



Non-EEA crew in Irish Fishing Fleet under the Atypical Workers Scheme

4th July 2017

**Statement by Edel McGinley, Director and Dearbhla Ryan Community Worker, of
MRCI to Oireachtas Committee on Jobs, Enterprise and Innovation**

Thank you, Chairperson and Members of the Committee. The Migrant Rights Centre Ireland (MRCI) welcomes the opportunity to address you on the important issues related to the Atypical Work Permit for non-EEA Fishers and exploitation in the fishing industry.

Our statement will focus on the rollout of the scheme and problems we have identified with it through our casework and preliminary findings from research to be launched in September 2017. MRCI is a non-governmental organisation working with migrant workers and their families in low paid employment - restaurants, hotels and catering, cleaning, homecare, domestic work, fisheries and in agriculture. Our Drop-in Centre provides information and advocacy to some 2,000 migrant workers annually on immigration and employment issues. Our comments and recommendations today are based on 15 years of casework, representation, advocacy and outreach work with migrant workers across Ireland.

The issue of severe exploitation suffered by migrant fishers in the Irish fishing industry was given public prominence after a year-long investigation by the Guardian newspaper was published in November 2015. This report stated that migrant workers were being “routinely but illegally used as cheap labour on Irish fishing trawlers working out of some of the country’s most popular tourist ports”. The report detailed fishermen (mostly of Ghanaian, Filipino, Egyptian and Indian nationality) being forced to work long hours with little or no sleep, while being paid less than half the Irish minimum wage. Migrant fishers were forced to remain on the fishing vessels at all times and were required to hide if there were inspectors. Basic rights such as annual leave and rest periods were not provided, while they were forced to work in cramped conditions often with little food. The isolated nature of the fishing industry means that the exploitation is difficult to detect, leaving migrant fishers particularly vulnerable.

MRCI welcomed the Government’s quick response to this report when Minister for Agriculture, Food and the Marine Simon Coveney established an Inter Departmental Government Task Force to address the issues and develop a solution. The task force produced a report in December 2015 which recommended the introduction of a scheme that would “allow for the structured and transparent employment of non-EEA workers within a defined framework in the Irish fishing fleet”. This recommendation was endorsed by the Government, and The Atypical Working Scheme was introduced, with effect from February 2016. Unfortunately, evidence MRCI has gathered shows that the intentions of the Government, to tackle exploitation and document workers, have not been achieved. In fact conditions in the sector have deteriorated.

Dearbhla will now outline MRCI's evidence of continued exploitation from preliminary research findings which will be launched in September 2017, outline emerging issues in the fishing industry and offer a set of recommendations.

Thank you, I want to mention the fishers who have come to watch in the gallery today. We hoped a fisher could speak directly to the Committee today, however, as the session is broadcasted workers are reluctant to speak due to potential repercussions on their jobs.

Atypical Permit Scheme for non-EEA Fishers

MRCI have been monitoring the Atypical Permit Scheme for non-EEA fishers since its rollout in February 2016. The Atypical Permit was introduced to deal with a particular segment of the fishing fleet in Ireland – polyvalent, beamer and specific vessels over 15m. There are approximately 179 boats in this category.

The scheme gave undocumented fishers from outside the EU a window of six months, from February to July 2016, to come forward and apply for a work permit. The scheme relies on the employer and an employment contract to make a worker eligible for the scheme. MRCI have consistently outlined the issues with workers' immigration status and permission to work being tied to a specific employer in all sectors. The Government attempted to soften this by offering a way to change employer when you have this type of work permit. However, potential employers do not want to deal with the level of bureaucracy and wait for the process, which in turn often leaves fishers with little power and they are forced to remain working in poor conditions.

The Atypical Work Permit scheme imposes a 9 to 5/39 hour working week on this segment of the fishing industry. However this is an industry that simply does not operate within this framework. Many boats go out for trips of 12 days are back in harbour for a day or two and go back out for another 12 days. As a result a 9 to 5/39 hour working week doesn't fit the hours worked and fishers are not remunerated at the correct rates.

Fishing in this segment of the industry is marked by long hours, poor remuneration, breaches of employment legislation and disorganised enforcement. In fishing, no single body is tasked with enforcing employment legislation. It cuts across a number of bodies for health and safety, organisation of working time (rest breaks), payment of wages and minimum wage. This means much of the information is not combined to establish a comprehensive picture of non-compliance and exploitation.

You may ask why workers don't take their own cases to the Workplace Relations Commission. The profile of the workers can explain this. Many workers are from outside the EU and many not have a proficient level of English. Many do not know their rights and entitlements or how to exercise them. In addition workers know employers are well networked and organised. The workers fear if they take a case against one employer, they will be marked as a trouble maker and unable to get work. We have seen this happen to a number of Fishers. Fishing can be very

isolated work and as you can see by the hours, exhausting. Fishers have very little time off to seek support to meet MRCI and ITF.

MRCI Preliminary Research Findings

MRCI conducted 30 in-depth interviews with Fishers from the Philippines and Egypt. This research is still in progress and the following results statistics and evidence are preliminary. The final findings will be provided to the Committee as soon as possible.

Profile of survey respondents:

- **Employment: 93.3%** were employed at time of survey
- **Immigration Status: 80%** had a work permit
- **Ages: 13.8%** - 25-30 ; **20.7%** - 31-35; **34.5%** - 36-40 ; **6.9%** - 41-45; **20.7%** - 46-50; **3.5%** - 51-55

Working Conditions:

- **41.2%** have experienced discriminatory behaviour against them.
For instance, migrant workers not receiving the same wage as white fishers, having to attend to the more difficult jobs than others and some even have to stay back on the boat on shore to clean up after all the crew members.
- **33%** of workers surveyed had experienced verbal and/or physical abuse.
One worker stated that his employer shouts and curses at them (the crew) on a daily basis, and on one occasion the employer physically began tugging at him.
- **44%** of those surveyed have experienced personal injuries while at work; such injuries include serious cuts and crushed limbs.
One man received serious cuts but did not get medical attention until he got back on land which was four days later. One worker became so ill that an air ambulance had to be called. When the ambulance arrived, the worker's employer denied that the sick man worked for him..
- In terms of safety, **48%** claim they do not feel safe at work.
Their safety concerns are due to the lack of rest breaks and days off. Consequently, the exhaustion makes them prone to work accidents. Another hazard is the lack of safety equipment on board the boats

Exploitation and Non-Compliance

The preliminary research reveals that exploitation and non-compliance with Irish employment law are widespread within the sector. The rights conferred under Irish employment law are routinely breached. Most breaches occur under the National Minimum Wage Act 2000, Organisation of Working Time Act 1997, Terms of Employment (Information Act) 1994 and the Payment of Wages Act 1991.

- **17.2%** earn less than €300 per week

- **65.4%** are required to carry out extra duties without extra pay
- **50%** did not receive holiday pay

Quote for a worker from MRCI's preliminary research findings *'We work constantly, around the clock, there are no official breaks. We bring food with us onto the boat that we can eat while we work. Crackers and crisps and other dry food we can have on the deck and eat while we sort fish. Sometimes we have to beg for a break or we sometimes sneak breaks while we go the toilet quickly grab some food or a short lie down. There is a lot of tension on the boat, the skipper shouts and abuses us for not working hard enough. It's up to him who gets a break and when and it depends on his mood. The longest rest you will get is an hour or two. A lot of the time your sleep will only be 30 minutes long'*

Through our monitoring of the scheme, casework and preliminary research it has become very clear that the Atypical Scheme has not achieved what the Government set out to do, tackle exploitation in the industry and provide an avenue to document workers. In fact some people are in a worse situation. Many did not find a willing employer during the six month window to apply for a work permit leaving them undocumented. As the first round of permits are up for renewal we are seeing many Fishers let go as employers do not want to deal with bureaucracy. This is leading to a casualisation of work where undocumented and documented Fishers are taken on for trips here and there without contracts or agreements.

Recommendations – Finding a Solution

In light of the evidence outlined we believe it of immediate importance for the Government to review the scheme and identify solutions for improving it, including setting more appropriate working conditions and agreements that fit this segment of the fishing industry.

We would like to request that the Committee write to the Minister for Jobs and Social Protection and recommend the setting up of a time bound working group with the Department of Justice and Equality, MRCI, ITF and other relevant parties to review the scheme and identify solutions to the issues at hand. If action is not taken exploitation and forced labour will grow in the sector, as it always does when poor conditions persist and workers are unable to assert their rights.

The lack of recognition of skill gaps in this industry is a driving force in the exploitation of workers. This is a highly skilled job and these are highly skilled workers. These issues affect a small and manageable size of the fishing fleet. Atypical work permits are needed in this area along with the enforcement of workers' rights.

To close I want to read out a short statement from a fisherman who has extensive experience working in fishing in Ireland.

Statement from fisherman (read by Dearbhla)

First of all I would like to thank you for the opportunity to speak for myself and my colleagues. We are all professional and skilled fishermen. Many of us come from coastal towns where generations of our families have been working in fishing. It is a very hard difficult job. I have worked in many different boats in Ireland with bad conditions. In this work we only get a few hours sleep per night on the boats. We fish for very long periods, sometimes over 20 days at a time. Many Skippers treat us migrant workers with disrespect and discrimination. We are not treated equally.

There also are many health and safety issues on the boats. One man he was fishing and a wire cut off three of his fingers. The skipper called an ambulance for him and left him. The fisher lost his job and was given no support by his employer. When the employer reported on the accident he stated that it was the fisher's fault when really it was the Skipper who was not taking care of health and safety properly on the boat. Fishing will always be a very difficult job but we must have fair conditions and pay. When we are badly treated we must be able to stand up to employers and get justice. Everyone deserves to have a safe working environment and be fairly paid for their work.