

**MRCI's submission to the Office of the United Nations High Commissioner for Human Rights on challenges and best practices in promoting and protecting the human rights of migrant domestic workers, regardless of their immigration status**



## **Introduction**

The Migrant Rights Centre Ireland (MRCI) is a national organisation working to promote the rights of migrant workers and their families living in situations of vulnerability throughout Ireland. The MRCI works collectively with migrant workers to become involved in decision-making processes that affect their lives. We seek to influence policy, build public awareness on migration issues, undertake research and document the experiences of migrant workers. The MRCI supports locally based initiatives and networks at a local, national, European and global level. In 2014 MRCI provided information and support to over 2,000 people from 109 different countries.

## **Migrant Workers**

MRCI works with migrants in low-paid and precarious work at risk of poverty, discrimination and social exclusion for over 12 years. We work predominantly with Non-EU migrants to ensure their access to rights and entitlements. In 2014 there were 180,500 Non-EU migrants living in Ireland which represent 3.92% of the overall population and 32% of the total migrant population. The vulnerabilities and precariousness associated with immigration status merits special consideration when developing integration strategies to ensure equality outcomes for migrants.

## **Migrant Domestic Workers in Ireland.**

Domestic work and care work takes place in other people's private homes. Despite workers providing essential caring and cleaning services in the community, domestic workers experience multiple forms of discrimination based on their gender, ethnicity and employment. This is a hidden sector and many suffer emotional and physical abuse on a daily basis. To respond to emerging issues the MRCI set-up the Domestic Workers Action Group (DWAG), in 2003, made up of migrant women working as childminders, au pairs, cleaners, housekeepers and carers in Ireland. DWAG campaigns to improve rights and working conditions in this sector, making sure domestic work is recognised as work.

## **A. Challenges and Issues to address.**

### **Domestic work as an unrecognized and invisible sector**

Ireland operates an employment permits system for workers from outside the EU. New work permits granted for the domestic work sector peaked in 2004 and dropped dramatically by 2014. Until 2009, many of Ireland's childcare needs were fulfilled under this system. At that point, the State ceased to issue work permits for this sector in all but the most limited circumstances. By 2014, even those limited circumstances had become ineligible. An inevitable outcome of the absence of government policy in this area is the creation of a domestic work sector dominated by informal and irregular work; the disconnect between labour migration policy and employment demand has created an unregulated and exploitative system.

Lack of appropriate data-capturing makes it difficult to seize the number of workers in the sector and which labour regimes they fall under, recent MRCI research also shows a high concentration of undocumented workers and international students in the domestic work sector in Ireland. These are two vulnerable groups who experience barriers accessing their rights and frequently remain in exploitative situations in private homes. Despite the absence of a domestic worker employment permit, the demand for migrant women in this sector has not diminished but policy-makers can no longer ignore exploitative trends in the sector.

### **Home-based Childcare**

Government spending on childcare in Ireland is amongst the lowest in OECD countries. As a result, crèche fees are amongst the most expensive. The costly private crèche system is prohibitive for many working parents, and quality standards have not been delivered in tandem with high fees. Home-based care has become the first choice of many parents in Ireland, especially for the under-three age group.

Over the last five years, MRCI has seen a sharp increase in the number of non- EU women au pairing in Ireland. In 2012 MRCI provided support to just 40 au pairs, but this figure has grown exponentially and currently advice and support is provided to over 1000 au pairs, with a corresponding increase in workplace complaints. Recent studies show widespread exploitation of au pairs who provide full-time, flexible childcare for a fraction of the minimum wage in homes countrywide. They are denied basic labour rights such as contracts, holiday pay, leave and overtime despite Irish employment legislation applying to all workers where an employment relationship exists, regardless of job title.

Underpayment of au pairs is widely advertised and tolerated and has now become commonplace in Irish society. Au pair recruitment and placement agencies played a key role in responding to the demand for cheap flexible childcare. During the economic recession, families struggled to afford childcare and the au pair industry was quick to react to this lacuna. A recent survey revealed that au pairs provide childcare to approximately 20,000 families in Ireland. This figure may even be conservative; there is no official data gathered on au pair activity. Increasingly, au pair recruitment takes place informally, bypassing these agencies, so the actual size of the industry is unknown.

A detailed analysis of the issues affecting migrant-workers providing for home-based child care can be found in MRCI's recently published policy paper: [\*Childcare in the Domestic Work Sector Who's Minding the Children?\*](#)

## **Home-based Care Services**

Care is an important social justice and equality issue for all society and will be a defining issue for Ireland over the next 20 years. The home care sector in Ireland has quadrupled since 2000. It currently has an estimated value of €340m. The growth is driven by Ireland's rapidly ageing population and individuals' desire to be cared for in their own homes with dignity for as long as possible. Government policy has shifted from residential care to home care settings. The significant privatisation of home care services over the last decade in the absence of specific regulation has been an ongoing concern. Analysis of the sector shows the high costs of services, varied quality and standards of home care provision and poor terms and conditions for workers.

Analysis of the home care reveals in general job quality (pay rates, contractual issues, working times) are less favourable than in other sectors. Home care is a demanding job, some workers have more than one employer and work for two or more people in the same day, working time can also be an issue where workers are only paid for the hours in the client's home and not for periods of travel in between clients. It has high staff turnover, anti-social hours, lacks highly skilled staff and there are difficulties to recruit highly trained workers

MRCI research shows workers navigate multiple roles and tasks. The role of the home care worker is unclear making it difficult for workers to exercise boundaries. There are multiple names including home help, home care assistant, home care support worker etc. The job lacks clear definition or job description. Home care covers a wide spectrum of care from low to highly skilled work, from bathing and cleaning to dialysis, suction feeding and palliative care. Depending on the employment it can include or exclude domestic duties such as cleaning, cooking, and fire lighting, and/or personal caring duties such as washing, feeding and bathing. Terms and conditions, pay rates, progression, protocol and training all vary from one position to the next.

Client's needs are becoming increasingly complex and carers complain that poor management support and poor communication and complaints structures are creating health and safety concerns for workers and clients, and negatively impacting on the quality of service being provided to clients. Generally, the current model of strict time allocations was believed to be too rigid and lacks the flexibility required to respond efficiently to patient care needs.

MRCI is currently finalizing ground-breaking research in the field of home-based care services in view of affecting positive change for workers in the sector.

## **B. Good Practices and Achievements.**

### **Domestic Workers Action Group (DWAG)**

In 2004, following a study in the experiences labour exploitation of migrant domestic workers in Ireland, the MRCI set-up DWAG; in order to empower domestic workers to campaign for improved protections and standards in order to bring positive change.

The group currently has over 500 active members from a range of diverse nationalities; it has been heralded as good practice nationally and internationally for the improvement of labour conditions of migrant domestic workers. The video entitled [\*"From Private Homes to Public Action"\*](#) narrates 10 years of activism and policy change achieved by DWAG.

### **Code of Practice and Labour Inspections**

In 2007, following the artistic project entitled *"Blurred Boundaries"* which highlighted exploitation in the domestic work industry DWAG initiated a campaign to obtain a code of practice in the Domestic Work industry. It was successful in bringing together a number of stakeholders to introduce a mandatory *'Code of Practice for Protecting Persons Employed in Other People's Homes'*. Since that date the Code of Practice is disseminated with every employment permit issued for a domestic worker clearly stating all rights and entitlements that domestic workers can exercise.

Building on this achievement, DWAG campaigned to enable Labour Inspections in the private home. Through collaboration with the trade union movement, they were successful in 2010 to introduce labour inspections in the private home. Since then, every employer that obtains an employment permit for the domestic work section signs an authorisation document which allows for labour inspections in their home.

### **Ratification of ILO Convention 189**

MRCI and DWAG actively campaign for rights for domestic workers both nationally and internationally, collaborating with trade unions and international domestic worker networks. Members travelled to the ILO to participate in discussions leading to the adoption of the International Labour Organisation (ILO) Convention C.189 on Decent Work for Domestic Workers. On June 16, 2012, marking the first anniversary of the convention, DWAG joined the ITUC global campaign '12 by 12' calling for governments to ratify C189.

On July 9th, 2014, following intensive lobbying, policy and campaign work Ireland ratified ILO C189 and DWAG members publicly joined Minister for Jobs, Enterprise and Innovation to announce and celebrate the ratification of the convention which comes into force in July 2015.

## **Abuse of Diplomatic Immunity**

MRCI has assisted several cases involving exploitation of domestic workers employed by foreign diplomats. Seeking justice in these cases is difficult. If workers experience exploitation, diplomatic immunity – a privilege provided to diplomats under the Vienna Convention – can be used to deny the worker's access to legal remedies. Since 2009 DWAG has supported women to publicly 'name and shame' exploitative diplomat employers who abuse diplomatic immunity to exploit domestic workers and to seek legal redress and compensation for workers in spite of them invoking Diplomatic Immunity.

In 2014, MRCI and DWAG were successful to exert pressure on the Department of Foreign Affairs to introduce mechanisms to protect the rights of domestic workers employed in diplomatic households which include and acknowledgement by foreign diplomats that migrant domestic workers are entitled to all the protections of Irish Employment Law.

## **Labour of Love**

In March 2015, au pairs, carers, and domestic workers launched Labour of Love, a new campaign focusing on the rights of workers in private homes across Ireland. The campaign aims to combat the widespread underpayment, exploitation and abuse of workers providing essential care and housekeeping services.

Labour of Love is calling for recognition of the employment rights of au pairs, including the right to minimum wage, and the introduction of a work permit for the domestic work sector, to recognise increased labour market demand for migrant workers in the provision of care and domestic labour in private homes across Ireland.

Following widespread coverage of research conducted on exploitation in the Au-Pair Industry, the Minister for Jobs, Enterprise and Innovation made a public statement calling for the enforcement of all employment rights of Au-Pairs and better regulation of the industry.

## **Justice for the Undocumented**

MRCI has been working with undocumented migrants since it was founded in 2001. MRCI supported migrants who became undocumented through labour exploitation and successfully advocated for the introduction of a 'bridging visa' to regularise those whose immigration status expired as a consequence. Such a scheme was introduced by the State in 2000 as the Undocumented Workers Scheme and has since become statutory corrective legislation.

In response to growing numbers of undocumented migrants in other categories accessing the Drop-In Centre, and the clear need for a comprehensive solution MRCI formed the Justice for the Undocumented Campaign group (JFU) in 2010. JFU is made up of over 1000 undocumented migrants many of which are domestic workers and is growing daily. It campaigns for the introduction of a Regularisation Scheme. The JFU leaders' group meets regularly and with the support of MRCI plans actions and develops campaign strategies. Once a regularization scheme is introduced it will greatly improve the conditions of vulnerable sectors such as domestic work.