

Changing the Law: Making Forced Labour a Crime in Ireland



CAMPAIGN GOAL

Through working with people who had experienced forced labour, MRCI identified that Irish law did not treat forced labour as a crime. This meant that people who had experienced forced labour suffered, but the perpetrator got off scot-free. The law needed to change to make forced labour a crime so that perpetrators could be prosecuted. Campaign goals identified at the outset included raising awareness of this situation in Ireland and changing the law.

BACKGROUND

Forced labour is an extreme form of exploitation where a worker is forced to work under threat, resulting in the worker losing control over their own life. Between 2006 and 2015 MRCI helped over 200 people who had experienced forced labour or slavery in the domestic, restaurant, agricultural, and construction sectors. Time and time again, those who had exploited them were subject to no penalty whatsoever. In 2010 MRCI brought together a group of 24 people, all of whom had experienced forced labour, to plan and implement a campaign to change the law. From this the Forced Labour Action Group (FLAG) was formed.

APPROACH, STRATEGY AND TACTICS

Participation and leadership

MRCI's community work approach means the voice and leadership of people who had experienced forced labour was at the heart of FLAG's campaign approach. After an initial outreach meeting, FLAG meetings were held every second Monday for the duration of the campaign. A campaign strategy was agreed with a clear demand, campaign targets, key messages and a series of objectives that FLAG regularly reviewed. A significant part of these meetings was empowering FLAG members to participate in and drive the campaign. This meant upskilling—developing knowledge and analysis of the legal issues involved, how the political system works, and how laws are made, and acquiring skills in political lobbying, media and communications. FLAG also became an invaluable safe, supportive and social space for workers who had been through very difficult individual journeys, building people's confidence and consciousness to be able to take action and lead out for change.

Ally engagement

As forced labour was seen as a marginal issue, we needed to work to get the issue onto the public and political agenda, and this required more power than we had ourselves. FLAG identified strategic stakeholders who could have an impact on the campaign, then met and formed alliances with the Irish Congress of Trade Unions, the International Trade Union Confederation and Anti-Slavery International. In partnership with these organisations, a series of high-level meetings were held with government officials and politicians to brief them on the issues and our concerns. To add external pressure, we invited international experts on forced labour from organisations like the International Labour Organisation (ILO) and the Organisation for Security and Cooperation in Europe (OSCE) to these meetings.

Political engagement

Our campaign strategy was based on an informed assumption that the state ultimately wanted the system to work better and would see the fact that Irish law did not treat forced labour as a crime as a problem. Therefore FLAG prioritised political engagement efforts to share the problem and solution with those who had the power to make change happen. Together we devised a political engagement strategy with a number of key actions:

- Conduct a power analysis to identify stakeholders and political targets
- Present the legal case to civil servants responsible for overseeing the legislation
- Present to the Oireachtas Committee on Justice, seeking a commitment from members to change the law
- Identify political champions among current TDs to profile the issue and keep it alive in the Dáil, through mechanisms like:
 - Topical Issues
 - Parliamentary Questions and Private Members Bills
 - Communicating with Senators to debate the issue in the Seanad
 - Putting questions directly to the Minister for Justice.

Strategic casework and advocacy efforts

MRCI supported workers who had experienced forced labour to take cases to the labour courts for compensation for the breach of their employment rights. There were many high profile cases with amounts of €94,000 and €50,000 being awarded. The Mohammed Younis case had perhaps the highest profile. Bringing his case through the courts required substantial effort from Mohammed himself as an activist and a valued member of FLAG as well as from MRCI caseworkers, our legal and policy team, and the MRCI community workers and FLAG activists who supported Mohammed throughout the long legal process and many media interviews. His case ensured that the issue of forced labour regularly hit the headlines, and as MRCI 'walked the walk' with workers, relationships were deepened and both FLAG and MRCI developed a better analysis of the situation and the solution needed.

Influencing media and public opinion

The goal here was not to simply get media coverage, but to move the media to influence the Minister for Justice and Equality and the rest of the government on this issue. It was critical to get stories of people's experiences of forced labour into the media to garner public support. Cases were regularly highlighted in the media to keep the pressure on the political establishment to make the change. RTE's Prime Time Investigates was targeted to expose the problem and build public consciousness of the issue. This work also influenced the political system and



created an imperative for the government to act. Worker leaders were empowered to share their stories and supported to develop stronger media and communication skills.

Public / direct actions

Over the two-year campaign, FLAG organised a number of public actions: outside Dáil Éireann on International Day for the Abolition of Slavery to engage the media and inform politicians of the solution, and outside a number of workplaces and restaurants to 'name and shame' exploitative employers and support workers. These actions were covered in the media and kept the pressure on the Minister to respond. They showed FLAG's power, kept morale going in the group, strengthened relationships and generally raised awareness.

OUTCOME

- After two years of campaigning, a definition of forced labour was put into Irish law through the Criminal Law (Human Trafficking) (Amendment) Act 2013. Forced labour is now a crime in Ireland.
- A group of empowered worker leaders built up a network of friends and supporters and developed new skills, knowledge and analysis on campaigning for change. Their relationship with MRCI and interest in broader social justice issues was deepened.
- Politicians, decision makers, members of the media and public were more aware of the existence of forced labour in Ireland and the need for change.

CHALLENGES

- There was considerable denial that forced labour is an issue in Ireland today. In the early stages of the campaign, it was a challenge to get attention for the

issue and to inform the public, politicians and civil society that this is a serious issue that persists in Irish society.

- All the members of the FLAG had recently experienced forced labour. It was difficult to find a balance between campaigning strategically for a law that would make the situation better for all workers in the future, and yet ensuring that the people affected were fully supported as they struggled to rebuild their own lives.
- A number of the members of FLAG did not speak English, but there was a strong commitment to ensuring their full participation at all stages of the campaign. This meant actively working to overcome language barriers, identifying volunteer translators who committed to attending all meetings and key events.

LESSONS LEARNED

For campaigning

- Find opportunities nationally and internationally. One of the main delays in achieving the campaign goal was the backlog of legislation being handled in the Attorney General's office, making it difficult to get a timely answer on whether the government were prepared to change the law. An EU Directive on Human Trafficking had to be implemented by a certain date. As human trafficking is a form of forced labour, it made sense to combine our issue with this Directive. It became the main vehicle through which the government could make necessary changes to law and ultimately sped up the process.
- When it comes to changing laws it is essential to know what change you are looking for. Through the Public Interest Law Alliance (PILA), a barrister prepared a legal opinion on what would be needed to make forced labour a crime. This helped us understand the legal case for the change we wanted and became an important campaign tool

- In campaigning to enact or change legislation, timing and sequence is everything. First the case for the legal change needs to be made. It can be an uphill struggle to create the conditions for the change to be discussed and debated at a political level. For the political system to take action, the issue has to be made important. Moments of crisis can lead to breakthroughs, so you need to recognise those moments and be ready to act swiftly and deliberately.
- Don't be intimidated by the legal system; it may seem complicated, but it is not beyond us to understand it. The trick is to simplify the language and make it understandable. Some legal professionals are willing to give their time to help draft amendments or bills. You don't have to be an expert to spearhead a change in the law. Learn about how laws are made and the stages they go through so that you are in a position to influence them.
- The success of getting legislative change depends on the groundwork. Start early and provide suggestions and solutions to officials who are working on the law ahead of time. A lot of this is negotiated with civil servants. It can nearly be too late by the time a draft Bill is published. When a law goes into the first stage or second stage in the Oireachtas you need to have the politicians well briefed beforehand.
- Don't forget the Seanad! Identify Senators to champion the issue, as the Minister is obliged to stand before the Seanad and answer questions on various laws.

For community work

- Starting where people are at means just that! People who have experienced forced labour need real and often urgent support at an individual level. Individual supports and case work (housing, translation, legal advice) were key in enabling people to leave exploitative situations and start on a collective journey for change. Walking the walk not just talking the talk.
- In community work we see the system as the problem and people as being powerful, not victims. Spending time building people's confidence, courage and analysis to take action is the heart and soul of empowerment work.
- Community work is about tackling the root causes of injustice and oppression and bringing about systemic change – this works well in campaigning where you have to identify solutions for the problems.
- Collective action for change is about more than taking action; it's about strategically building our power base so our marginal issues on the edge can't be ignored. In this campaign, building solidarity and relationships with usual and unusual allies were key.

For community workers

KEY KNOWLEDGE:

Power, power relations and their impact on communities

Group work theory, principles and processes

KEY SKILLS:

Identifying and addressing barriers to participation

Engaging with people and groups for empowerment and collective action based on a clear understanding of the context, conditions, lived experiences, dynamics and diversity of those involved

KEY QUALITIES

Commitment to working collectively for social change and social justice

Empathy with communities and groups and individuals you are part of them

Taken from All Ireland Standards for Community Work 2016
All Ireland Endorsement Body for
Community Work Education and Training

NEXT STEPS

- **VICTIM IDENTIFICATION:** Very few people who have experienced forced labour are formally identified by the state. Formal identification is important as this enables people to access services and protections to help them in their recovery. A recent High Court judgment (P v Ireland, April 2015) ruled that Ireland – in breach of EU law – does not have a sound mechanism to identify victims of forced labour. MRCI will campaign to ensure that a proper mechanism is put in place to identify and protect all those who have been subjected to forced labour in Ireland.
- **PROSECUTIONS:** There have been no prosecution for forced labour in Ireland to date. Better methods for investigation and gathering of evidence are needed to ensure that those who commit forced labour do not enjoy impunity. MRCI will work to influence this.
- **COMPENSATION:** No one who has experienced forced labour has received compensation for the crime committed against them. MRCI will lobby for the establishment of a compensation fund to assist Mohammed Younis and others like him who have been subjected to forced labour in Ireland. Such a fund could be resourced through the seizure of assets of those who commit forced labour.