



**CITIZENS' ASSEMBLY ON GENDER EQUALITY 2020 SUBMISSION ON BEHALF OF THE MIGRANT RIGHTS CENTRE  
IRELAND  
26<sup>TH</sup> OF FEBRUARY, 2020**

**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. In 2019 MRCI provided information and support on 2,283 cases to people from 116 different countries, with more male than female cases. Of this, 32% were undocumented, and the most common sectors of employment were care and domestic work and restaurants. Other sectors included retail, hospitality and fisheries.

**Theme 1: Gender norms and stereotypes**

*Please outline what you see as the key barriers/ obstacles and challenges to gender equality under this theme in law, policy and practice.*

There are many barriers and challenges in law, policy and practice that perpetuate gender inequality within Ireland. It is also important to note the role immigration laws and policies play in replicating and deepening gender inequality for people from migrant backgrounds.

**Employment**

While the *'The migrant integration strategy – A blueprint for the future'*<sup>1</sup> - Ireland's current migrant integration strategy, has sought to assist migrants to actively participate in Irish workplaces, research has demonstrated that migrants continue to face a lot of challenges within the labour market, including discrimination, harassment in the workplace and unpaid wages. Therefore people from migrant backgrounds are further marginalised and the aforementioned key areas perpetuates gender norms thus deepening the inequality within the intersections of the Irish population.

**Employment Permits**

A key area of concern for non-EEA nationals, in the employment permit system concerning the right to work for spouses or De Facto partners of general employment permit holders. Spouses or De Facto partners of general employment permits receive a stamp 3 permission, allowing them to

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<sup>1</sup> Department of Justice and Equality (2017), *Blueprint for the Future*, [http://www.justice.ie/en/JELR/Migrant\\_Integration\\_Strategy\\_English.pdf/Files/Migrant\\_Integration\\_Strategy\\_English.pdf](http://www.justice.ie/en/JELR/Migrant_Integration_Strategy_English.pdf/Files/Migrant_Integration_Strategy_English.pdf)

reside in the State, but without the right to engage in employment. For stamp 3 holders, this results in lack of career progression, being the household's sole caregiver and households relying on single incomes. In April, 2019 a change was made to the non-EEA family reunification policy document<sup>2</sup> to allow dependents of critical skills employment permit holder to engage in the labour market without a work permit with immediate access to family reunification. This elevated many skilled professional who otherwise would not have been able to engage with the labour market. Yet, for dependents of General Employment Permits, they remain unable to access the labour market, which is a critical area for concern in terms of gender equality.

### ***Domestic and Gender Based Violence***

Another key area compounding inequality for women from migrant backgrounds is domestic violence and gender based violence. Non-EEA nationals in the State on the basis of their Irish or EU spouse or de facto partners (sponsors) are given residence which intrinsically links immigration status to remaining with and continuing to reside with the sponsor. Therefore if domestic violence exists within the relationship it is not an easy transition to seeking independent status or residence in the State. In cases where the individual has not been in the State long enough time, there is not enough documentary evidence or they have exited the situation but not informed the Department in enough time, it creates complications and they are not strictly entitled to remain in the State independently. This is further deepened if living in a rural areas, if there are language barriers, lack of community ties or simply lack the information.

It is important to acknowledge even in cases when an individual has accurate information, sufficient documentary evidence and have been in the State for a long period of time, it takes the Irish Naturalisation and Immigration Services an extended period of time to respond.

Furthermore this period is generally longer than the amount of time an individual can remain in the women's refuge. Factors including social welfare, housing and access to the labour market also intersect this issue, and create a number of barriers for victims of domestic violence in Ireland. Access to shelters for undocumented women is often on a cases by case basis, due in part to capacity issues, but also the requirement to hold a Stamp 4 to access services – due to funding. It is increasingly difficult for migrant women without an immigration status to access shelters and supports.

### ***Please identify the steps to be taken to address the issues raised and who should address them (e.g. the state, private sector, education system etc.)***

While gender norms and stereotypes are perpetuated by societal constructs and norms, it is crucial to acknowledge that they can be sustained by the laws, policies and practices created by the State. These laws, policies and practices can not only limit the jobs that men and women perform, but they can effusively prevent women from accessing the labour market or progressing within their careers and in limiting women's accessing basic living essentials, for example in the case of being a victim of domestic violence and gender based violence.

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<sup>2</sup> Department of Justice and Equality (2016), *Policy Document on Non-EEA Family Reunification*, Irish Naturalisation and Immigration Services, <http://www.inis.gov.ie/en/INIS/Family%20Reunification%20Policy%20Document.pdf/Files/Family%20Reunification%20Policy%20Document.pdf>

### ***Department of Business, Enterprise and Innovation***

Although the Department of Business, Enterprise and Innovation (DBEI) and the Department of Justice and Equality both have responsibility for policy and legislation for spouses of general work permit holders or de facto partners in the main this is led by DBEI. In many cases spouse or de facto partners are women, and are prevented from working, which impacts on career progression, restricting households to single incomes and increasing the risk of poverty rates. By adopting a policy, similar to the critical skills employment permit policy that allows spouses or de facto partners to access the labour market, would alleviate a large cohort of women and allow them the freedom to progress and advance their careers.

### ***Department of Justice and Equality***

Furthermore, it is crucial for the Department of Justice and Equality and more specifically, the Irish Naturalisation and Immigration Service to adopt a more transparent policy and practice that protects victims of domestic violence and gender-based violence. A policy specific to victims of domestic violence and gender-based violence that grants expedited independent status allowing access to services including social welfare, refuges/ housing.

It is also critical that the State increase funding to facilitate more beds in safe houses and refuges, to overcome the limited spaces victims can access. There is also a rural dimension in terms of information and supply and ensuring information is provided in multiple languages.

### **Theme 2: Work: Occupational segregation by gender, gender discrimination and the gender pay gap**

*Please outline what you see as the key barriers/ obstacles and challenges to gender equality under this theme in law, policy and practice.*

### ***Equality and Discrimination***

There are many factors that contribute to growing inequalities between women and men. Immigration status, affordable childcare, gender stereotyping, parental leave and inflexible working arrangements compound this. Despite the presence of a legislative framework related to discrimination in the labour market, it is acknowledged this is not consistently applied. While The Employment Equality Acts, 1998-2007<sup>3</sup> along with the Equal Status Acts, 2000-2004<sup>4</sup> seeks to protect employees from discrimination in employment on the grounds of gender, marital status, family status, age, disability, race, sexual orientation, religious belief, and members of the Traveller community, there remain still many limitations in the protection of workers.

Discrimination at recruitment and lack of progression for people from minority ethnic and migrant backgrounds is a feature of Ireland's labour market. The lack of information surrounding workplace and labour rights, transferability of skills and qualifications and access to the labour market due to immigration status or the right to work for people seeking asylum remain key barriers.

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<sup>3</sup> The Employment Equality Act (Amended), 2007 <http://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/html>

<sup>4</sup> Equal Status Acts (Amended), 2004  
<http://www.irishstatutebook.ie/eli/2000/act/8/enacted/en/html>

### ***Employment Permits***

The Employment Permit system and eligible occupations available to critical skills employment permit holder are male dominated industries such as architecture, engineering, tech, business and finance, therefore the highest paid, highest award level jobs for migrants in Ireland is geared towards men.

As the Irish labour market is epitomised by horizontal and vertical occupational segregation, migrant women tend to be clustered moreover in lower paid and lower skilled jobs<sup>5</sup>. Research shows that the majority of migrant women workers are employed in service sector occupations and manufacturing sectors. The lack of policies surrounding equal opportunity within the workplace means that migrant women are 3 to 5 times less likely to avail opportunities and experience workplace progression afforded to Irish and EU workers with the same skillset<sup>6</sup>.

Progression is noted to not only fall within the constraints of professional and wage attainment, but relates to the treatment within a workplace, fixed contracts and free from exploitative conditions. Yet, the fact this lower rate of employment seen within migrant women is linked to the problems of recognising foreign degrees, language barriers and the limited access to the public sector.

The most prominent occupational segregation and gender discrimination exists for people who are undocumented in Ireland. MRIC estimates there are 15,000 to 20,000 undocumented people in Ireland working in particularly precarious situations who are more vulnerable to exploitation.

***Please identify the steps to be taken to address the issues raised and who should address them (e.g. the state, private sector, education system etc.)***

### ***Department of Justice and Equality***

Inequalities experienced through gender discrimination, the gender pay gap, are compounded by immigration and residency status. There is an urgent need to introduce a regularisation scheme to enable undocumented workers to regularise their immigration status. In doing so, this protects a large cohort of workers in Ireland who are at risk of or experiencing labour exploitation and employment breaches and drive up standards for all workers in Ireland.

In terms of discrimination, the Department of Justice and Equality needs to introduce an innovative practice in addressing, monitoring and targeting discrimination in the labour market. In doing so, addressing the disparity between migrant workers, and migrant women who are further marginalised.

### ***Department of Business, Enterprise and Innovation***

The DBEI needs to reform the accessibility to an employment permit, lower the salary thresholds and put in place policy measures to ensure equality within women and men accessing highly skilled occupations eligible on the critical skills employment permit list. In turn the DBEI and INIS should

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<sup>5</sup> European Migration Network (2015), *Determining labour shortages and the need for labour migration in Ireland*, Dublin

<sup>6</sup> Kingston, Gillian; McGinnity, Frances; O'Connell, Philip J (2015). "Discrimination in the Labour Market: Nationality, Ethnicity and the Recession". *Work, Employment and Society*

update its policy for general employment permit allowing all dependents of the general employment permit to be able to access the labour market.

### **Theme 3. Care, paid and unpaid, as a social and family responsibility**

*Please outline what you see as the key barriers/ obstacles and challenges to gender equality under this theme in law, policy and practice.*

#### **Care Work**

Undeniably childcare, domestic work and care work is fundamental to the effective functioning of Irish society. These crucial services underpin the security and peace of mind felt by families across Ireland, yet women are disproportionately left in precarious and poorly paid care work. Migrant women are further marginalised within the care sector. Domestic work which includes au pairs, childminders, carers, nannies and cleaners is identified as one of the fastest-growing sectors throughout the world, and within Ireland as the population continues to grow. Yet Government laws, policy and practice continues to fall behind.

#### **Domestic Work + Home Care**

Domestic work is a highly gendered occupation and in turn, migrants are over-represented in care and domestic work. Despite the fact that care is a universal need and care being a skill we all share, regardless of gender identity, care is perceived as a 'soft and low skilled' profession, often associated with femininity. Further the perception of care being low skilled has resulted in the sector being low paid and attributing to poor working conditions.

As Ireland's population ages, the provision of quality home care presents one of the most significant challenges for the state. The unregulated home care industry has experienced unprecedented growth and has led to significant privatisation of the home care market over the last decade. An inevitable outcome of the lack of regulation is a home care sector with high fees, varied quality and standards of home care provision, poor terms and conditions for workers, and growing informality, serviced by migrant workers. There are also significant numbers of undocumented workers working in homecare and providing essential services to families across Ireland.

Rectifying this situation and preparing for this will be a defining social justice and equality issue for Ireland over the next 20 years. Labour market demand will continue to draw on migrant workers to meet Ireland's home care needs into the future. MRCI has been working with migrant workers employed in care and domestic work since 2001, and is deeply concerned about the vulnerability of this cohort of workers whose voices are absent from the ongoing debate about the provision of quality care in Ireland and who constitute an invisible home care workforce.

Analysis of the home care sector reveals that in general, job conditions – pay rates, contractual issues, working times – are less favourable than in other sectors<sup>7</sup>. Home care is a demanding job with many workers have more than one employer and work for two or more people in the same day, agency workers are only paid for the time spent in each client's home and not for periods of travel in between clients. The sector has high staff turnover and anti-social hours. Unsurprisingly, there are

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<sup>7</sup> MRCI (2015), *Migrant Workers in the Home Care Sector: Preparing for the Elder Boom in Ireland*. Dublin

difficulties recruiting highly trained workers. Research conducted by the Migrant Rights Centre Ireland in 2012 and 2015<sup>8</sup> into the experience of migrant care workers showed high levels of exploitation, poor terms and conditions, contractual issues, racism and discrimination, particularly for black and ethnic minority workers. In a highly competitive market, workers are reluctant to assert their rights for fear of losing their positions. Migrant workers experience a heightened risk of racism and discrimination as families/ clients exercise a 'choice to discriminate', refusing services from workers based on their race, skin colour and ethnicity.

It is key to identify too the knowledge gap experienced by migrant workers and the lack of viable and transparent information relating to workplace rights and treatment. While recent legislative clarity has ensured Au Pairs are covered by all employment laws, employment breaches still commonly exist within households.

***Please identify the steps to be taken to address the issues raised and who should address them (e.g. the state, private sector, education system etc.)***

In order to ensure the safety and welfare of thousands of migrant women around the country responsible for caring for children, the elderly and people with disabilities, urgent action is required by Ireland. Without doing so the integrity of Ireland's international commitments to protect human rights, ensure gender equality and uphold labours rights in Ireland.

#### ***Cross Departmental Approach***

This requires joined up thinking and a roles across a number of departments, to outline the rights and entitlement of all care and domestic workers. Ensure a register for employers of single employees in the private home. A register would also help foster high standards of professional conduct, professional education, training and competence among home care workers. This too would also generate clear statistics and data that could be used to establish projected labour market strategies, that would help formalise the work of domestic workers. This register would also allow inspections to exist more readily in the private home when employment breaches occur.

#### ***Department of Education and Skills***

This is a key department in addressing many of the issues which exist for domestic and care workers. This includes strengthening the relationships between the labour market and educational institutions, ensuring accredited training providers meet QQI national standards. In turn, education and training accreditation should recognise skills acquired through years of experience in the field. Procedures are required for the recognition of relevant qualifications obtained outside of the EU. In doing so, it is imperative that funding is allocated to promote access to training, career pathway and continuous professional development, which promotes greater access to FETAC training for migrants employed with the sector.

This funding should also extend to building inclusive workplaces to address the growing diversity within the care workforce. This includes intercultural training for staff and management, cultural

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<sup>8</sup> MRCI (2015). *All Work and Low Pay: The Experiences of Migrants working in Ireland*. Dublin

diversity modules in education institutions and specific initiatives to tackle racism and discrimination in the sector.

#### ***Department of Business, Enterprises and Innovation***

This department should address this issue by introducing eligible categories for non-EU/EEA home care workers. This in part could be through the introduction of an employment permit for the home care sector. This permit should be flexible to facilitate mobility with the home care sector and in line with the growing demand of the labour market.

#### ***Department of Justice and Equality***

This Department must introduce a regularisation scheme for undocumented home care workers to regularise immigration status and formalise employment. It too would ensure decent employment, protections of worker rights and allow families employing carers to claim tax relief available from the Revenue Commissioners making the service more available and affordable to clients.

In addressing care and domestic work, the State needs to establish national standards for the employment of all home care workers to improve working conditions, provide quality care and retain staff. This includes ensuring guaranteed hours of work for agency and HSE employees and introducing model contracts with clear delineation of roles and responsibilities.

#### **Theme 4: Women's access to, and representation in, public life and decision making**

*Please outline what you see as the key barriers/ obstacles and challenges to gender equality under this theme in law, policy and practice.*

#### ***Quotas***

Ireland's political system is an incredibly homogenous, with diversity being systematically underrepresented. In local authorities, women account for 23.9% and 3 out of 949 sitting local councillors are from migrant backgrounds. Despite recent changes to gender quotas, there still remains huge barriers for diverse representation in Irish politics. The Electoral (Amended) Political Funding Bill<sup>9</sup> was passed through the Seanad in February 2012, and became an Act in July which introduced an electoral gender quotas in Ireland's political system. The Act introduced that if a political party did not have at least 30% of its candidates of candidates from the genders, which the parties State funding will be cut by half. However, this has not raised women candidates as thought.

The barriers faced for individuals from a migrant or minority backgrounds, is inherently linked to the lack of policies and practice to encourage individuals to enter politics by government bodies and local authorities. In turn political parties do little to improve integration through their lack of proactive party policies or within party manifestos, lack of tailored training or programmes nor implementing effective recruitment or encouragement to engage in politics.

#### ***Barriers***

In addressing barriers, it is crucial to note the lack of support provided by political parties and their leaders for candidates from migrant backgrounds, along with the intersection of the media.

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<sup>9</sup> Electoral Political Funding Bill (Amended), 2012 <http://www.irishstatutebook.ie/eli/2012/act/36/enacted/en/html>

Acknowledging the adverse challenge of racism and xenophobia needs to be address by political parties to effectively mobilise the migrant community.

### ***Hate Speech***

Ireland currently only has one law pertaining to hate speech or crime which is the Prohibition of Incitement to Hatred Act, 1989<sup>10</sup>. This act deals with cases of hate speech aimed at inciting hatred and makes it an offence to create or distribute racist, homophobic or other discriminatory materials. A consultation has been brought forward to introduce an updated legislation surrounding hate speech, however in the meantime little has been done to disrupt the narrative that has perpetuated racist and anti-immigration rhetoric. An informed and critical legislation that challenges hate speech, is the catalyst of breaking down the narrative and encouraging diversity to be represented in public life. Therefore it is again the lack of an enforced legislation that is the barrier and challenge to individuals, and more predominately women from accessing representation in public life.

***Please identify the steps to be taken to address the issues raised and who should address them (e.g. the state, private sector, education system etc.)***

### ***Department of Justice and Equality***

In addressing women being systematically underrepresented in public life including economic and political leadership, it is necessary to address existing frameworks which have attempted to address the issue. This includes the Electoral (Amendment) Political Funding Act 2012. Therefore steps should include stricter penalties for parties who do not have 30% women candidates and increasing the percentage to 40%. Both of these measures would assist in breaking down the barriers that exist for women representing in public life.

Government bodies and local authorities need to be more proactive in encouraging diversity within politics and introduce coherent policies to ensure this. There is an urgent need therefore to introduce legislation on hate speech.

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<sup>10</sup> Prohibition of Incitement to Hatred Act, 1989 <http://www.irishstatutebook.ie/eli/1989/act/19/enacted/en/html>