Exploitation in Ireland’s Restaurant Industry
The MRCI is concerned with the rights of migrant workers and their families, particularly those at risk of poverty, social exclusion and discrimination. Established in 2001 to bridge a gap in support structures and information provision for migrant workers and their families, it has since evolved to become a leading national organisation concerned with: provision of supports to migrant workers and their families, empowering migrant workers to achieve social change through community work practice.
In memory of Kubbath Miah (1967 – 2008)

Kubbath Miah, originally from Bangladesh, lived and worked in Ireland as a chef between 1998 and 2008. He left his homeland in the hope of making a better life for his wife Moharani and their three children Sohel Rana, Rakib and Chayan. However, after three years of working under exploitive conditions at a restaurant in Limerick he suffered a serious fall and injury at work and was let go by his employer. Through no fault of his own he then lost his legal status and became undocumented.

He began to work at a number of restaurants to continue to support his family but consequently was separated from them for several years because of his undocumented status. During this period Kubbath’s mother became ill and died and he was unable to return to home for her funeral. The tremendous stress of living in fear of deportation, working long hours and being isolated from his wife and children began to take a major toll on his health. Kubbath became seriously ill.

Through a friend Kubbath eventually contacted the Migrant Rights Centre Ireland. Through MRCI’s support and Kubbath’s determination, he eventually regained his legal status and he traveled home to reunite with his family. After his visit, he returned to his job in Ireland with the hope of applying to soon bring his wife and children with him.

Tragically, Kubbath’s health again began to deteriorate on his return and before he was able to realise his wish he died at the Mater Hospital in Dublin on the 29 June 2008.
Acknowledgements

The Migrant Rights Centre Ireland (MRCI) and MRCI’s Restaurant Workers Action Group would like to thank all the staff, volunteers, students and others who assisted in the completion of this report. Special thanks to Patrick Boyle, Casimir Raj Motcham, Naoise Cunningham, Sintija Pirite Sheerin and Ivy Byrne for their contributions.

A special recognition to all the migrant workers employed in restaurants for volunteering their time and sharing their experiences in this report.
Executive Summary

The restaurant sector in Ireland has undergone a period of tremendous growth over the last ten years. Eating out regularly has become the norm. The variety and sheer number of restaurants is plainly clear to anyone living in large cities to small towns and villages across Ireland. The restaurant industry is a significant source of jobs and business in the Irish economy. It is estimated that over €6 billion annually is spent on eating out.

Supporting this growth has required thousands of workers to cook, prepare, serve, clean and keep restaurants open for business. The entire hospitality industry, hotels and restaurants, now employs approximately 130,000 workers. 35% of the workforce is now made up of migrant workers, the highest, by far, of any major industry in Ireland.

Wages, however, are the lowest of any employment sector in Ireland. The restaurant industry is almost entirely non-unionised. Workplace rights violations and exploitation of restaurant workers, especially migrant workers, is commonplace. Cases highlighted even recently demonstrate just how severe things can become including: workers being paid rates of €2 per hour, labouring in excess of 75-hour weeks, working without any overtime provisions or rest breaks, suffering threats of deportation or harm to their families in their home country if they complain. Recently, after inspecting over 850 catering businesses, the National Employment Rights Authority found that 76% were in breach of employment legislation which included the failure to pay minimum wage, overtime, Sunday premium, public holidays, and annual leave.

Migrant workers employed as restaurant workers have been the largest group reporting workplace exploitation to the Migrant Rights Centre Ireland (MRCI). In early 2007, the MRCI initiated the Restaurant Workers Action Group to begin to bring migrant workers employed in restaurants together to work for change. In order to establish a more comprehensive picture of working conditions and experiences of workers, the Restaurant Workers Action Group decided to design and undertake an extensive worker survey.

The information summarised in the following study is based on the results of 115 one-hour surveys of migrant workers employed in restaurants in Ireland. The results of the study indicate that among those surveyed:

- 53% earned less than the minimum hourly wage
- 45% worked 9 or more hours per day
- 44% did not get rest breaks
- 85% did not receive extra pay for Sunday work
- 85% did not receive overtime pay
- 48% did not receive bank holiday pay
- 34% did not receive their annual leave entitlements
- 51% did not receive a pay slip
- 84% did not receive a contract or terms of employment
- 89% stated that their employment rights are not displayed at work
- 15% reported an injury at work
Time for Change

Such results indicate that it is time for serious change in the restaurant industry. MRCI’s Restaurant Workers Action Group (RWAG) believes that a successful restaurant industry is important for Ireland, but that success must not be built on the back of exploited workers. RWAG believes that it is possible to run a successful restaurant business while following proper standards and providing good working conditions.

RWAG believes that currently the benefit of cheap labour to an employer who exploits is much greater than the risks of being caught and penalised. At present the worst-case scenario for the vast majority of employers who violate workers’ rights is that they may have to pay back a portion of what they owe to a worker. On the other hand the risk for a worker to come forward and potentially lose their job (and their legal status for non-EU/EEA workers) outweighs the potential benefit of proper pay and conditions. As a result compliant restaurants are competing with those who exploit, and the result is a race to the bottom for employers and employees.

In order to shift the unequal balance in the workplace and reduce the risks workers face in relation to exploitation, RWAG calls on a number of actors to implement changes (see section A Call for Change (p25) for complete list).

The RWAG calls on the government to take immediate action which includes the following legislative priorities:

1. Pass the Employment Law Compliance Bill, including amendments that give Labour Inspectors power to impose fines on employers who are found in breach of the law.
2. Amend the Employment Permits Act 2007 to provide true freedom of movement for employment permit holders so that they are no longer tied to one employer.
3. Legislate that all workers, regardless of their legal status, have the right to exercise their employment rights to ensure that there are no barriers to legal redress.

The National Employment Rights Authority (NERA) should continue its efforts to strictly enforce employment standards in the industry as well as designate NERA inspectors who specialise solely on inspections of restaurants. NERA should also collaborate with the Work Permit Section of the Department of Enterprise, Trade and Employment to provide all current and future work permit holders in the restaurant/catering sector and their employers with copy of the relevant Catering Employment Regulation Order, along with information concerning a work permit holder’s rights and options regarding their work permit when their employment rights are violated. With such a high number of migrant workers in the industry NERA should also translate the Catering Employment Regulation Orders into a number of languages.

RWAG calls on restaurant employers with the help of the Restaurant Association of Ireland to build a new culture of compliance by educating themselves fully on laws and regulations governing workers employed in restaurants and by publicising model employer practices.

In addition RWAG calls on the Restaurant Association of Ireland to work in partnership with trade unions to establish a new Fair Employment Mark which individual restaurants may obtain by agreeing and adhering to a strict code of standards and submitting themselves to regular inspection and audits. This publicly recognised mark will act as an incentive to compliance by offering greater assurance to consumers and prospective employees that employers who achieve it are following fair and decent employment practices.
Greater unionisation in the industry is undoubtedly the most direct and effective solution to improved wages and conditions, and trade unions should invest in innovative and creative ways of overcoming the barriers of organising workers in the restaurant sector. The Irish Congress of Trade Unions should also continue to advocate strongly at the national level in prioritising policies which protect the most vulnerable migrant workers.

Finally, RWAG calls on all workers in the industry to educate themselves on their rights and entitlements, report workplace rights violations and work in solidarity with other workers, through RWAG or a trade union, to improve their working conditions.
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I. Overview of the Restaurant Industry in Ireland

The restaurant sector has seen tremendous growth in recent years in Ireland. A younger and more affluent population and a steady growth in tourism has created the conditions for such growth. Eating out has become the norm. The choice and sheer number of restaurants is plainly clear to anyone living in large cities to small towns and villages across Ireland. According to the former Chief Executive of the Restaurant Association of Ireland Henry O’Neill, who headed up the Association for 22 years, "It can now be confidently announced that Ireland has a full dining out culture."  

A 2005 survey commissioned by ARAMARK/Campbell Catering, Ireland's largest catering company, found that eating out surpassed spending on food to eat at home. It estimated that between €6 - €7 billion, or one out of every seven euro in consumer spending was being spent on eating out. The restaurant sector is extremely important to the economy. According to the newly-established national register of food businesses administered by the Health Services Executive, there are a total of 7,194 restaurants and 2,332 take-away restaurants registered in Ireland.

Employment in the Restaurant Industry

The growth in the restaurant trade has demanded a corresponding rise in employment within this industry with a notable increase in the employment of migrant workers, both EU and non-EU.

It is difficult to estimate exactly how many people are actually employed in the restaurant sector in Ireland as most statistical data is collected on the entire hospitality sector, which includes both hotel and restaurants. According to the Central Statistics Office, Quarterly National Household Survey (QNHS), employment in the Hotel and Restaurant sector increased 30% between 1998 and 2008 from approximately 98,000 to 130,000. This total represents approximately 6% of the total labour force. The QNHS also indicates that the hotel and catering workforce is:

- 41% male and 59% female;
- 35.5% non-Irish nationals (double that of any other employment sector)
  - The total number of non-Irish nationals employed has more than doubled from 22,700 in 2004 to 47,200 in 2008;
  - 53% of non-Irish nationals in 2008 are from the new accession states and 33% are from outside of the EU.

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1 Annual Report 2007, Restaurant Association of Ireland.
3 Correspondence with the Health Services Executive, July 2008.
4 CSO Quarterly National Household Survey 2008 (Quarter 3), Table 3: Seasonaly Adjusted Series of persons aged 15 years and over classified by sex, ILO Economic Status and NACE Economic Sector.
5 CSO Quarterly National Household Survey 2008 (Quarter 3), Table A2: Estimated number of persons aged 15 years and over in employment (ILO) classified by nationality and NACE Economic Sector.
In 2007, 4,479 work permits in ‘catering’ were issued by the Department of Enterprise, Trade and Employment. This represented approximately 20% of all work permits issued in the state in 2007. For non-EU migrant workers with work permits, legal or documented status to live and work in Ireland is tied to the work permit which restricts the migrant worker to work with a specific employer and job.

Table 1: Work permits issued in Catering, 2007

<table>
<thead>
<tr>
<th>Year</th>
<th>Work Permits Issued in All Sectors</th>
<th>Catering Work Permits</th>
<th>% of All Work Permit in Catering</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>23,513</td>
<td>4,749</td>
<td>20%</td>
</tr>
</tbody>
</table>

Source: Department of Enterprise Trade & Employment

The average annual earnings of hotel and restaurant workers was €22,139 in 2007, the lowest of any economic sector and well below the national average of €37,200. The average weekly earnings of full-time hotel and restaurant workers in 2007 was €446, the lowest of what the Central Statistics Office classifies as distribution and business services, as shown below (Table 2).

Table 2: Average weekly earnings for full-time employees in distribution and business services, 2007

<table>
<thead>
<tr>
<th>Distribution and Business Service</th>
<th>Average weekly earnings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real estate, renting of machinery</td>
<td>€856.00</td>
</tr>
<tr>
<td>Computing activity</td>
<td>€767.15</td>
</tr>
<tr>
<td>Retail trade</td>
<td>€742.24</td>
</tr>
<tr>
<td>Other business activity</td>
<td>€726.52</td>
</tr>
<tr>
<td>Wholesale trade</td>
<td>€711.65</td>
</tr>
<tr>
<td>Land transport</td>
<td>€711.19</td>
</tr>
<tr>
<td>Motor trade</td>
<td>€638.40</td>
</tr>
<tr>
<td>Accommodation and catering</td>
<td>€446.34</td>
</tr>
</tbody>
</table>

Source: CSO, The Statistical Yearbook of Ireland 2008

According to the CSO National Employment Survey in 2006, the lowest average hourly earnings were in the hotel and restaurant sector. The survey indicated that nearly half of employees (48.7%) in the sector earned less €10 per hour.

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6 The Statistical Yearbook of Ireland, CSO, 2008.
Trade union membership in the hotel and catering sector is quite low. In 1994 when general trade union membership stood at 47.1% across all sectors, the hotel and restaurant sector had a trade union density of only 21%. Currently, trade union membership stands at 31.5% in the workforce, while trade union membership in the hotel and restaurant sector is at 7.8%, the lowest of any sector of employment.\(^7\)

According to a 2004 report by the European Foundation for the Improvement in Living and Working Conditions\(^8\), trade union organising in the hotel and catering sector is more difficult for a number of reasons, including:

- high turnover and short tenure of many employees in the sector;
- large number of young employees in the sector (younger people are among the least likely to join trade unions);
- fragmented nature of establishments in the sector, either as small single employers or a chain of disparate establishments making large scale organising and representation difficult;
- employer hostility and the low profile of trade unions in the sector.

In Ireland these difficulties are potentially exacerbated due to the fact that there is no legal foundation for collective bargaining. An employer in Ireland is not required to recognise a trade union, even if the majority the company’s employees elect to negotiate their terms and conditions of employment through a designated trade union.

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\(^7\) CSO Quarterly National Household Survey, Union Membership, Q2 2007, 10 April 2008.

Terms and Conditions of Restaurant Workers

Minimum pay and conditions of restaurant workers are fixed by two different Catering Employment Regulation Orders (ERO), as set by Joint Labour Committees of the Labour Court which have been in place for over 30 years. One Catering ERO covers workers employed in the County Borough of Dublin and the Borough of Dun Laoghaire. The other Catering ERO covers all workers working everywhere else, i.e. outside of the County Borough of Dublin and the Borough of Dun Laoghaire.

EROs are set by their respective Joint Labour Committees, which are made up equally of employers’ representatives, employees’ representatives and a chairperson appointed by the Minister of Enterprise, Trade and Employment. Some of the minimum pay and conditions contained in the Catering EROs are set out below.

- **Minimum Wages:** The ERO sets minimum rates of pay per hour based on the job categories of workers which include chefs/cooks, waiter/waitress, barpersons, clerical persons, kitchen porters, general assistants, among others. Minimum hourly wages for this sector are slightly higher than national minimum wages. For example, the minimum hourly rate of pay for an experienced cook or chef in Dublin and Dun Laoghaire is €9.27 and €9.15 outside Dublin, both above the national hourly minimum wage of €8.65.

- **Overtime:** Both EROs grant an overtime rate of time and a half when a person works in excess of 78 hours in a fortnight. Also, if employees are asked to work in excess of the hours on their roster they are entitled to time and a half for each hour up to 12:00 midnight, and double time after midnight. Any work done on a day on which a worker would normally be off duty is also paid at double time.

- **Sunday Pay:** Employees are entitled to time and one third in Dublin & Dun Laoghaire or double time outside of Dublin & Dun Laoghaire. Workers are entitled to a day off every second Sunday, and if they work on that Sunday they are entitled to double time.

- **Breaks:** Workers are entitled to a fifteen minute break after four and a half hours of work and a further break of fifteen minutes after more than six hours of work (which can be a thirty minute break if the first one is missed). Breaks are unpaid, with the exception that in Dublin and Dun Laoghaire the first 15 minute break is paid.

- **Board & Lodgings:** If employees receive board and lodgings from their employer, the following maximum amounts can be deducted by the employer:
  - €54.13 per week for full board and lodgings
  - €32.14 per week for full board only
  - €21.85 per week for lodgings only

- **Posting the ERO:** Employers must post up the printed ERO in a prominent place at the place of work, so that the ERO can be seen and conveniently read by all workers.

Health and Safety Standards

Workers are also protected under various Health and Safety laws which govern proper safety, health and welfare practices. Employers are required to provide a safe place of work, safe practices and procedures and information and training to workers, among other duties. This legislation is enforced and monitored by the Health and Safety Authority.
Inspection Campaign by the National Employment Rights Authority
During 2008 the newly-formed National Employment Rights Authority (NERA) conducted an inspection campaign in the catering industry. NERA is the state agency responsible for enforcing employment rights. Its stated aim is to "secure compliance with employment rights legislation and to foster a culture of compliance in Ireland."

In NERA’s quarterly newsletter from November 2008, NERA stated that it carried out 860 calls, interviews and inspections in catering establishments and identified a 76% incidence of non-compliance with employment law. According to NERA:

The campaign has so far seen 860 calls, interviews and inspections, identifying a 76% incidence of non-compliance. A total of €241,667 owed to employees has been recovered so far. The main types of breach detected have been the failure to pay either, or both, the Statutory Minimum Hourly Rate and the appropriate Sunday Premium. Breaches have also been detected in respect of the failure to pay the appropriate rates for overtime, public holidays, and annual leave.  

Problems with Recruitment
In Competing Through People: A Human Resource Development Strategy for Irish Tourism 2005-2010, Fáilte Ireland predicted that the tourism industry would need approximately 6,000 additional workers each year to the end of the decade. The study noted specific shortages in core craft areas such as kitchen, bar and restaurant. The 2004 Annual Report of the Restaurant Association of Ireland (RAI) mentions the problem of finding sufficient employees to fill the jobs required to achieve growth in the industry. It notes that the enlargement of the EU in 2004 did not bring the employee numbers they had anticipated and that their own placement service had continued to source candidates from non-EU countries. Securing work permits for non-EEA staff was identified as problematic. At this time, the RAI requested that ‘special treatment’ should be given to the catering and hospitality sector by the Department of Enterprise Trade and Employment to allow the issuing of work permits for skilled employees such as chefs and waiters. Again in 2007, the RAI identified recruitment of staff as an ongoing area of concern for the restaurant industry and that the development of ethnic restaurants exacerbated the problem of employing skilled staff, especially chefs.  

Subsequently, a special arrangement was made by the Department of Enterprise, Trade and Employment concerning the issuing of work permits to chefs in which:  

- Fáilte Ireland agreed to validate the qualifications of chefs through its Accredited Prior Learning Culinary Programme so that non-EU nationals entering the workforce have their qualifications validated, guaranteeing that chefs attain at least a FETAC level 6 qualification;  
- The minimum salary level for consideration of work permits for chefs is decreased to €26,500, less than the normally-required €30,000.  

11 Correspondence with the Department of Enterprise, Trade and Employment, November 2008.
II. MRCI’s Restaurant Workers Action Group

MRCI’s Restaurant Workers Action Group (RWAG) believes that all restaurant workers in Ireland have the right to be paid and treated fairly. RWAG is a group composed of migrant workers, both men and women, working in restaurants in Ireland. RWAG was set up to respond to the exploitation and unfair treatment that many restaurant workers experience in Ireland. The members of RWAG have come together to change that situation and to work to improve conditions. RWAG believes that it is possible to run a successful restaurant business while following proper standards and providing good working conditions.

RWAG knows that many restaurant workers are not being treated properly and experience problems such as:
- pay below the legal minimum hourly rate of pay in Ireland
- excessive working hours, sometimes more than 70 hours per week
- feeling disrespected, threatened and treated like slaves by employers
- unfair and illegal deductions being taken from pay
- intimidation from their employer if they complain

Despite all these problems, RWAG believes that there are ways for workers to come together to fight to uphold the rights and dignity of restaurant workers. RWAG’s primary work is to:
1. Provide restaurant workers with information on their rights and entitlements
2. Support restaurant workers to get their full rights and entitlements
3. Work for laws that improve conditions for restaurant workers and other workers
4. Build a strong voice to represent restaurant workers

Membership to RWAG is open to restaurant workers of all nationalities, backgrounds and all others who wish to support the work of fair treatment for restaurant workers across Ireland. To date RWAG has over 125 members spread over 20 counties in Ireland and is representative of 21 different nationalities.

RWAG was initiated by the MRCI in early 2007 as a direct result of the growing concerns for the wellbeing and integration of restaurant workers who were seeking the support of the MRCI in large numbers from across Ireland. Migrant workers employed in restaurants have been the single largest group seeking support from the MRCI. Approximately 40% of all hotel and catering workers who come to the MRCI report some form of workplace rights violation.

MRCI’s community work approach

MRCI’s mission is to promote the empowerment and inclusion of those migrant workers and their families at risk of poverty, social exclusion and discrimination. MRCI seeks to achieve its mission through using a community work approach. Community work is about achieving social change in a way that addresses the root causes of inequality and injustice. The MRCI community work approach seeks to ensure that migrant workers are directly involved and participate in the process of securing social change. This approach facilitates a movement from individual needs and concerns to a focus on collective outcomes that have maximum benefit for migrant workers and their families.
III. Restaurant Workers Survey

In April 2007, RWAG decided to conduct a survey of restaurant workers, in order to build relationships with more restaurant workers and to establish a better picture of the experiences of migrant workers employed in restaurants. Working together with the staff of the MRCI, a survey questionnaire was designed. Over a period of one year between July 2007 and July 2008, 115 one-hour surveys were completed with migrant workers employed in restaurants in Ireland. The restaurant workers surveyed were those who came seeking information or advice from MRCI’s Drop In Centre located in Parnell Square, Dublin. It is the practice of the MRCI that migrant workers who attend the Centre for information or advice are asked their occupation. Workers who indicated that they were employed in restaurants were asked at random to participate voluntarily in the restaurant workers survey. Surveys were conducted in a confidential manner, some with the assistance of interpreters.

A. Details of Participants

The age of the survey participants ranged from 19-52 years with an average age of 35 years. 18% of participants were female and 82% male. Participants were made up of migrant workers of twenty-two different nationalities. The following list represents the percentage of respondents by nationality of the largest groups:

<table>
<thead>
<tr>
<th>Nationality</th>
<th>% of total participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladeshi</td>
<td>18%</td>
</tr>
<tr>
<td>Indian</td>
<td>17%</td>
</tr>
<tr>
<td>Chinese</td>
<td>15%</td>
</tr>
<tr>
<td>Pakistani</td>
<td>11%</td>
</tr>
<tr>
<td>Malaysian</td>
<td>7%</td>
</tr>
<tr>
<td>Filipino</td>
<td>5%</td>
</tr>
<tr>
<td>Thai</td>
<td>4%</td>
</tr>
<tr>
<td>Egyptian</td>
<td>4%</td>
</tr>
</tbody>
</table>

The immigration status of the participants was as follows:

<table>
<thead>
<tr>
<th>Immigration Status</th>
<th>% of total participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Work permit</td>
<td>67%</td>
</tr>
<tr>
<td>Undocumented</td>
<td>14%</td>
</tr>
<tr>
<td>EU</td>
<td>7%</td>
</tr>
<tr>
<td>Student visa</td>
<td>5%</td>
</tr>
<tr>
<td>Stamp 4 resident</td>
<td>5%</td>
</tr>
</tbody>
</table>
Of the 14% who were undocumented, 75% had been work permit holders, 12% had been on a tourist visa, and 6% had been student visa holders. Most stated that they arrived in Ireland between 1996 – 2007.

Participants were living and working in nineteen different counties. The largest numbers came from Dublin (58%), Wicklow (12%) and Kildare (4%).

The job type of those surveyed were as follows:

<table>
<thead>
<tr>
<th>Job Type</th>
<th>% of total participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chef</td>
<td>72%</td>
</tr>
<tr>
<td>Waiter/Waitress</td>
<td>13%</td>
</tr>
<tr>
<td>Clerical</td>
<td>7%</td>
</tr>
<tr>
<td>Kitchen Porter</td>
<td>4%</td>
</tr>
<tr>
<td>Counter Assistant</td>
<td>4%</td>
</tr>
</tbody>
</table>

Participants also indicated the type of restaurant where they were employed. The majority (90%) worked for full service restaurants including some restaurants located within hotels, while (10%) reported working for take-aways or fast food establishments. Approximately 70% of the restaurants were independent while 30% were part of a chain of two or more restaurants.

Restaurant workers employed in hotels are covered by the Hotels Employment Regulation Order.
B. Conditions at Work

The following section outlines the data regarding pay and working conditions of those surveyed. Some workers reported good pay and conditions, and decent overall treatment in their employment. However, a significantly large percentage worked excessive hours for little pay and did not receive their basic rights, including the minimum wage, overtime and bank holiday pay, among other rights and entitlements. The data indicates that the degree of non-compliance with labour law among those surveyed is extremely high and quite common. A high percentage of workers also felt that they were not respected and were discriminated against in their place of employment. The majority chose not to complain about their pay and conditions. The greatest reason for not making a complaint was fear of losing their job, especially for non-EU workers on work permits who feared that the employer would not renew their permit and have them deported from Ireland. A large majority felt that exploitation and unfair treatment of restaurant workers in Ireland is widespread.

Hours worked: 50% of respondents stated that they were working six days per week and 4% worked seven days per week. The average number of days worked per week by respondents was 5.5 days. 45% of all respondents worked nine or more hours per day. The total number of hours worked per day ranged from three hours up to fifteen hours. 43% of all workers reported working in excess of the legal limit of 48 hours.

Pay: 53% of all those surveyed earned less than the minimum hourly wage as set out in the Catering Employment Regulation Order. Hourly rates ranged between €2.14 per hour to €23.00 per hour. The average hourly wage of all participants was €8.80. Of all respondents, 58% were earning €400 or less per week. 44% reported never having received a wage increase during their employment.

Breaks: 44% of respondents reported receiving no regular rest breaks during their working day.

Overtime Pay: 85% of those who worked reported that they did not receive overtime pay for which they were entitled.

Sunday Work and Pay: 85% of all workers who worked on Sundays stated that they did not receive extra pay for Sunday work to which they are entitled. 96% of workers stated they worked on Sundays. Of these, 83% stated that they worked every Sunday.

Bank Holiday: 48% of respondents stated that they received no bank holiday pay entitlements.

Annual leave: 34% of workers reported that they received no annual holidays. 16% of those who did receive annual holiday entitlement stated that they did not receive their full entitlement.

Pay slips: 51% reported that they did not receive a pay slip from their employer.

Contract: 84% stated that they received no written contract or terms of employment from their employer.

Taxes: 23% of respondents indicated that their employer did not pay tax for them at all. A further 15% were not aware if the employer paid taxes for them.
Posting of the Employment Regulation Order: 89% stated that the Employment Regulation Order was not displayed at their workplace.

Accommodation: 25% stated that their employer provided their accommodation. Some received the accommodation for free, while others paid up to €100 per week. The average for those charged was approximately €50 per week. 38% of those in accommodation provided by the employer stated that it did not meet minimum housing standards and/or was overcrowded.

Safety: 16% of all workers reported an injury at work. The injuries reported included serious burns and cuts, slips and falls in the kitchen, strains from lifting and ongoing chronic pain. One woman reported a serious burn on her legs from scalding water from an accident when she taking a pot of boiling water from the stove to use to clean the floor, as there was no adequate hot water in the kitchen.

Recruitment & Work Permits: 22% reported that they paid money to get their jobs, either to friends, agents or employers. The money paid by workers getting a job in this way ranged from €1,000 to one worker who was charged an astounding €30,000 (see Case Study p 24). The average amount paid by workers was €5,000.

Of those with work permits, 42% indicated that they paid for their work permits. 20% were not given the original copy of their work permit and 15% stated that their employer had kept possession of their passport.
Treatment and Respect: 60% of workers stated that they feel that they are not respected or treated properly by their employer or supervisors. Some of the comments made by workers surveyed are included below:

“I feel I am treated very badly. The boss is always shouting at us. He says he will cancel the work permit if he doesn’t like what we are doing. He says the door is open. He treats us like dogs.”

“They are never happy with what you did. There is never a pat on back.”

“The boss feels that he is helping me with documents therefore he doesn’t feel he needs to pay for my holidays.”

“We are constantly verbally abused by the owner. We work overtime and longer hours for him without breaks. There is no respect.”

Complaints: 74% stated that they never made a complaint about conditions or asserted their rights. The primary reasons stated for not doing so centered around employer threats and the fear of losing their job. Non-EU workers expressed the combined fear of losing their job and legal status in Ireland (for non-EU migrants with work permits, legal status in Ireland is tied to the work permit which restricts the holder to work with a specified employer). Such workers expressed a fear that their employer could have them deported from Ireland. Other workers stated that they did not know where to go to make a complaint.

“To make a complaint would be to lose your job, because of the nature of the work permit. We keep our heads down until we get long term residency after five years.”

“I do not complain because I need future reference for the next job.”

“I don’t know where to complain. If I knew I would make a complaint about the conditions.”

“I don’t want the hassle. The other staff won’t back up the complaint because they are afraid they will lose their job or permit or because they have a family connection to the owner.”

“I made a complaint and the boss’s family has threatened my family and phoned them that if your son goes on holiday that he will have a problem returning to Ireland.”

Other factors included:

- enormous pressures to financially support immediate and extended family members back in home countries;
- huge debts of several thousand euro to secure work in Ireland and a reluctance to complain until this debt is paid;
- fear of losing accommodation when job and accommodation are tied together;
- experience of corruption in home countries makes it difficult to trust the system here;
- employers confiscating key personal documents as a form of control over the worker;
connections with their employers originating in home countries which have potential consequences for family back in home countries.

**Discrimination:** 49% stated that they had experienced some form of discrimination in the workplace. Some contributions are listed below.

“They from the EU get holiday pay and non-EU don’t. Boss told me that I helped you get here so don’t complain.”

“The head chef shows partiality towards his own country workers. They are treated better and receive special favor in shifting from different section.”

“The Irish workers get breaks and get paid more and work the best hours.”

**Exploitation:** 86% responded that exploitation and unfair treatment of restaurant workers in Ireland is widespread.

**Trade Unions:** 88% had not been in contact with a trade union.

**Restaurant Workers Group:** 86% of those surveyed stated that they were interested in joining the Restaurant Workers Group (now RWAG).
C. Perspectives on Improving Conditions

Survey participants were asked what they thought was the most important thing that needed to happen to improve conditions for restaurant workers in Ireland.

The responses fell into the following areas:

- **Changes in the work permit system:** Non-EU workers on work permits felt strongly that the current work permit system put all the power into the hands of the employer and prevented them from being able to stand up for their rights and openly speak out. Workers expressed feeling bound and threatened by their employers, and as a result keep their heads down so as to not risk losing their job and legal status in Ireland until they obtained Long Term Residency status. (Long Term Residency Status can be applied for after completing five years living and working under a work permit in Ireland. If and when this status is granted, an individual obtains the freedom to work without a work permit or any restrictions on job or employer.)

   It was the view that the best solution would be to allow workers complete freedom of movement between employers in a sector, such as the restaurant sector, without the burden of new applications and fees if they decided to change employer. It was felt that this would make them more secure and prepared to stand up for their rights at work and give them better bargaining power.

- **Better enforcement of employment laws:** Many expressed the opinion that laws needed to be better enforced and that the State should be doing more regular monitoring and supervising of restaurants. They should be penalising and taking legal action against employers who break the law.

- **Training of employers and employees on laws:** Equally participants expressed a need for more information and training of both employers and workers on rights and entitlements including health and safety rules and regulations. Workers also expressed a desire for more information on where they could go for help and assistance when they encountered a problem.

- **Regularise undocumented workers:** Some workers, particularly those who had become undocumented in Ireland, expressed the need to regularise those who had become undocumented, particularly when it was through no fault of their own. Such undocumented workers felt that it was impossible to come forward and report exploitation and stand for their rights for fear of being deported. Others stated that some employers preferred taking on undocumented workers because they were seen as cheap labour and very vulnerable.
IV. Worker Testimonies

The following are three testimonies volunteered by three restaurant workers who participated in the survey. Their names have been changed to conceal and protect their identities. These stories are important in that they provide a more complete picture of the lives of these workers and the situations that many find themselves in, living and working as restaurant workers in Ireland.

Jamal, Bangladesh

I came to Ireland in November 2002 to work as a full-time chef at an Indian restaurant in County Wicklow. I came to Ireland because I wanted to build a better life and earn money to support my wife and family and help my younger brother to go to university.

I paid €5,000 to my boss to come to work here. He told me I could earn good money in Ireland, about €300 per week. But when I first started in 2002, my salary was €50 per week without any accommodation. I did not receive any contract of employment. He never gave me the original work permit. My boss made me to work 72 hours per week. I had to work lunch and dinner shifts every day of the week. I did not have any day off. He would pay me in cash. I never received a pay slip or a P60. He would also make fake business reports to save money from being taxed.

Several times I complained about things, that I wanted proper pay, but he would threaten me that he would cancel my work permit. He would say if you don’t like it then leave. The boss had very bad manners and used bad language with me. It was like mental torture when I worked there.

I worked there for nearly five years. The boss gave me an increase of €25 in my weekly salary every year. In 2007, I was paid €175 per week for 72 hours of work, which is less than €2.50 per hour. I got only five weeks holiday, without pay, in May 2005 in the five years I worked there.

I was extremely upset about my conditions. I came to Ireland to make a better life but I had no day off and the only thing I knew was the restaurant and going home to sleep. I was very angry and depressed and did not know what to do. I felt that I was treated like a slave. The boss thinks that he can bring people here and pay them what he likes because he knows we are all scared.

After I left it took me a long time to get the courage to make a complaint against him. When I did he phoned my family in Bangladesh. He said to my parents that when I go on holidays to Bangladesh that I might have some big problems. My family was very scared because he has lots of money and can make problems for us back in Bangladesh. When I travel home in Bangladesh I always go places with someone else with me.
Edita, Lithuania

I came to Ireland to build a better life. I came here together with my daughter.

I began working for a restaurant in Blanchardstown in County Dublin in January 2007. I got a job there to work as a kitchen porter. I did not receive a contract from my employer. I thought that my pay and hours would be worked out in time. I was desperate to find work because my English was not very good. I was told that I might be working more than 39 hours in a week.

When I started working I actually worked 12-14 hour days, five and sometimes six days per week. I worked every Sunday. The work was very difficult and heavy for me. I would only get breaks when things were not busy. I was not given proper protective clothing like good gloves and aprons to do the work in the kitchen. I felt that there were not proper mats and people were always slipping. The job created a lot of stress for me. A roster was posted up that had all my hours of work on it. But the payslips that I got at the end of the week did not match the number of hours that I actually worked.

I was paid €8.00 per hour for every hour that I worked up to 39 hours in a week. For all the hours after that my pay was cut down to €5 per hour. I did not receive any extra pay for work I did on Sundays or on bank holidays. I was not paid properly for my annual leave days. In the year I worked there I took a two week holiday but was only paid for one week.

I felt like I was treated like a dog by my boss and supervisors. They were always yelling at us. The boss and the boss’s wife would say things like ‘you Lithuanians are stupid and crazy’. I felt that we were treated differently than the Irish workers there. They were treated better. They got better hours and they were not bullied by the employer like we were.

I was not happy with my working conditions and the way that I was being paid and treated. I raised all of these issues several times with the head chef who was my supervisor. I was told that if I was not happy with my working conditions I could go back to Lithuania and look for better conditions there. After one year I decided that I could no longer take it and I left.
Li, China

I am from the Fujian province in China, a place where by tradition men always take any opportunity to go abroad. In China someone approached me and told me that for a fee she could get me documents to work in Ireland. She said that I would work five days a week, eight hours a day for 250 Irish pounds and get free accommodation and free food. I was told after five years that I would get citizenship. She said that her brother who was working as a chef in a restaurant in Wexford could help to get the work permit. I believed her and paid her 380,000 Yuan (€30,000). I borrowed all the money from my relatives and friends, and from a money lender.

In March 2001, I got a one year work permit to come to Ireland. I started to working as a Chinese Cuisine chef in Wexford. The situation I encountered was different than what I was told. There were eight people living in one house with no kitchen. We all shared one bathroom with another Chinese man. I worked long hours and was only paid 150 Irish pounds a week in cash.

My English was very bad and the person who brought me here communicated with the Irish owner of the restaurant and gave the orders to me and the rest of the Chinese staff. I found that there were three other Chinese working there who were in the same situation that I was. They all paid a very high price for their work permit. I had nobody to talk to the situation. I told the person who brought me here that I wanted to leave. They told me that if I left that the police would catch me and deport me immediately. I tried speaking with my employer, an Irish woman, to explain my situation but she was not interested. When I asked for an increase in my wages, she said that I deserved low wages. Then in January 2003, I was told that I was sacked because there was no more job for me. The truth is that in order to make another €30,000, the person who brought me to Ireland is the one who organised my dismissal, so that he could arrange for another person to replace me in the restaurant.

Since then I became undocumented and have worked for over five years in a number of restaurants across many counties in Ireland to make a living. The first restaurant was in Kildare where I worked for several months. I worked ten-hour days, six days a week. I was paid €260 a week. After that I worked at a restaurant in County Clare for nearly a year. I worked 64 hours per week over six days for €330. Then I worked again at a restaurant in Wexford where I worked sixty hours a week for €280. I worked the same way in County Cavan, County Offaly and County Louth where worked for the last two years. At every place I worked long hours for very little pay, but I had no choice. I still had a debt to pay to my family and friends.

In March of 2008 I was put in jail by a policeman because I was not able to show him identification and I have been trying to explain my situation so that I can become legal again in Ireland. I feel that I did nothing wrong in travelling to Ireland with a valid work permit. I believe that the Department of Enterprise, Trade and Employment should understand and realise the real market value of work permits in China and should have asked why my permit was never renewed by my first employer. I feel that they should have done something. I think people should be given freedom to move with their work permit because workers are controlled and exploited by the employer.
V. A Call for Change

In light of the current situation of restaurant workers as shown in the results of this study, MRCI’s Restaurant Workers Action Group calls for the following changes and actions to address the problems identified in the research:

The Irish Government

- Fast track the Employment Law Compliance Bill (ELCB), including amendments that allow NERA Inspectors to introduce immediate penalties or fines against employers who are found to break employment law in the first instance. One potential fine could be that money owed to workers is to be paid with high interest penalties accruing from the time of the infraction, under the full extent of employment law;

- Amend the Employment Permits Act 2007 to provide true freedom of movement for all employment permit holders so that they are not tied to, or solely registered with, one employer as they are currently. The best way to ensure this is to issue permits to individuals that are needed to work in certain job categories in Ireland, and allow them complete freedom of movement with their permit between employers in a sector, without the burden of new applications and fees if they decide to change employer.

- Legislate in the ELCB that all workers, regardless of their legal status, have the right to exercise their employment rights, to ensure that there are no barriers to legal redress. Any bar on the recovery of lost wages by an undocumented worker would lessen the liability of an unscrupulous employer to undocumented workers and make it more financially attractive to hire them.

- Legislate for an entitlement to the benefits of proper collective bargaining for all workers in Ireland, (which also prohibits discrimination against workers seeking to exercise it). Collective bargaining and unionisation is the most direct and effective avenue for workers to negotiate with their employers and ensure proper wages and conditions. Workers in Ireland, however, do not enjoy true collective bargaining rights and protections and are at the mercy of employers when taking collective action.

- Devise incentives, such as tax incentives, for employers in the restaurant industry who are shown to follow and implement exceptional standards at the workplace.

National Employment Rights Authority

- Continue efforts to enforce employment standards strictly;

- Designate NERA inspectors who specialise solely in inspections of restaurants so that they may build their ability to detect employment breaches more specific to restaurants and provide ongoing monitoring across the sector;

- Work with the Department of Justice, Equality and Law Reform and Department of Social and Family Affairs to provide adequate choices, protections and social provision to workers who are the most vulnerable in coming forward to make complaints - especially those with work permits or in situations of forced labour;

- Translate the Catering Employment Regulation Orders into different languages as the industry employs such a large percentage of migrant workers.
Department of Justice, Equality and Law Reform
• Provide legal permission to remain to non-EU workers who have become undocumented or who are on the verge of becoming undocumented, to pursue legal redress for exploitation and employment rights violations.

Department of Social & Family Affairs
• Initiate a short-term emergency Social Welfare scheme for non-EU workers on work permits who do not yet satisfy the Habitual Residency Condition and who, through no fault of their own, are forced to leave their employment to lodge formal complaints of workplace rights violations. Such a scheme could be implemented by Community Welfare Officers. Workers without a social safety net will either chose to endure exploitative conditions or leave their jobs to face homelessness, poverty and/or become undocumented.

Department of Enterprise Trade & Employment, Work Permit Section
• Provide all current and future work permit holders in the restaurant/catering sector and their employers a copy of the relevant Catering Employment Regulation Order, along with information concerning a work permit holder’s rights and options regarding their work permit when employment rights are being violated;
• Waive the work permit fee for those on work permits who wish to change employer for reasons of workplace rights violations.

The Health and Safety Authority
• Increase on-the-ground inspections of restaurants;
• Provide interpreters to communicate directly with workers during inspections.

Restaurant Owners and Employers
• Build a new culture and attitude of compliance by educating themselves fully on Irish labour and health and safety laws and regulations governing workers employed in restaurants;
• Treat all workers with respect and fairness and in accordance with the law;
• End threats and retribution when workers raise issues which affect them at the workplace.

Restaurant Association of Ireland
• Increase efforts to assist restaurant employers to understand and comply with Irish labour and health and safety laws and regulations;
• Publicise model employer practices, providing guidelines to other employers;
• Work together with trade unions to establish a Fair Employment Mark which individual restaurants may obtain by agreeing to a code of standards and submitting themselves to regular inspection and audits. This publicly-recognised mark can act as an incentive to compliance by offering greater assurance to consumers that employers who achieve it are following fair and decent employment practices.
Trade Unions
- Invest in innovative models and creative ways of overcoming the barriers of organising workers in the restaurant sector;
- Continue efforts to hire bilingual organisers to work directly with migrant workers on the ground, especially in the most problematic sectors such as restaurants;
- The Irish Congress of Trade Unions should continue to advocate strongly at the national level for policies which protect the most vulnerable migrant workers.

Restaurant Workers
- Educate themselves on their rights and entitlements;
- Report exploitation either in name or anonymously to NERA;
- Work in solidarity and make a stand with other workers to improve conditions;
- Become active and involved with RWAG and/or a trade union.