

# Summary – Trafficking for Forced Labour in Cannabis Production: The Case of Ireland



## CONTEXT

Ireland has experienced an increase in the domestic cultivation of cannabis in the last five years. In 2012 there was substantial media coverage on raids of cannabis farms as part of intelligence-led operations targeting cannabis cultivation in Ireland. As a result of these operations, a substantial number of cannabis farms across Ireland were identified and dismantled. In tandem with this trend, human trafficking for the purpose of forced labour in cannabis production is a growing problem. Anti-Slavery International (ASI) identified that potential victims of trafficking for forced labour in cannabis farms are being trafficked from Vietnam to Ireland via the UK.

This research is part of a wider European study, to explore responses against trafficking for forced labour in criminal activity led by ASI.<sup>1</sup>

## IS IRELAND IMPRISONING VICTIMS OF HUMAN TRAFFICKING?

In 2013 there were 80 persons of Asian origin in custody for drug related offences. 50 persons are in custody for cannabis cultivation. 36 of these were of Asian origin.<sup>2</sup> Only a few cases have been investigated by An Garda Síochána for human trafficking. Therefore, potential victims are not being identified and are being treated as criminals.

## ARE IRISH COURTS GIVING HARSHER SENTENCES TO PERSONS OF ASIAN ORIGIN?

Sentencing practices of courts in relation to persons of Asian origin, particularly Vietnamese and Chinese nationals in cannabis production, have been highlighted as a key issue by CCC Nuacht (News Wire). Within the Dublin area they found that Chinese and Vietnamese nationals who claimed exploitation or maltreatment make up 75% of

those going to prison for large-scale cannabis cultivation<sup>3</sup>. They recorded 51 convictions for cannabis cultivation from 2011 to July 2013, broken down as follows:

No of convicted Vietnamese Nationals	14
No of convicted Chinese Nationals	11
No of convicted Irish Nationals	18
No of convicted other EU Nationals	8

32 out of 51 were incarcerated for cannabis cultivation. 24 all of those who were incarcerated were Chinese and Vietnamese nationals. This is in stark contrast to the treatment of Irish and other non-nationals.

No of incarcerated Vietnamese Nationals	13
No of incarcerated Chinese Nationals	11
No of incarcerated Irish Nationals	5
No of incarcerated other EU Nationals	3

In 19 of these cases, Chinese and Vietnamese nationals made claims of exploitation or maltreatment. In such cases it was reported that the victims were not paid, they were not allowed to leave the cannabis grow houses, their passports and other documents were taken, they were forced to sleep on the mattresses on the floor, and their working conditions were described as “horrendous”. 24 potential victims of human trafficking went to prison with an average sentence of three years. No investigation was conducted into these issues.

1 <http://www.raceineurope.org/>

2 Information received from Irish Penal Reform Trust on the 25th of November 2013

3 <http://www.irishtimes.com/news/crime-and-law/asian-migrants-75-of-those-jailed-for-cannabis-cultivation-1.1582467>

## CASE STUDY

B, a middle-aged man, was offered a job in Europe as a gardener by a wealthy friend. He accepted the job as he believed it would allow him to pay off his debts. He was introduced to a group of men who arranged for him to be brought out of Asia. After a long and difficult journey B arrived at a bleak industrial estate in rural Ireland and was taken to a barn. Inside the barn the heat was stifling. He saw hundreds of plants being fed and watered by hoses under artificial lights. He was shown how to control the hoses, the heaters and lights and was told that it would be his job to look after the plants. The men locked him in and threatened him that he would be very sorry if anything happened to them. He only had an old mattress to sleep on and was brought food once a week. B had no idea what country he was in, but he knew that he was trapped in a cannabis factory. When the police discovered the barn, they found B still locked inside. With the assistance of an interpreter, he told them he had been kept as a slave, forced to tend to the plants, and had been threatened with violence. He never received any money. B was charged with possession of the cannabis plants and faces a mandatory minimum sentence of ten years. Although there were strong indicators present within this case, An Garda Síochána did not identify the individual as a victim of trafficking. In this case the victim was charged and awaits trial for the unlawful production of cannabis.

## WHAT TREATMENT DO POTENTIAL VICTIMS FACE?

In cases where indicators of human trafficking are identified, the state has an obligation to investigate further. The exploitative working conditions experienced by those working on cannabis farms have been reported in the media. In a case where 54 non-Irish nationals were arrested, it was reported that although a number of the Chinese 'Wo Shing Wo' Triad gang were among the suspects, many arrested were "unfortunate wretches who are being exploited by criminal gangs." Some of them were forced to "live in terrible conditions with little food and under constant threat"<sup>4</sup> Although trafficking indicators have presented in the media, through case studies and through the court system, out of all the Chinese and Vietnamese nationals who have been arrested and charged with cannabis cultivation under the Misuse of Drugs Acts<sup>5</sup> since 2010, no cases of trafficking for forced labour have been identified by An Garda Síochána.

## IS IRELAND CRIMINALISING VICTIMS?

It is of significant concern that where indicators of human trafficking present in cases before the courts, no consideration is being given to the possibility that the person is a victim of human trafficking. Due to this, suspected victims

are being prosecuted for drug offences. An Garda Síochána is the first contact for potential victims in these circumstances. It is critical that An Garda Síochána take an active role in ensuring that potential victims of human trafficking in such circumstances are identified.

## CONCLUSION

Despite strong indicators of trafficking for forced labour presenting in cannabis production, few cases have been investigated and none have been identified as human trafficking. As a consequence of this, potential victims are being prosecuted, convicted and imprisoned for crimes they may have been forced to commit – while their traffickers enjoy impunity.

It is evident that An Garda Síochána are unable to identify victims in such circumstances. In this context there is an urgent need for the victims to be formally identified by an agency like the Health Service Executive (HSE) with the co-operation of MRCI so that victims can receive the care and attention they require. This would enable An Garda Síochána to carry out their investigation unfettered by concerns for victims' rights. There is need for an independent rapporteur to be appointed by the government who could identify such trends and address problems of lack of identification at an early stage.

Urgent action is required to address this anomaly and ensure that victims of forced labour are not treated as criminals.

## RECOMMENDATIONS

- All cases of potential trafficking for forced labour in cannabis production should be assessed and victims identified by a multi-agency team involving NGOs and state agencies such as the HSE.
- All cases of potential trafficking for forced labour in cannabis production should be investigated by An Garda Síochána.
- An independent National Rapporteur should be appointed by the government to address problems of lack of identification and prosecution.
- Victims should be provided with a reflection and recovery period, safe accommodation, health care, counselling and financial supports when identified.

The Migrant Rights Centre Ireland is a national organisation working to promote justice, empowerment and equality for migrant workers and their families.

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4 Irish Herald, supra note 7

5 Parliamentary Question No: 670, 11th June 2013.

