:** Few victims get access to protections such as the right to work, secure immigration status, health and housing. Many victims remain for years in hostel accommodation in direct provision centres, with access only to a weekly allowance of €19.10. The situation continues until the Garda National Immigration Bureau makes a decision if the person is a victim of human trafficking; this can take years.

**How can we expect victims to come forward if there is no confidence in the protection systems?** A scheme for victim protection needs to be put on a statutory footing.

**Employment systems that create exploitation:** We need to address problems in the employment systems that create the conditions for exploitation to flourish such as:

-**Work Permit System** which ties an employee to the one employer. A migrant worker can only work for the employer named on their Permit. If they need to leave this employment, they lose their immigration status in the country. This system transfers power from the worker to the employer. The work permit system needs to be rebalanced.

-**Dismantling of the Joint Labour Committee System (JLCs).** Re-establishing the JLCs is a key issue, as decent labour standards underpin the employment relationship between employers and employees.

-**Rights of all workers to access the employment courts:** A recent High Court ruling found that the Employment Permits Act 2003 prevents an undocumented worker from seeking redress under labour

law, as the employment contract cannot be recognised. In effect this prevents undocumented workers, including those who have been trafficked for forced labour, from seeking legal redress in the employment courts.<sup>2</sup> In order to ensure that this lacuna is addressed, a new legal provision is required to cover all workers regardless of legal status. The government has committed to bringing in a law to address the High Court decision.

**Public Awareness and Support:** In recent times the horrors of the Magdalene laundries has been made public. We have allowed forced labour to continue into the present day. We are denying victims proper protections. This is not the type of society we want to rebuild. We need to grow massive public support as deep within all of us we want fairness and we are appalled by the idea that modern-day slaves are working in Ireland.

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<sup>2</sup> Hussein vs Labour Court. Hussein, the employer, challenged a decision of the Labour Court with respect to Muhammad Younis, who was awarded €92,000 for breaches of employment law.



Dr. Philipp Schwertmann, Trade Union Federation of Berlin-Brandenburg

### **Case Study: Deutscher Gewerkschaftsbund (DGB)**

Funded by the European Social Fund, the Confederation of German Trade Unions – an umbrella organisation for 8 trade unions representing more than 6 million people – formed an Alliance with the International Organisation for Migration and the International Labour Organisation to begin a concerted struggle against forced labour and trafficking. The trade union set up a board of relevant sectors to get them involved and provided training to identify victims. The trade union built up their expertise and deepened their role. This project lasted for 3 years. Now there is a second alliance with local trade unions in three states, affiliated to DGB, taking the lead on forced labour and trafficking.

#### **Key challenges**

- Awareness is low in the trade union as trade unions still focus on standard employment relationships (industrial relations model)
- Increase in precarious work requires a different approach. These are sectors where trade unions are not strong

-Supporting undocumented workers is difficult as trade unions tend to focus on their members and offer service where fees are paid. Undocumented migrants don't tend to be members of trade unions.

-Language barriers with migrants is a key problem

-Deep mistrust of trade unions from the communist era

#### **Successes**

-1.5million was invested in organising migrants

-1 million in wages was reclaimed through negotiations with employers.

-The trade union movement assisted in the establishment of social centres where victims of labour trafficking could access social supports such as counselling.

#### **Learning**

-Protection of labour standards in general is the frame from which to approach labour trafficking with trade unions

-Coalitions are a useful strategy to be considered in addressing the problem of labour trafficking using a multi-sectorial approach

-Need to use new approaches to organising with migrants as the industrial relations model does not work

-Need to address the issue of membership and membership fees when working with vulnerable migrants

## Issues Identified

- ✚ There is extreme exploitation in many sectors but when immigration issues are present in such cases, union officials do not have the capacity to deal with them. There is a lack of information and knowledge within the Trade Union Movement on the intersection between employment and migration issues
- ✚ Lack of expertise to deal with forced labour issues within the trade union movement
- ✚ Lack of understanding of wider human rights issues linked to labour trafficking
- ✚ Ethnically-diverse workforce not reflected in Trade Unions. As the phenomenon of migration is new to Ireland, there are no role models within trade union structures to bring forward migrant leaders
- ✚ Very difficult to organise in vulnerable and low wage sectors
- ✚ Victims of forced labour often are not members of Trade Unions as they have no connections with organisations. They can be invisible.

## Key recommendations

- ✚ Trade Unions should constantly review organising to ensure both vulnerable workers and migrant workers are included. Congress has provided a compendium of good practice in this regard: <http://www.ictu.ie/publications/fullist/congress-trade-unions-and-migrant-workers/>
- ✚ Congress and affiliates should continue to publicly oppose forced labour
- ✚ The rights of undocumented workers should remain on the agenda and in discussions on the reform of employment bodies;
- ✚ Trade Union publications should be used more regularly to highlight and update members on migration, forced labour and trafficking issues
- ✚ Trade unions should assess how best they can support victims of forced labour, who often require financial as well as other supports.