



MINORITY **RIGHTS NOW!**

Vulnerable migrant workers need protection... now!

Our in-house specialists and guest contributors analyse all aspects of economic migration at local and European levels

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Latest developments from the All Party Assembly Group on Ethnic Minority Communities

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No, migrant workers do not sponge off the system...

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Meet the NICEM Policy Review Team

Our Editorial Board



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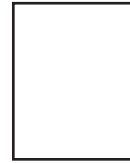
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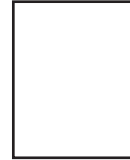
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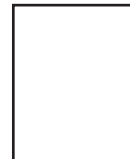
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Editorial

Françoise is originally from France and has been living in Northern Ireland for 14 years. She holds a Post-Master's degree in translation from the University of Lille and a PhD on Northern Irish Politics from the English Department of the University of Paris 8. She has been working with Human Rights NGOs for the past 6 years.

Northern Ireland needs to embrace economic migration to start healing.

Ten years ago, it was common to overhear conversations in workplaces, restaurants or bars, where migrants were blamed by locals for coming to Northern Ireland to take their jobs, their men, their women, their... everything. This was briefly discussed to fill in blanks when daily life topics had run dry.

Today, a half-baked opinion thrown to the wind over a coffee, with no more consequences than a light shower on a Spring day, has spiralled into a contagious migrant phobia. Northern Ireland, although not the worst case in Europe by a long shot, is unfortunately no exception.

Hate-mongers have launched an aggressive campaign against migrant workers, using the lasting economic austerity as the ideal scapegoat to hammer home the overused and abused cliché of the alleged competition between locals and migrants for jobs, spreading fear and hatred borne out of ignorance.

In this issue of Minority Rights Now!, leading specialists on the question of economic migration will concentrate on the Northern Ireland situation and present factual analyses. Their interventions will be supported by contributions from those who witness daily, on the ground, how damaging negative attitudes towards migrant workers can be, not only to their dignity, safety and self-worth, but also, and very practically, to Northern Ireland's chances for economic recovery.

Although Northern Ireland's history of conflict explains why it has been easy to resist economic globalisation until the 1990s, isolationism is no longer an option.

It's time to catch up with the rest of Europe, recover, and progress. This can only be achieved by aligning to a tried and tested recipe of encouraging economic migration, welcoming integration and opening to diversity as our only saving grace for a brighter future for all.



Françoise Barlet, Editor

**New on NICEM's website -
www.nicem.org.uk**

EXPLORE our website in Arabic, Polish, Portuguese and French.

BROWSE our new daily local and global news section.

Foreword

By Barry Fitzpatrick

Barry Fitzpatrick is Deputy Director of the Northern Ireland Council for Ethnic Minorities. He heads up the Policy Team which is responsible for the Strategic Advocacy Programme funded by Atlantic Philanthropies.

Flexible work contracts and migrant workers.

‘Minority Rights Now!’ is a vital element in NICEM’s Strategic Advocacy programme, funded by Atlantic Philanthropies. In our programme, we are striking a balance between policy advocacy, which was the initial focus of the programme, and frontline advocacy and advice, which will play a greater role in the future.

Our work on flexible work contracts and migrant workers reflects the synergy between our policy and frontline advocacy work. At the heart of our policy advocacy lies a series of research projects, the first of which resulted in the publication of our research report, ‘Za Chlebem’: The Impact of the Economic Downturn on the Polish Community in Northern Ireland’, in October 2009. The report was written by Dr Robbie McVeigh and our Research Officer, Chris McAfee, who was ably assisted in the fieldwork by Sophie Romantzoff, our Administrative Officer. In this issue, Chris has outlined follow-up measures by NICEM on the recommendations of the report.

The recommendations from the research have already been actively pursued through the All Party Assembly Group on Ethnic Minority Communities and in discussions with Government Departments.

The research has also inspired this second issue of ‘Minority Rights Now!’ in which we concentrate on the policy issues surrounding flexible work contracts and migrant workers and also outline practical examples of the issues involved from our casework.

Traditionally, working arrangements were divided into two categories, employment and self-employment. As far as employment was concerned, it was almost exclusively full-time, at least for male workers. Hence, it was the gender issues surrounding flexible contracts which first gained attention. Legally, this was in cases in the 1980s both in the UK courts and the European Court of Justice (ECJ), on indirect sex discrimination. In policy terms, the focus was on ‘flexible labour markets’ but also the social policy aim of ‘work/life balance’, particularly for those with childcare responsibilities. As early as 1992, Professor Linda Dickens could call into question the benefits of ‘flexibilisation’.¹

Nearly 20 years later, it is no longer possible to speak of flexible work contracts as being ‘atypical’. They now encompass a wide range of ‘grey area’ relationships including ‘zero hours’ contracts, casual arrangements and agency working. These developments pre-date the extensive migration into Northern Ireland over the past 5-6 years but it is clear that there has been extensive use of flexible work contracts between employers and migrant workers.

The vital consideration, in terms of labour protection, is that there are various levels of protection, depending on the nature of the working relationship. By far the best protected are 'employees', working under a contract of employment. They are entitled to unfair dismissal protection, redundancy payments and a wide range of other employment rights. A wider category is made up of 'workers', who are entitled to the National Minimum Wage and working time and health and safety protection. A different formulation, on a 'contract for personal services', applies to discrimination law rights.

What we find is that many migrant workers are 'employed' under these 'grey area', flexible contracts, which will not be 'employee contracts' and may not even be 'worker contracts' or 'contracts for personal service'.

Technically, EU nationals are in a much stronger position than non-EU nationals. As Jimmy Donaghy outlines, free movement of workers is a fundamental principle of the European Union (EU). Indeed, an EU Regulation from 1968 seeks to guarantee that EU workers are not discriminated against in any way, not just in the labour market, compared to national workers. However these rights, both in the EU Treaty and in the 1968 Regulation only come into play once a 'transitional period' has elapsed after the accession of a new Member State.² For example, Portugal joined the then European Community in 1986 but it was seven years after the date of accession that Portuguese workers had free movement across the EU, many coming to work in meat-processing plants in mid-Ulster.

The crucial decision made by the UK (and also Ireland and Sweden) was not to apply a transitional period for the freedom of movement of A8 workers.³ As Jimmy states, any transitional period would have come to an end in 2011 in any event. Views are divided on whether the extent of the migration could have been foreseen. If only three out of 15 States do not apply a transitional period, and two of them are English-speaking with vibrant economies, it cannot be too surprising that extensive migration has taken place into our economies and societies.

Our research has produced recommendations aimed initially at the better protection of EU nationals in Northern Ireland. However, many of them are equally applicable to non-EU nationals. Sadly, the position of non-EU nationals is much weaker, as both Liz Griffith and Celina Kin-Armbrust indicate.

In the UK, elaborate processes have been put in place to restrict the issuing of work permits to non-EU nationals. The 'points-based' system, operated by the UK Border Agency (UKBA), only applies to highly skilled workers, invariably on full-time employment contracts which are unattractive to many employers. Employers of non-EU workers are subject to sponsorship arrangements overseen by the UKBA. So also more draconian arrangements are being put in place before non-EU national can 'earn' British citizenship.

We have to wonder whether the substantial migration of EU workers in the UK has created a 'backlash' against non-EU workers? Certainly the then Immigration Minister, Liam Byrne,

did not ‘pull his punches’ in an interview with the Daily Telegraph on 16 March 2008. He is quoted as stating, “People feel that those in authority bend over backwards to be welcoming to newcomers and they feel that our traditions are occasionally sacrificed.”

Although he does not believe this country is full of racist Alf Garnetts, he warns that extremists such as the BNP will grow in popularity if white working class voters look inward and ask, “I’m proud of my standards, why is nobody listening to me?”⁴ Not that our new immigration policies are racist, of course. It’s just that you are much less likely to overcome the hurdles (actually portrayed in Government adverts promoting the new system) if you come from a developing country.

And despite a strong non-discrimination principle in terms of EU nationals, many find their way into ‘flexible’ working arrangements where their level of protection is much weaker than ‘traditional’ working arrangements.

It is interesting that, in Great Britain, the first Race Relations Act was passed in 1965, before being amended in 1968 and then superseded by the Race Relations Act 1976, upon which our Race Relations Order 1997 was based. The first Commonwealth Immigrants Act was passed in 1962 and then extended in 1968 (and then superseded by the Immigration Act 1971). And so issues of race relations and immigration are bound together and the biggest losers in the present immigration system are non-EU nationals, particularly from the Commonwealth ‘family of nations’.

And so there is plenty of policy and frontline advocacy to undertake for EU and non-EU nationals, as well as members of ‘settled’ minority communities who are adversely affected by a more xenophobic mood. This is a mood which must be combated and not placated.

¹ Dickens L, ‘Whose flexibility? Discrimination and equality issues in atypical work’, Institute for Employment Rights, January 1992.

² A significant issue is that transitional periods only apply to ‘workers’ as widely interpreted in EU law, but not the ‘self-employed’ who have freedom of movement under different EU provisions.

³ A transitional period has been imposed on the migration of A2 workers from Bulgaria and Romania, ending, at the latest, in 2014.

⁴ ‘We’ll kick out illegal nannies, says Liam Byrne’, Daily Telegraph, 16 March 2008.

Cohesion, Sharing and Integration are the only way forward

By Chris McAfee, Research Officer, NICEM

Chris McAfee has worked for NICEM since April 2007 and is currently Research Officer at NICEM. In this role he co-ordinates research into various departmental areas as part of the Strategic Advocacy Programme. Chris also liaises with political parties and black and minority ethnic groups to help NICEM provide secretariat support to the All Party Assembly Group on Ethnic Minority Communities.

Chris discusses NICEM's recommendations to the government to achieve equality and fairness for all.

Introduction

The research report *Za Chlebem: The Impact of the Economic Downturn on the Polish Community in Northern Ireland*¹ made a number of recommendations across a number of governmental departments. In this article we will examine the work NICEM has carried out to follow up on the recommendations made in the report.

Summary of Key Findings/Reminder of Za Chlebem

Za Chlebem looked into the lives of the Polish community in Northern Ireland, with a particular focus on how the changing economic context had affected the day-to-day lives of Polish people in Northern Ireland. The aim of this research was to highlight vital issues affecting not only the Polish community but also the wider migrant and Black and minority ethnic groups in Northern Ireland in the current economic climate.

Our research found a concentration of unemployment among our respondents, approximately three times the Northern Ireland's average during the same period. Despite this level of unemployment the take-up of Jobseekers Allowance was low. This was explained when respondents drew attention to communication barriers, bureaucracy and difficulties with the Workers Registration Scheme (WRS) as obstacles to accessing benefits. For those respondents who were still in employment we found a considerable level of job insecurity, as half of respondents indicated they were afraid to lose their jobs as a result of the economic downturn.

The research report highlighted the vulnerability of migrant populations in times of economic crisis by showing particular difficulties, such as getting recognition for qualifications obtained outside the UK and communication issues. Members of the Polish community also expressed real fears of racism and anxiety that the economic downturn may increase harassment and racial attacks.

Following the publication of the report we contacted the relevant Northern Ireland Executive departments and the Northern Ireland Assembly Committees requesting a meeting to discuss the research and its recommendations.

Our research recommended that the Department for Employment and Learning (DEL) publish its research into the labour market impact of migrant workers. We welcome the publication of this research in December 2009 and we thank Oxford Economics and DEL for their contribution to this edition of Minority Rights Now! NICEM welcomes this addition to the evidence base to demonstrate the contribution of migrants to the Northern Ireland economy. NICEM will continue to argue for policies that unlock the potential of migrant workers who continue to contribute positively to Northern Ireland society.

In order to address the fears of racist attacks raised in the report we called on the Office for First Minister and Deputy First Minister (OFMDFM) to publish the Cohesion, Sharing and Integration (CSI) strategy without delay. Since the publication of the research, NICEM has met with officials from the OFMDFM to stress the need for the publication of the CSI strategy and we welcomed the statement from OFMDFM on 24 February announcing that the Programme for Cohesion, Sharing and Integration had been agreed. NICEM looks forward to the continuing progress of this strategy and will play an important role in the subsequent public consultation to ensure the views of Black and minority ethnic groups in Northern Ireland are heard. It is vital this strategy provides the framework of protection for those migrants fearful of racist attacks during the current economic downturn and beyond it.

Following the publication of Za Chlebem we have met with DEL to discuss its findings. This meeting gave us the opportunity to highlight recommendations in Za Chlebem for the provision of specific training courses that include English for Speakers of Other Languages (ESOL), and to improve the process of qualification recognition. NICEM will continue to argue for measures that will assist integration of migrants in the labour market and unlock their potential.

With regards the recommendation to establish a crisis fund to assist those workers who have been made unemployed as a result of the economic downturn, but are unable to access public funds, NICEM has been working to explore the best mechanism for this. NICEM has been working through the All Party Assembly Group on Ethnic Minority Communities to pursue this recommendation. As part of this process the All Party Assembly Group has coordinated presentations from both the Law Centre (NI) and the Northern Ireland Human Rights Commission. The All Party Assembly Group is currently pursuing this issue and further details on this work can be found in the 'News From The Hill' section of this issue. In taking forward this recommendation, it is clear that the difficulties facing the people from A8 countries are shared by those other migrants from beyond Europe. NICEM is keen to ensure that the rights of those migrants, who have been working in Northern Ireland and contributing to the local economy, have their rights protected when times are difficult. NICEM will also contribute to the recent re-established Racial Equality Forum's Thematic Sub-Group on Immigration.

As we can see the findings and recommendations raised in Za Chlebem have highlighted a number of key issues affecting migrants in Northern Ireland. The follow up work NICEM has started is the beginning of an ongoing process to ensure the rights of vulnerable migrants are protected in Northern Ireland.

¹ The report is downloadable from NICEM's website (www.nicem.org.uk) or available to order in hard copy via the website's messaging facility.

No place to hide: labour and skills competition will benefit Northern Ireland in the long run

By Graeme Harrison

Graeme Harrison is a Lead Consultant in the Regional Division of Oxford Economics where he heads up the All-Island Consultancy Team of four economists and consultants. Graeme also has a range of international macroeconomic experience. His specialisms are in skills forecasting, bespoke economic modelling, supply-side economics, international consultancy assignments and scenario & economic impact analysis.

Graeme reviews the key findings of 'The Economic, Labour Market and Skills Impacts of Migrant Workers in Northern Ireland'

Oxford Economics and partners¹ were commissioned by the Department of Employment and Learning in January 2009 to undertake research into the economic, labour market and skills impacts of migrant workers in Northern Ireland².

How many, where and which sectors?

The research estimates that there were between 33,000 and 41,000 migrant workers employed in NI in 2008. This equates to roughly 4-5% of the NI workforce total. While this share has risen significantly, in other countries, such as the US, Australia and ROI, the share is much higher. Coinciding with the accession of Eastern European countries to the EU, 21,000-25,000 of total migrant workers in 2008 (i.e. over half) were estimated to have arrived after 2004.

The relatively large range in the estimate for migrant workers reflects the difficulties associated with counting the migrant population, particularly numbers leaving, and knowing the economic activity status of the migrant working age population.

The largest absolute numbers of migrant workers in NI live and work in areas such as Belfast, Dungannon, Craigavon and Newry and Mourne. However the wider spread of post-2004 migrant workers throughout the province is a notable feature of recent migration, a pattern which was not typically observed amongst previous migrants who were more likely to settle in larger urban areas. Compared across the UK, Dungannon stands out as having one of the highest concentrations of A8 migrants as a share of its total population.

Almost all sectors of the economy have become more dependent on migrant workers. In 2008 we estimate that 1 in 7 hotel and restaurant jobs were filled by migrant workers, compared to 1 in 20 in 2001. In absolute terms, the number of migrants employed in manufacturing, health & social work and hotel & restaurants, since 2001, is estimated to have increased by roughly 7,000, 5,000 and 4,000 respectively.

Impact of migrant workers pre-recession

Many of the findings from the research on the impact of migrant workers came from consultations with public and private stakeholders and a survey of 600 businesses. From this, a number of positive and negative impact messages emerged:

Positive impact	Negative impact
<p>Migrant workers filled labour shortages in positions native workers were not applying for.</p> <p>Migrant workers were considered productive, hard-working and reliable. Migrants primarily came to NI to work and not to claim benefits.</p> <p>Migrant workers have helped firms in some sectors to survive and remain in business.</p> <p>Migrant workers have helped to facilitate and drive higher economic growth e.g. via their consumer spending and demand for housing and new air routes.</p>	<p>Some consultees felt migrant workers have delayed reforms in the training and apprenticeship system and limited opportunities for some young persons in certain sectors such as construction.</p> <p>In some cases the short-term stay of migrant workers in sectors such as food processing have created a shortage of suitable persons progressing to mid-tier positions.</p> <p>Many migrants work in jobs which they are over-skilled for, thereby leading to under-utilisation of skills.</p> <p>The availability of migrant workers has potentially slowed transformation towards a more value added economy. Lower Companies in lower valued added sectors that would have had to close or relocate, have survived due to the availability of migrant workers.</p>

Findings from consultations and the business survey, as well as estimates of the actual number of migrant workers and the sectors they were employed in, were then used as assumptions in an economic impact model to quantify the contribution of post-2004 migrant workers to the NI economy. Given the research evidence that migrant workers have, on the whole, not significantly displaced native workers between 2004 and 2008, nor resulted in any significant downward pressure on wages, and have helped some businesses to survive, the net contribution of post-2004 migrant workers was estimated to be relatively high: almost 40,000 jobs and £1.2bn in wages and profits. Note the contribution of migrant workers includes the multiplier impacts on supply-chain businesses selling to firms employing migrant workers, spending by migrants in the local economy (net of earnings repatriated) and the housing construction demand created by migrant workers and their families.

So what does the future hold for the number of migrant workers and their impact?

The inflow of migrant workers to NI has slowed and the outflow has increased during the recession, but perhaps not by as much as might have been expected given the depth of the

Post 2004 migrant workers		
	Employment (people based)	GVA (£bn 2003 prices)
Net contribution	39,920	1.2
% of NI total	5.25%	4.6%

Source: Oxford Economics

recession. The research does not predict a mass exodus of migrant workers out of the province. NI will remain an attractive destination and despite the recession, which has actually been more severe in many A8 countries, NI will remain a wealthier and more prosperous location.

Integration-wise, children of migrant workers are enrolling in local schools, specialist foods stores are opening on our high streets and major supermarkets are stocking produce from various different countries. Community groups and churches are providing English lessons and hospitality to their new neighbours, showing how the various cultures are becoming ingrained in NI society. In other words, the recent migration shock to NI is not a temporary phenomenon. Furthermore, faster growth scenarios for the NI economy indicate that there will be a continued demand for migrant workers to fill vacancies and skill gaps.

However the recession has meant a rise in unemployment, for both natives and migrant workers, and greater competition for the fewer number of vacancies. This means that in cases where migrants are employed, there is a risk of greater displacement of native workers (i.e. negative migrant economic impact), or downward pressure on wages.

In saying this, it is important to remember that at a more strategic level, the main priority for the economy, during and post-recession, needs to be on helping businesses to obtain the supply inputs they need, which includes labour and skills. In a world of much freer movement of labour, this means looking locally and internationally to plug skills and labour gaps as they arise with the best people available. As such, in some ways nationality of workers for businesses becomes as irrelevant as race or gender should be. **The challenge from 'imported' migrant labour clearly raises the bar locally, just as competing internationally has done with NI becoming part of the global economy.** The research concludes that hiding from labour and skills competition will not benefit the NI economy in the long-run. The opportunities migrants bring should be embraced and encouraged in order for NI to become the tolerant, welcoming and dynamic economy aspired to. And the challenges migrants lay down to native workers should be seen for what they are - challenges of the standards necessary in the globalised economy of which NI is now part.

For further information on this research, the full report, which was published in December 2009, is available from: http://www.delni.gov.uk/the_economic_labour_market_and_skills_impact_of_migrant_workers_in_northern_ireland.pdf.

¹ FGS McClure Watters, Perspective Insight Market Research and Professor Bob Rowthorn (University of Cambridge).

² The definition of migrant workers was based on the NI Government Migrant Workers Thematic Sub-Group of the Racial Equality Forum definition. It relates to only those persons, born outside the UK and ROI, migrating for the primary purpose of seeking or taking up work, rather than persons finding themselves abroad for other reasons and subsequently deciding to search for a job.

Modern slavery needs to be stopped

By Marion Shepherd

Marion Shepherd has worked as part of the GLA's Policy and Communications team since the Authority was set up in 2005.

Marion Shepherd of the Gangmasters Licensing Authority, explains how the GLA will not tolerate 'modern day slavery'.

A year after the shocking events of the Morecambe Bay tragedy in 2004, where 23 Chinese migrant workers lost their lives picking cockles, the Gangmasters Licensing Authority was formed.

The Chinese cockle pickers were under the control of a gangmaster who exploited them. Sadly this is a situation that many migrant workers in the UK face every day - subjected to threats, living in appalling conditions and out of pocket from gangmasters who control every aspect of their lives.

Set up to protect workers from exploitation, the GLA runs a licensing scheme to make sure that anyone who supplies labour in the food or horticulture industries meets UK employment standards.

There are now over one thousand licensed labour providers, including high street employment agencies, recruitment consultants and overseas agents as well as the traditional agricultural, shellfish and forestry gangmasters.

We have officers based around the UK, including Northern Ireland, who ensure labour providers meet the conditions of their licence and investigate any claims of workers being mistreated or abused.

Many of the migrant workers we encounter are unaware of their rights, and do not realise they are entitled to the same benefits as UK workers. Some past cases of worker abuse uncovered by our officers have included a group of Bulgarian workers who were picking and packaging vegetables. They were forced to live in dirty overcrowded caravans and had to scavenge for food when they were not paid for 4 weeks. Another group of Eastern European workers who were picking daffodils in Devon were left without pay, had to travel in a dangerous minibus to work and were threatened with eviction.

We have helped many workers receive the pay and conditions they are entitled to, such as the national minimum wage, improved accommodation, safe transport and holiday pay. We also advise workers on who can help them claim back illegal deductions and unpaid wages. These issues are all covered in the GLA licensing standards – the conditions that a business must meet to get a licence. Labour providers must show they are complying with UK employment law and providing at least the minimum standard of care for workers. For example, we check that workers are given health and safety training, a written statement of their terms and conditions

and the rest breaks they are entitled to. Any business that does not meet the standards will lose their licence and will be unable to continue to supply workers. If this situation occurs we work with the labour users to help workers keep their jobs and find suitable licensed labour providers.

We publish a list of all the labour providers who have a licence, on the GLA public register. This is available for anyone to check and can be accessed on our website at www.gla.gov.uk or by calling our helpline on 0845 602 5020.

We also provide information for workers, to raise their awareness of their rights and how we can help them. Our pocket size workers' leaflet gives an outline of the basic UK employment rights and where to get further advice. It is available free of charge, in 15 languages. Our Northern Ireland version is currently available in 4 languages - English, Polish, Latvian and Lithuanian. The leaflet can be viewed online or copies can be requested by calling our helpline.

The GLA is determined to stop the illegal persecution of workers. But we need your help. We frequently discover workers who are too scared to talk to us or anyone else about the conditions they are living and working in. To stamp out this abuse we need workers, their colleagues, friends, other businesses and stakeholders in the industry to come forward and help us take action against those causing this suffering.

There is no place in the 21st century for this 'modern day' slavery. Working together we can make it a thing of the past.

A European perspective on the migrant workers' legislation

By Celina Kin-Armbrust, Policy Officer, ENAR

Celina started as Policy Assistant in the ENAR team in July 2008. Prior to joining ENAR Celina worked in the private sector for the EU representation of FIPRA International after having worked on the Staff of the Secretary-General of the Committee of the Regions. Celina studied Law at the University of Sussex (UK) and European Politics at the College of Europe in Bruges (Belgium).

Celina gives an overview of labour migration from a European perspective

The political profile of migration policy has progressively increased at both EU and national levels, with labour migration being particularly high on the EU agenda. The new EU multi-annual programme for justice and home affairs – referred to as the ‘Stockholm Programme’ (which replaces the ‘Hague programme’ expired in December 2009) – focuses on the potential for labour migration to better satisfy labour market needs across Europe. The Stockholm Programme further reflects the EU’s approach to labour migration and outlines the political framework to be used for the next 5 years, and recognises that larger migration flows may be needed in the future, thus requiring the adoption of a more extensive common immigration strategy. The Stockholm Programme also recognises the need for a closer monitoring of migration patterns and labour trends within the EU.

With the adoption of the so called ‘Blue Card’ Directive in May 2009 (a directive enabling entry and residence of highly skilled workers into the EU) and the European Commission’s proposal of policies that seek to establish certain basic social and economic rights for third country national workers, it is clear that the EU recognises the important role of economic immigration, in particular due to the phenomenon of demographic ageing. It is public knowledge that many European countries are already experiencing the effects of demographic ageing or are expected to face such problems in the next decades.

Such developments present a clear recognition that not only will inward migration continue, it will become increasingly necessary for the social and economic prosperity of the EU. However, too often the dialogue focuses only on this aspect, with the result that migration is seen as a utilitarian and short or medium-term solution to demographic change whereby migrants will come to Europe for a few years, contribute to the economy, and leave before they become a ‘burden’. This approach, which treats migrants as economic units and not as human beings, is not consistent with European values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.

On the other hand, the lack of recognition and value placed on the contribution that migrants bring to Europe’s economy, society and culture is a key feature of the debate. This feature of the debate relates to both ‘highly skilled’ migrants and those defined as ‘unskilled’. **The**

utilitarian approach recognises the economic necessity of highly skilled migration, but does not recognise their broader contribution to European society. Those not defined as ‘highly skilled’ are excluded even from recognition of the economic value of migration, excluding recognition of their economic, social and cultural importance to European society, from the Polish plumbers in London to the Lebanese restaurant owner in Tallinn, to the migrant women working in domestic care in Italy, Ireland and many other European countries. **The denial of rights to many migrants, including asylum seekers, undocumented migrants and others, not only has a negative effect on the individuals concerned, but also denies society the fruits of their participation in civic, political, social, cultural and economic life.**

In addition, the coexistence of the European Commission’s proposals aiming to facilitate ‘legal migration’ with a number of initiatives relating to the control of so-called ‘illegal immigration’ presents some concerns. There is a focus on measures to combat irregular migration through border control and return policies, and there is little in these proposals that guarantees the human rights and social protection of irregular and undocumented migrants. This approach risks adversely affecting the success of integration and social inclusion policies aimed at migrants, including ‘legally resident’ third country nationals and ethnic and religious minorities who are EU citizens.

The European Commission’s approach does not take into account the fact that migration policies must address the wide-range of migrant situations: long-term and short-term workers; students; asylum-seekers and refugees; spousal and family dependants; and undocumented migrants. By focusing on highly skilled migration and denying access and rights to other categories of migrants, the European Commission is not only creating disparities between the rights enjoyed by different migrant workers, leading to an unacceptable situation of discrimination, but also jeopardises its efforts in the fields of integration, social inclusion, and anti-discrimination.

A reporter's job is to ask difficult questions and explore solutions

By Scott Jamison

Scott Jamison is a reporter for the South Belfast News, part of the Belfast Media Group. He obtained a BA (Hons) in Politics and History at the University of Ulster in 2005 and a postgraduate diploma in Newspaper Studies at Belfast Institute of Further and Higher Education in 2007.

In just over two years of reporting on South Belfast, I have come to know the area as one of the most ethnically diverse places in all of Northern Ireland, with shops and services geared towards all cultures and nationalities lining its routes. Unfortunately however, those cultural differences have often manifested themselves in intimidation and violence against minority communities there. Last June's attacks on the Roma made headlines around the world and saw South Belfast labelled as the racist capital of Europe. But it was far from the first time this part of the city has suffered these sorts of problems.

In my newspaper's short lifetime, we have had the problems in Donegall Pass with violence against the Chinese community, the attempted rise of the BNP in the Village area and bomb threats to the Belfast Islamic Centre to name but a few, as well as plenty of low-level attacks, intimidation and assorted graffiti of a racist nature. The question is why? It is the media's job to keep the focus on these issues and ask the difficult questions about why things happen and what can be done to stop them. **Using our already established contacts in the community, the South Belfast News has certainly picked up on an "us and them" mentality from several quarters. Many people see the constant demographic changes, immigrants gaining employment and housing, and lash out.** Language problems can be a barrier to breaking down the walls between communities, meaning immigrants tend to stick with those from the same background, allowing differences to foster. The challenge is to tackle their reasoning and see newcomers to their community for what they actually are - a benefit, bringing positive contributions to the economy and filling key roles in a number of jobs, as well as diversifying our culture in many ways.

Immigrants are a convenient scapegoat on which to hang a number of society's ills - from the economic downturn to lack of housing - so how can we change that mindset? Certainly we in the media have a role to play in that process. There is a need for careful reporting around these sorts of events and to disseminate between the truth and the oftentimes inaccurate information that follows a media scrum on a story. These half-truths and rumours can give credence to those behind attacks and it is vital that is not allowed to happen. The government has perhaps the most vital part - ensuring hate crime is tackled by enshrining policy into legislation. The much-debated cohesion, sharing and integration strategy is certainly a start, although how much it would impact on say a working-class area filled with underlying tension can be questioned. Organisations such as NICEM do important work on the frontline and it is imperative we in the media support them in that as much as possible, whether by highlighting key issues or reporting on the good news stories surrounding immigrants, as well as covering when events take a sinister turn.

Despite its reputation, South Belfast is not a racist place. It is full of culture and life, with a bohemian vibrancy unrivalled in any other part of the city. We must not let the mindless few there become a vocal minority and tarnish everyone else, and we each have a part to play in ensuring that.

A difficult relationship: Polish migrants and recruitment agencies

By Maciek Bator and Aleksandra Lojek-Magdziarz, Polish Association NI

Maciek Bator is the founder and Director of the Polish Association Northern Ireland (PANI). In addition to his work with PANI, Maciek Bator is a board member on several national and international organisations. He is currently a personal advisor to Poland's President of the Senate, in which capacity he is responsible for European Union migration issues.

Aleksandra is a Bilingual Community Safety Advocate and a member of Minority Rights Now!'s Editorial Board.

Nowhere to go: recruitment agencies, good faith and homelessness.

Aleksandra Lojek-Magdziarz and Maciek Bator lift the lid on some recruitment agencies' practices that leave Polish workers with limited or no access to public funds.

When Poland joined the EU, enthusiastic British recruitment agencies sensed a good business. They started to link with Poland by establishing branches in Polish towns in order to fill job vacancies in Northern Ireland. Prominent recruitment agencies employed Polish-speaking staff in situ to facilitate the process.

Poles are known for their excellent work ethics, ability to work in difficult conditions, under pressure and importantly enough, for not to being too demanding as far as wages are concerned. So it was a golden opportunity for recruitment agencies to make business, and Poles were happy to avail of this opportunity.

Agencies were paying for transport, finding flats and guaranteed you a job the minute you stepped out of the plane/ship/bus. All the expected fuss of applying for a job, waiting for a reply, going through the recruitment process, facing an uncertain future was simply inexistent. Business flourished as scores of Polish people gave up their lives in Poland to work in Britain. What they did not know, though, was that they risked being exploited. Reality was much more gloomy than they might have expected.

Some newly employed Poles quickly realised that they were being treated as replacements for local employees who were either on maternity or sick leave. Many were not advised of this in advance so it came as a great surprise to them.

A crucial issue is that Poles working in Northern Ireland are classified as temporary workers, which means in practice that they might lose their job at any moment (some of them already have). It is a very tricky situation for workers from Eastern Europe - in order to be entitled to any public funding and services, they need to be employed continuously for a year. Once you are employed, you need to register on the Workers Registration Scheme (WRS) which is valid

for one year. If an agency fails to place you with another employer or if, once you are dismissed, you do not find another job within 30 days, you have to reapply for WRS - and consequently your continuous employment is interrupted, which, in turn, negatively impacts on the delay in the process of obtaining residency status and access to public funds.

When all attempts at overcoming red tape fail, you are left with nothing. As recession hit, many were indeed left with nothing. They got stuck in the UK, unable to travel back to Poland (as they had no money to travel and no job prospects) and unable to earn enough to cover their living expenses. The number of homeless Polish people rose dramatically. Some were borrowing money from their Polish families - to spend it in the UK. So, contrary to the myths regarding Poles sending money back to Poland, reality proved that a large number of them were actually receiving money from Poland.

Those who worked were offered the minimum wage - to what they willingly agreed before coming to UK, but then, having worked for a while, and getting to meet more locals, they discovered that could be paid more for the job they were doing. But they were not given any pay rise, and they were being treated as second-class citizens.

The Polish Association NI learned as well that some agencies did not offer paid holidays for their foreign workers. The common practice is to include paid holidays in the wage itself. Also, most job contracts are written only in English, and employees are not aware of the terms and conditions they are actually signing.

In some cases, agencies offered accommodation as well as employment. The trick was, though, that accommodation was more expensive than average, but unsuspecting foreign workers did not know the market prices, so agreed to it. Having lived in the UK for a while, they learned about rent prices but upon announcing their willingness to give up living in the agency's flat, they faced dismissal from their employment. And vice-versa: when they lost their job, they were immediately urged to leave the premises they were renting.

The realm of activities of recruitment agencies stills appears to be unregulated and uncontrolled. We would like to see some transparent regulations concerning their activities, so that people employed by agencies feel more secure in the knowledge that they will be treated fairly.

The key changes in immigration control for non EU migrants

By Liz Griffith, Policy Officer at the Law Centre NI

Liz's main duties include responding to government consultations, and producing information and parliamentary briefings and bulletins. Liz is particularly involved in the area of Immigration and Employment with additional input in Mental Health, Social Security and Community Care law. Liz is also involved in anti-racism initiatives with the South Belfast Roundtable. She is the Secretary of the Refugee Action Group and volunteers on its out-of-hours Immigration Detention Emergency Helpline project.

Liz Griffith, Policy Officer at the Law Centre (NI), discusses some key immigration changes affecting non European nationals.

The landscape of immigration legislation continues to change rapidly and non European nationals are particularly affected. This brief note provides an overview of only a selected number of recent changes.

Citizenship

In summer 2009, the Borders, Citizenship and Immigration Act came into force. This is the sixth major piece of legislation in a decade. The Act sets out new provisions for people seeking settlement in the UK and will come into force in July 2011. Any person wishing to obtain permanent residency or citizenship will be required to complete a new stage known as 'probationary citizenship'. As a probationary citizen, the UKBA expects a person to "demonstrate a more visible and substantial contribution to Britain". Such contribution is demonstrated by undertaking an 'activity condition', which is similar to community service. If a person does not complete the 'activity condition' then they must spend an additional two years as a probationary citizen.

These new provisions will only affect non European nationals as European law sets out qualifying periods for settlement for EEA nationals and their families.

The Law Centre has repeatedly expressed concerns about the concept of probationary citizenship. Applicants will now face increased periods of instability and uncertainty about their status, which can lead to exploitation and can damage cultural cohesion. Our concerns are compounded by the UK Border Agency's proposals to introduce a points test for citizenship whereby anyone wishing to settle must undergo strict examination. Points will be awarded for earnings, qualifications, ability to speak English, whereas points will be deducted for minor offences or failure to integrate. We are concerned about the increasing shift towards an increasing emphasis on 'citizen rights' whereby a person's entitlements derive from their immigration status rather than from their status as a human being.

People who currently qualify for Indefinite Leave to Remain or citizenship may wish to consider submitting their applications before these provisions come into force.

Students

Foreign students have been the focus of a raft of new measures currently being brought into force. The provisions will affect all new students under Tier 4 of the points-based system. Students must now satisfy higher English language requirements before they can enrol on an educational course. Students will also have to demonstrate adequate language skills before they can enrol at an English language school! New restrictions apply to students wishing to work during term time as the maximum amount of hours some students can work is being halved to 10 hours a week. Students will no longer be able to bring their family members with them to the UK if they are studying on a course for less than six months. Family members who do come to the UK will no longer be able to work unless they qualify in their own right. Clearly, these measures are quite an imposition on students. These changes were brought about without prior consultation and little scrutiny.

Forms and fees

New application forms and guidance have been introduced for skilled migrant workers (Tier 2) and foreign students (Tier 4). The forms can be found on the UKBA website. Information can also be found on the revised immigration fees. Fees have risen slightly for most applications although there have been some sharp increases, notably for dependent relatives. It remains to be seen whether there will be much demand for a premium service that costs £15,000! **The Law Centre is concerned that setting fees at an excessively high level may result in some applicants experiencing real hardship and in others failing to renew their status – thus risking becoming undocumented.**

Minimum national standards of protection do not guarantee equality

By Jimmy Donaghey

Jimmy Donaghey is a lecturer in the School of Management, Queen's University. His research focuses on the relationship between European integration and industrial relations. He is a member of the National Executive of the University and College Union, as well as Local Issues Secretary at Queen's UCU.

Jimmy discusses internal EU policy on migration.

EU migration policy can be viewed as having two arms; the first is migration between member states of the EU and, secondly, migration into the EU. This article will try to briefly sketch the approach of the EU on migration within the EU.

Free movement of workers is one of the fundamental freedoms guaranteed by EU law for nationals of EU member states: citizens of the EU have the right to work in another member state and the right to reside there for that purpose. In addition, they also have the right to equal treatment in respect of access to employment and working conditions. For their part, each member state is required to facilitate the full domestic integration of a worker and their family from another member state. **An open labour market allowing people to live and work in the member state of their choice has been regarded as one of the most attractive and civilised features of the EU.** In fact, since its inception in 1957 until the late 1990s much of the discussion about labour mobility in the EU bemoaned how little movement was actually taking place. Different languages, the lack of mutual recognition of educational qualifications and the persistence of national labour market restrictive practices were usually identified as the main barriers preventing workers moving from one member state to another. Thus labour mobility was seen as one of the unfulfilled promises of the EU.

Recent developments have turned the discussion of labour mobility on its head. Instead of lamenting the low levels of labour migration between the member states, much of the current talk is about a perceived massive increase in pan-national labour flows inside the EU and the potential negative impact this might have on national social standards and even on national political and communal identities. More specifically, workers from new member states are seen as generating social tensions when moving to jobs in the 'old' member states.

On 1st May, 2004, the EU witnessed its most challenging enlargement not only in terms of the number of new entrants, but also in terms of the impact these countries would have on its overall economic and social profile. EU-10 consists of eight former Soviet bloc countries as well as Malta and Cyprus. Fearful that the big differences in living standards between these countries and the EU-15 (the EU members prior to the 2004 accessions) would disturb established economic and social conditions in the 'old' member states, the Accession Treaties for each new member state contained provisions that allowed the EU-15 states to temporarily opt-out from the principle of free movement of workers for a period of up to seven years. Full labour market integration between the old and new member states was to be achieved

gradually through 'Transitional arrangements'. These set out a three-stage process covering a maximum of seven years, which became known as the "2+3+2" formula, for the removal of barriers to labour mobility. Thus by 30 April 2011, all restrictions on the free movement of workers from the EU-8 must be removed. However, and due to low levels of unemployment in 2004, the UK, Republic of Ireland and Sweden all chose not to enforce the possibility of opting-out. Notably with the accessions of Romania and Bulgaria in 2007, these countries joined the other EU-15 member states in temporarily opting-out of the free movement of workers.

While all three of these countries were suffering labour shortages in the early years of the decade and have ageing populations, xenophobic rhetoric aimed at low-paid workers from other countries has been used to stir up feelings, particularly in England: A series of judgements from the European Court of Justice in rather idiosyncratic cases has prompted calls to "pull down the shutters" on migration. While often these fears are used as feeding by the political extremes, the direction of EU policy over the past decade has been insensitive to protecting social standards. Take for example the EU Services Directive when it was originally proposed in 2004. The first draft of the Directive contained a number of highly contentious proposals. Perhaps the most contentious matter was the "Country of Origin Principle". As proposed by the Commission, service providers would only have to adhere to the regulations, which included employment law, of the country in which the company was based.

Following total opposition from unions across the EU, the European Parliament voted, in February 2006, in favour of an amended draft, which abolished the country of origin principle, excluded a number of areas including broadcasting, social services and public health and respected both national labour law regimes, particularly in relation to the posting of workers, and collective bargaining rights. The effect of the changes made by the European Parliament is that while member states will have to permit non-national companies access to their market, they will be able to impose "necessary restrictions" to protect the national system. These revisions to the Directive have severely weakened its capacity to create a legal environment inside the EU conducive to wage dumping and job displacement. European unions are clearly relieved. In the circumstances, the European Parliament's revisions are sensible, for to have installed a completely liberalised regime for the service sector in the EU at the same time as labour migration from the new to the old members was increasing, could have well inflamed the fermenting nationalist sentiments in member states. It would have been the wrong policy mix for the EU as it would not have created neo-liberal Europe, but xenophobic Europe. A new policy departure is required on the matter of free movement of labour: one which combines a commitment to employment standard-setting with open labour markets in Europe. But the political response has been in the other direction. **In response to deeper European economic integration, national politicians have retreated inwards seeking to protect their national firms, questioning the appropriateness of open labour markets in Europe and so on.**

Conclusion

The "No" verdicts to the European constitution in the French, Irish and Dutch referenda were symptomatic of this approach. **Similarly, Gordon Brown's use of "British jobs for British**

workers” failed to grapple with the real issue of establishing social standards to protect BOTH nationals and migrant workers. These nationalistic forces may win out and deliver a hefty blow to the European ideal. But this triumph will not turn back European economic integration: this is too potent a force to be reversed. Thus, we have the prospect of unrestrained European economic integration and the reassertion of national politics. This is a mismatch that offers no promise for Social Europe and may well fuel greater political and social tensions in Europe. This is a time to reassert the progressive ideals behind the European project and the need for strong European institutions which promote the rights of workers, regardless of their nationality.

Good practice is all it takes to improve working conditions for migrant workers

By Fionuala Devlin

Fionuala Devlin is the Head of Promotion and Education at the Equality Commission for Northern Ireland. Among her responsibilities Fionuala leads on promotional campaigns, including race-specific campaigns aimed at raising awareness of race issues and promoting best practice to employers and service providers.

At the Equality Commission, we are continually working with employers to help them achieve a fair and respectful workplace for everyone in Northern Ireland.

In the year ending 31 March 2009, around 15% of the 3,500 enquiries the Equality Commission received from people with a potential complaint were related to race discrimination. Of these, 48% were about employment.

The workplace is often more welcoming than the rest of society, simply because many workplaces are governed by responsible policies and procedures. When we surveyed people in Northern Ireland on their attitudes on equality issues, we found that people were more ready to accept people from minority ethnic groups and other nationalities as colleagues in the workplace than they were in their neighbourhoods or in family life.

We support public and private sector organisations each year, providing training and advice to help them ensure their practices are not discriminatory. Race is one of the areas in which many employers are now taking specific steps to meet their responsibilities.

Nearly half of all companies who have worked with us to develop a voluntary equality plan with a particular focus on race are from the private sector. There are some great examples of good practice, such as Translink, IKEA, Tesco and the Co-op, who have been very proactive in recognising the different language and cultural needs of staff from other countries.

Smaller scale companies like breadmakers Genesis in Magherafelt and Avondale Foods in Lurgan are also meeting the challenge – and reaping the benefits - of a racially diverse workforce.

Genesis Breads is a local family run craft bakery established in 1968 by Joseph & Roberta McErlain. Their six sons carry on the business, now supplying their range of hand crafted morning goods to customers like Tesco, ASDA, Sainsbury's, JJ Henderson, Waitrose and many independent retailers.

“Many of the skills required to produce these breads are provided by foreign nationals who are mainly Polish,” Damian McErlain, Genesis Operations Manager said. “These individuals are a key part of the Genesis operation and the management have made great efforts to ensure they settle and enjoy work and life in Northern Ireland.”

Genesis has taken practical steps such as

- helping all foreign national staff to find good accommodation
- helping all foreign national staff to set up bank accounts and register with their local GP
- HR helps every individual with the Worker Registration Scheme
- carrying out all inductions and internal communications in Polish
- one member of the Polish team acts as a liaison to ensure communication is clear in all matters.
- HR helps Polish staff book flights home at holiday times
- making holidays flexible to allow staff longer periods to go home
- and setting up English classes for staff at the local college.

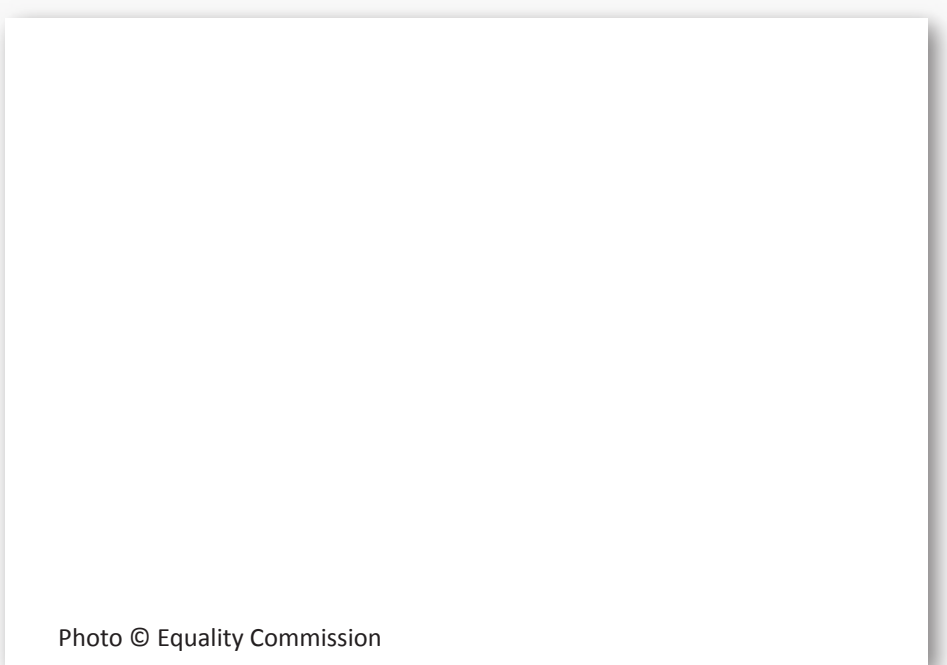


Photo © Equality Commission

Polish Business Person of the Year in 2009 was Barbara Gryzkieincz of Genesis Breads, second right, with Jerome Mullen, Polish Honorary Consul; Anna Lo MLA; Equality Commissioner Norman Trotter and Anna Marie Travers, Genesis Breads HR Manager.

Avondale Foods supplies major food retailers in the UK and Republic of Ireland with a range of prepared salads, packed salads, fresh vegetable soups, croutons, dips, mayonnaise and sauces, many under the Country Kitchen brand name.

Avondale's HR manager Mia McKeown says, "The Commission has been very supportive in giving me the assistance I needed to introduce the measures which we needed to achieve fairness. They have worked closely with me on all the new measures."

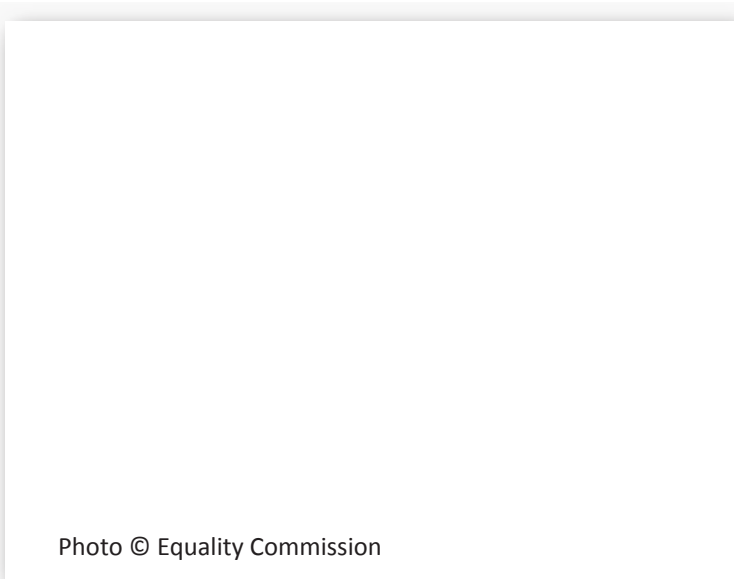


Photo © Equality Commission

*Mia McKeown, HR Manager,
Avondale Foods*

At Avondale, measures have included

- picture-based interviews to give non-English speaking applicants a fairer chance
- multi-lingual training dvds
- translating factory signage
- translating key policy documents.

The Commission celebrated its tenth anniversary in October 2009. **Over the ten years we have seen an increase in contact from employers, across all sectors, of different size and location, who are keen to ensure that their workplace is a good and welcoming environment for everyone, regardless of race or nationality.**

Northern Ireland as a society has changed dramatically over the last decade too. Back in 2001 the census told us that 0.7% of the workforce was from an ethnic minority background. While current estimates of minority ethnic populations working in Northern Ireland are limited, the NISRA “Migration Estimates (2008)” report states: “the recent period since 2004 has seen significant population growth due to migration.”

It continues: “Migrants from the expanded EU are the main source of increased migration. Most people from the new EU states coming to Northern Ireland to work must register with the Home Office Worker Registration Scheme (WRS). The WRS shows that, in the year to June 2008, some 7,800 people registered to work in Northern Ireland. By number, Polish migrants are the largest group of migrants from the new EU states, accounting for nearly 60% of such migrants.”

Anti-Racist Workplace Week is one of our partnership campaigns where we engage with employers and trade unions across all sectors of industry and business in NI. It is important that people have the opportunity to voice their opposition to racism, and we hope its message will travel beyond the workplace into the local communities in which they operate.

To sign up for free training or advice for your business call 02890 890890 or log on to www.equalityni.org

An in-depth analysis of the remedies that will achieve protection and equality for migrant workers

By Barry Fitzpatrick

Barry Fitzpatrick is Deputy Director of the Northern Ireland Council for Ethnic Minorities. He heads up the Policy Team which is responsible for the Strategic Advocacy Programme funded by Atlantic Philanthropies.

Flexible work contracts and migrant workers - the legal dimension

Introduction

There is a strong legal dimension to the issues surrounding flexible work contracts and migrant workers. As I stated in the Foreword, many migrant workers, particularly those from the EU, work in 'grey area' relationships which may well not entitle them to 'employee' status. Chief among these relationships is that of the 'agency worker'.

Agency workers

One of the policy recommendations of the *Za Chlebem* research report is 'We urge the Department for Employment and Learning to ensure the European Directive on Temporary Agency Workers is transposed to Northern Ireland as soon as possible in order to ensure the principle of equal treatment in working conditions for permanent and agency workers.'

After a long legislative history, the Temporary and Agency Workers Directive (Directive 2008-104-EC) was enacted, to be applied across all EU States by October 2011. In Great Britain, the Agency Workers Regulations 2010 have already been passed into law, to come into effect on 1 October 2011. The Department of Employment and Learning in NI (DEL) has yet to start the consultation process which will precede NI Regulations but they are very likely to be word-for-word the same as the GB Regulations.

Regulation 5 provides a right for the agency worker to the same basic working and employment conditions to which the agency worker would have been entitled if they had been recruited directly by the hirer. Regulation 6 specifies that it is terms and conditions in the hirer [contract] relating to pay, the duration of working time, night work, rest periods, rest breaks and annual leave that are relevant.¹ A vital provision is set out in regulation 7, namely that the agency worker must have a contract for 12 continuous weeks' work.

And so, for the present, agency workers have much more limited rights than envisaged in the Agency Workers Regulations. As stated in the Foreword, there are important technical differences between various work contracts. The widest category is that of a 'worker' but they have the narrowest range of employment rights. The Directgov website informs us that 'agency workers' have the following rights:-

- "paid holiday
- rest breaks and limits on working time

- no unlawful deductions from wages
- the National Minimum Wage
- not to be discriminated against under any of the equality legislation
- protection under health and safety laws".²

On the other hand, the narrowest category of work contract, that of an "employee", has the widest range of employment rights. **It is well settled that agency workers are neither 'employees' of the hirer nor 'employees' of the employment agency. In this sense, they are liable to fall into the 'black hole' depicted on the cover of this issue.** A recent Court of Appeal judgment in England and Wales, *Muschett v HM Prison Service*,³ has confirmed that it is very rare for even a medium-term agency contract to 'mature' into an employment contract.

However, a vitally important set of rights, against discrimination under any of the equality statutes, including the Race Relations Order (NI) 1997, may also not apply to agency workers after the *Muschett* decision. The Court of Appeal concluded that Mr Muschett did not have a 'contract for personal services' under the equality statutes either. Unfortunately, the Temporary and Agency Workers Directive does not explicitly cover employment equality rights, even though employment equality law in GB and NI is now underpinned by EU Directives. Therefore the Agency Workers Regulations may not extend equality protection to agency workers.⁴

Casual workers

This article has focused on agency workers, as their rights have formed the basis of one of the policy recommendations in the *Za Chlebem* research report. However, as mentioned in the Foreword, other work contracts may also fall into this 'black hole' of employment protection.

Perhaps the most vulnerable 'workers' are those under 'casual' contracts, that is where they can turn up for work but are under no *legal* obligation to do so - and the 'employer' can give them work but again is under no legal obligation to do so. Although not picked up specifically in the research report, there is anecdotal evidence that many migrant workers in the hospitality sector are 'employed' under casual work contracts. Once again, the Directgov website seems to indicate that 'casual workers' are 'workers' for the purposes of a narrow range of employment rights. It states:- "The lack of any obligation to offer or accept work may prevent you from being an employee. The obligation to perform the work personally is likely to place you in the wider 'worker' category."⁵

A decision in the NI tribunal, *Jason Matthew Andrew Vine v Hastings Hotels Group*,⁶ concerned the right of a casual worker in the hospitality sector to holiday pay. The Tribunal concluded that 'casual workers' are not even 'workers' for the purposes of that limited range of employment rights.⁷ What is striking about these judgments and decisions is that they focus on technical issues of contract law instead of the 'wider picture' of the social policy behind the legislation.

The impact of the IMPACT decision

However, help may be at hand! **Even though these narrow interpretations of work contracts were in cases involving rights underpinned by EU Directives, little attention has been paid**

to the extent to which EU law protects *all* EU migrant workers. EU nationals have extensive freedom of movement under the EU Treaty. Even before the UK joined what was then the European Economic Community in 1973, the EEC had enacted a powerful Regulation⁸ giving extensive protection to the nationals of what are now EU Member States. Regulations are relatively rare in EU employment law and not much attention has been paid to the 1968 Regulation, even though it is supposed to be ‘automatically’ part of NI law and directly enforceable in the courts and tribunals.

A recent judgment of the European Court of Justice, *IMPACT v Department of Agriculture & Others*, judgement of 15 April 2008, makes clear that all directly enforceable EU law must be adjudicated upon in the most appropriate court or tribunal in the national legal systems. The tendency in UK courts has been to presume that cases under the 1968 Regulation have to be taken to the ordinary courts, rather than industrial tribunal system. The *IMPACT* judgment makes clear that this is not the case. And so, even though cases such as *Muschett* and *Vine* indicate that agency workers and casual workers may have very few employment rights in GB and NI law, it is very likely that those working under these work contracts will be treated as ‘workers’ for the purposes of the 1968 Regulation. It also appears to be the case that A8 workers are already protected by the 1968 Regulation, along with all other EU (and EEA) workers and that A2 workers will be protected from 2014.

Conclusion

In both our policy advocacy and casework advocacy work, NICEM will be working to maximise the protection of EU (and non-EU) workers so that many of inferior working terms and conditions identified in the *Za Chlebem* research report can be challenged.

¹ Explanatory Notes to the GB Regulations.

² http://www.direct.gov.uk/en/Employment/Understandingyourworkstatus/Agencyworkersandemploymentagencies/DG_173252. See below on the position of agency workers under the equality statutes.

³ [2010] EWCA Civ 25.

⁴ Nor does the recently enacted Equality Act 2010 in GB.

⁵ http://www.direct.gov.uk/en/Employment/Understandingyourworkstatus/Workersemployeesandselfemployment/DG_183496.

⁶ (Case Ref: 1497/07) (2007), discussed in Bolger M and Fitzpatrick B, ‘The Transposition into Ireland and Northern Ireland of the European Directives on Fixed Term Work and Working Time (May 2009)(Labour Relations Agency, Belfast).

⁷ The Decision is based on a rather ambiguous judgment of the Employment Appeal Tribunal in GB, *Cotswold Developments Construction Ltd v Williams* [2006] IRLR 181.

⁸ Regulation 1612/68 EEC on non-discrimination against EEC migrant workers.



A Trade Union perspective

By Sean Bamford

Sean Bamford is a Policy Officer at the European Union and International Relations Department of the Trade Union Congress (TUC). Sam has spent the last 21 years working for the TUC, 15 years in trade union education and 6 years as a policy officer responsible for migration policy. Prior to that Sean worked as a trade union researcher for what is now RMT (the National Union of Rail, Maritime and Transport Workers) and had a history of trade union activism.

I read the recent NICEM publication "Za Chlebem': The Impact of the Economic Downturn on the Polish Community in Northern Ireland' with considerable interest. It's a well-sourced report drawing on a wide range of UK data as well as that from the South and provides NI specific information drawn from its own questionnaire. Although it refers to specific circumstances in NI overwhelmingly the picture it paints is easily recognisable from what is happening in the rest of the UK and indeed in other Western European countries.

NICEM raises 3 particular issues of wider interest

- To what extent are Polish and other A8 workers returning home during the current economic downturn?
- Are these mobile workers' rights being infringed?
- How are these mobile workers faring during the current economic difficulties?

To deal with the first of these issues very briefly, certainly in the rest of the UK there is pretty strong evidence that a substantial number of A8 workers have chosen to ride the economic storm in Britain rather than return to Poland. Again this is a pattern which seems applicable to a number of other Western European countries.

On the issue of exploitation the TUC is deeply concerned that it is all too prevalent. Certainly the lack of knowledge of English, our laws and institutions makes many A8 workers vulnerable. There are however other factors which explains this vulnerability that A8 workers share with other workers.

A8 workers have on average a higher educational attainment than other workers in the British economy as a whole but disproportionately they are found in low skilled jobs through reasons of language or lack of recognition of qualifications. The jobs typically open to them tend to have higher instances of agency working, fixed term contracts, high turnover and in the private sector. The fact that they are largely in the private sector is also significant in that the British trade union movement is unevenly spread between the public and private sectors. In the public sector British union density is about 60% but in the private sector 18%.

This 18% union density is also spread unevenly. Large manufacturing plants are still often well unionised but in other parts of the private sector unions are hardly present. This lack of unionisation includes areas like cleaning, restaurants, hotels, agriculture and food processing.

These are also sectors of the economy in which migrants are over represented. **A8 workers and other migrants are not being used to deunionise these sectors of the economy but are swelling the numbers in ununionised workplaces. Vulnerable A8 workers are often working alongside vulnerable British workers.**

The TUC believes that in tackling the problems of vulnerable workers per se one is also largely addressing the needs of exploited migrant workers.

Amongst other issues that the TUC has flagged up as being important in this quest are:

- Enforcing the National Minimum Wage
- Broadening the remit of the Gangmasters Licensing Authority
- Abolishing the Workers Registration Scheme (WRS)

All are covered by UK wide legislation and therefore all relevant to Northern Ireland.

The need to enforce the minimum wage is self evident but this also includes ensuring unlawful deductions are not made. In the South West of England it was recently found that migrants picking daffodils were clearing 41p a week once their employers had made all their illegal deductions.

The TUC fought for the Gangmasters Licensing Authority and holds it in high regard. We do not however understand why it is merely limited to four sectors of the economy when the very same exploitation of agency workers is going on in other sectors of the economy. The TUC continues to call for its remit to be extended through the whole economy.

The TUC shares NICEM's concern about the WRS: not only is it a means to deny A8 workers benefits but those who do not register cannot enforce their employment rights in UK courts. The TUC continues to call for its abolition.

Finally, NICEM's conclusions on the particular vulnerability of the likes of A8 workers in recession seem to be echoed through-out Europe. While employers may hold on to highly skilled workers for the economic upturn, those stuck in low skilled jobs, on short term contracts and without union representation, are treated as a needless cost to be dispensed with. Those needless costs being people often in a foreign land left with no means of support.

Labour providers need reminded of their legal obligations

By Tommy Wright

Tommy Wright is an Employment Relations Manager with the LRA with responsibilities for Good Employment Relations Projects aimed at improving industrial relations for service users. He has a specific strategy responsibility for the LRA regarding employment rights for migrant workers. He has been with the LRA for 4 years and was previously a full time union official with NIPSA for 16 years.

The Labour Relations Agency discusses migrant workers and employment rights in Northern Ireland

There can be little doubt that all Northern Ireland residents would have experienced a marked change in the presence of migrant workers in the jurisdiction since the opening of UK borders to A8 nationals around 5 years ago. While most people are aware of the changes to social mix and are vaguely aware that migrant workers have tended to employment in particular sectors (building, hospitality, agriculture, food processing etc) there remains little general awareness of the experience of migrant workers in Northern Ireland.

When the Labour Relations Agency (LRA) came to consider a strategy to support migrant workers and their employers it predicated this strategy on a comprehensive consultation with statutory, voluntary, and community organisations to determine the appropriate pitching of the strategy. **This process lead to the clear message that the best way to protect employment rights for migrant workers is to target awareness programmes at the employers in certain sectors.**

First Steps

The first pitfall which affected employers and the workers themselves was the question of the right to work in Northern Ireland in the first place. The Immigration and Asylum Act 2006, and the changes to it in 2008, make it critical for both employers and employees to be sure that the employee is entitled to work in Northern Ireland in the first place. The 2008 changes made it a criminal offence to do otherwise. Employers therefore needed some appreciation between issues such as EEA nationals, A8 nationals and A2 nationals and, more latterly, the UK Border's Agency Points Based System. When this legitimacy has been established, matters are easier in principle but often not so in practice.

The Work Place Issues

While all sorts of unhelpful assumptions existed about migrant workers perhaps the most prevalent (at least between 2005 and around 2007) was that they somehow had less working rights than resident workers. This was no doubt, in part due, to the conflating of the "right to work" with the "rights at work" and is, of course, a total fallacy. Once in employment all employees have the same rights although a further confusion arises since "workers" (those who only work when needed or wanted) have less rights than employees (those who, simply

stated, have a “contract of employment”). The preponderance of migrant workers in lines of work engaging “workers” (building, agriculture, etc.) only further added to misunderstanding.

Abuses and barriers

When workplace abuse / misuse issues started to emerge for migrant workers they quickly crystallised into those that were racial in origin and those that were breaches of rights in any employee / worker context. It was interesting to note that most concerns raised by migrant workers tended to amount to the most basic employment rights issues. The migrant worker rights agenda became clearly focused on issues of National Minimum Wage, itemised pay statements, working hours, breaks, and holiday entitlements. These were basic issues which are infrequently a problem for resident workers but seemed to be disproportionately prevalent among migrant workers. **Illegal wage deductions for accommodation, transport, tools, etc. were frequent abuses in sectors such as building and agriculture with working hours abuses more prevalent in the health and hospitality sectors.** All of these problems were difficult to quantify due to a culture of unwillingness on the part of some migrant workers to complain to enforcement bodies, and the more expedient issue that those migrant workers who had no intention to long term residency had no practical incentive to challenge their employers and risked losing work.

So What Has The Statutory Sector Done?

The statutory sector’s response has been to create a wide range of enforcement processes with a focus on abuses of the rights of migrant workers. The most high profile has been the Gangmasters Licensing Authority with its capacity for sweeping criminal prosecutions and licensing limitations within agriculture, horticulture, and food processing / packaging. There can be little doubt that the GLA has “the stick” to deter unscrupulous labour providers, but finding the opportunity to deploy it remains concerningly illusive. Her Majesty’s Revenue and Customs have strongly targeted National Minimum Wage abuses with the recent establishment of the Dynamic Research Team as an initiative of high profile / quick response enforcement specifically aimed at abuses of NMW in the context of migrant workers. The Department of Employment and Learning has also established its enforcement section for abuses by Employment Agencies and Businesses, which polices (with rather more limited powers) the industries not covered by GLA. It is also interesting to note that the Equality Commission (NI) will soon publish the findings of a Statutory Investigation into the Conduct of Employment Agencies / Businesses when employing migrant workers.

Where Does That Leave Us?

While the statutory response has been impressive and targeted in terms of enforcing employment rights for migrant workers the real concerns remain attitudinal. At the margins of the world of work in Northern Ireland there are still employers and agencies who seek to avoid their obligations under the law with approaches such as unregistered labour provision and artificially contrived self employed status (a problem which particularly afflicts the Roma community). These are bigger issues and worries than “dotting i’s and crossing t’s” for those labour providers who do register and want to meet their obligations. Add this to

the unwillingness of some migrant workers to enforce their rights, and a lack of collective organisation of workers in some of the key sectors populated by migrant workers, and it is hard not to conclude that abuse of migrant workers employment rights has not been stopped, it has simply been forced underground and to the murky margins of labour provision.

News from the Hill

By Chris McAfee, Research Officer, NICEM

Chris McAfee has worked for NICEM since April 2007 and is currently Research Officer at NICEM. In this role he co-ordinates research into various departmental areas as part as part of the Strategic Advocacy Programme. Chris also liaises with political parties and Black and minority ethnic groups to help NICEM provide secretariat support to the All Party Assembly Group on Ethnic Minority Communities.

As you have probably noticed, it has been a busy time up on the Hill at Stormont since the last edition of Minority Rights Now!

The All Party Assembly Group on Ethnic Minority Communities (APAG) has been equally busy, rotating officer bearers and working through a number of areas.

Office Bearers

In January the positions of office bearers within the APAG were rotated. From January until June 2010 the office bearers at the APAG are:

Chair - Declan O'Loan MLA - SDLP

Vice Chair - Anna Lo MLA - Alliance Party NI

Secretary - Dawn Purvis MLA - PUP

Treasurer - Steven Agnew - Green Party

The APAG also has a new representative, with Billy Leonard MLA replacing Jennifer McCann MLA as the Sinn Fein representative. Billy joins political representatives from the Alliance Party, the DUP, the Green Party, the PUP, the SDLP and the UUP to sit on the APAG.

Progress in the crisis fund debate

In recent months the APAG has been working on a motion debate that will call for short-term assistance to those who are unable to fully access public funds. In preparation for this debate the APAG hosted presentations from Les Allamby from the Law Centre (NI), and from Roisin Devlin and Sorcha McKenna from the Northern Ireland Human Rights Commission during its January meeting. These presentations outlined the different circumstances in which people are unable to access public funds due to their immigration status and highlighted possible means to assist those currently unable to access public funds. The APAG has followed up on these presentations to gather additional information and is preparing a briefing paper for the motion debate. This paper will provide a digest of the grounds for a fund to assist those with limited or no access to public funds.

The Racial Equality Forum

In January the APAG hosted officials from the Race Unit of the Office of First Minister and Deputy First Minister who gave the meeting an update on the re-establishment of the Racial Equality Forum. The officials outlined the structures for the Forum and their presentation was followed by a discussion where members of the APAG had the opportunity to ask questions regarding the Racial Equality Forum.

Travellers' accommodation

As a result of discussions at the February meeting, the APAG invited officials from the Department for Social Development and the Northern Ireland Housing Executive to give a briefing regarding Travellers' accommodation in Northern Ireland at its March meeting. This gave the members of the APAG the opportunity to ask the Department for Social Development questions regarding the policy on Travellers' accommodation and the Housing Executive about the provision of sites in Northern Ireland.

Member groups' presentations

At each meeting member groups of the APAG have the opportunity to give short presentations about their history and activities.

Since January 2010 the APAG has hosted presentations from the Derry Travellers Support Group, the Egyptian Society of Northern Ireland and the Northern Ireland Pakistani Cultural Association. These interventions gave each organisation the chance to present a brief history of their group, give an overview of their current work and outline the main issues facing their community. The secretariat would like to thank all the groups who have made presentations to the APAG, as these are crucial in highlighting the work ongoing by the members of the APAG.

A political view

By Dawn Purvis, MLA

Dawn was elected to the Northern Ireland Assembly to represent Belfast East in March 2007 where she is a member of the Finance and Personnel Committee and the Public Accounts Committee. Dawn is Leader of the Progressive Unionist Party, elected after the death of David Ervine. She joined the party in 1994 and has held a number of offices in the last 16 years including Chairperson, Chair of the Women's Commission and Spokesperson on Equality. She has helped produce many of the party's policy documents. She is committed to assisting working class Unionism into playing a constructive and active role within our society.

Dawn Purvis explains the bond shared by workers of all origins and backgrounds in Northern Ireland.

Migrant workers tend to come to our attention for all the wrong reasons, whether it is the tragic case of Oksana Sukanova, the young Ukrainian who lost both legs to frostbite, media coverage of sporadic racial tensions or the constant misrepresentation of the migrant workers vs indigenous workers issue. **For me there is no migrant workers vs indigenous workers - there is only migrant workers AND indigenous workers.**

I want to be clear - Migrant Workers are here, they are here to stay and they are an important and positive part of not only our economy but of our community.

The benefits migrant workers bring to Northern Ireland are clear and unequivocal. They bring additional skills that bolster our workforce, they fill holes in our labour market and improve the cultural diversity of our country.

Less clear are the misconceptions around migrant workers - that is because there are those who wish to muddy the waters, pouring negativity on migrant workers and pitting them against the local workforce. These misconceptions and misdirections range from 'they steal our jobs' to 'they send all their money home' and lots in between. It is my view that these views are simply racism masquerading as fact, opinions based on ignorance or falsehood - they are simply untrue. Research consistently shows that migrant workers fill gaps in our workforce, doing jobs that indigenous workers reject, and that they tend to be net contributors to our economy - they put in more than they take out!

There will always be those who wish to stir racial tensions and public disorder, it is our responsibly as citizens to ensure they do not succeed, that misinformation is corrected and that those coming to our shores are welcomed and protected, treatment we would expect to receive on the shores of other nations.

Director of the International Labour Organization(ILO) Juan Somavia said: "Migrant workers are an asset to every country where they bring their labour. Let us give them the dignity they deserve as human beings and the respect they deserve as workers." If we fail to do this we do ourselves and our country a disservice.

That is not to say that migrant workers do not bring with them negative impacts - but they do so through no fault of their own. The issue of migrant workers raises the spectres of exploitation, suspect employment practices and the knock on effects they have on the local workforce. But these are problems with the system, not the workers. We all have a duty to do more to protect the interests of not only migrant workers but of our entire workforce. Politicians can legislate to protect workers and punish those who exploit them, Trade Unions can do more to organise migrant workers and to advocate on their behalf and we can all stand with them in the face of that exploitation and racism.

The benefits migrant workers bring are real and tangible. If local government, politicians, trade unions and NGOs work together we can maximise the positive influence of migrant workers and counter the negative.

The ICTU in their document “Migrant Workers and their families in Northern Ireland” phrased this debate as ‘the stark choice between either exclusion or organisation’.

For me, whether it be in politics, peace building or in life, exclusion is never an option and since doing nothing is also not an option, we must organise. Political leaders, NGOs and Trade Unions have it within their power to improve the situation by providing leadership, dispelling myths and calling for action - lets see them do just that.

Myth busters

By Liz Connor, Development and Advice Officer, NICEM

Liz, originally from Springfield Massachusetts, obtained her BA in International Relations while studying at Goucher College near Baltimore Maryland. She moved to Northern Ireland in 2003 where she attended Queens University and received her Masters in Comparative Ethnic Conflict. She previously worked for NICEM for two years as an Ethnic Minority Support Worker.

Liz Connor crushes negative clichés on migrant workers.

There has always been and always will be a minority of people in every society who allow their ignorance of “the other” to create unfounded and often dangerous rumours about those people who immigrate to their country. These feelings have dramatically increased in Northern Ireland since the UK opened its borders for the A8 nationals in 2004/A2 nationals in 2007. Those individuals and families who have been affected by these attitudes have worked tirelessly alongside those of us who provide them with advice and support to defy these myths that are the products of such ignorance.

Now, during this current economic downturn, we find it as important as ever to again bring out our myth busting equipment to quash these unfounded myths that are turning migrant workers into scapegoats. This article outlines a few of the more prominent myths and explains the reality behind them by using some of NICEM’s own case studies. You will find that many of the myths and their realities are interlinked.

Myth #1: Migrant Workers Come to the UK to Live off Benefits

Fact: Migrant workers, whether they are from the A8 nations (Poland, Lithuania, Latvia, Estonia, Czech Republic, Slovakia, Slovenia and Hungary) or the A2 nations (Bulgaria and Romania) can only claim some benefits if they are in registered/authorised employment. Therefore, an A8 national must register their work with the Home Office and retain a Workers Registration Certificate in order to be entitled to claim benefits. If an A8 national has done this, they are entitled to claim some benefits such as Child Benefit, Child Tax Credit, Working Tax Credit and Housing Benefit. However, if they lose that employment for more than 30 days during the first 12 months of being registered, they are no longer entitled to claim any of those benefits. They will not even be entitled to Job Seekers Allowance or Income Support as they will not have worked long enough (2-3 years for JSA) nor will they have worked the required 12 months to be entitled to Income Support and Social Housing. This is despite the fact that an A8 national would have been paying their tax and national insurance while they were working. Therefore they will have no income and no assistance. Social Workers only have a duty to intervene in the event of a child being in danger. Many individuals and families rely on the kindness and stretched resources of local charities to help them through these tough times. If an A8 national loses employment and finds another job within 30 days they must reapply for the Registration

Certificate or they will no longer be entitled to claim benefits. Often they are not aware of this rule and their employer does not remind them which often leads to a crisis situation.

For example, one of our A8 nationals, who like many others, was one of the first employees to be laid off from his company, had only been in registered work for eight months. As he had not worked the required 12 months, he and his family (his pregnant wife and toddler) are not entitled to claim any benefits including Social Housing. Therefore, they now have to pay their full rent and are unable to claim Child Benefit and Tax Credits as they had been before. My client must now inform each agency that he is no longer entitled to these benefits or he will have an overpayment. Often, these families are unaware of this rule and they accrue overpayments while they are already in a very difficult situation.

Similarly, another A8 national who has small children has separated from her husband. As she has not worked in the UK her husband has always claimed all the benefits for their children and now she is not entitled to claim any of these benefits.

Things can also go drastically wrong when you combine unscrupulous employers with vulnerable migrant workers who are not entitled to benefits. Two of our A8 national clients were working for farmers when they were injured while on the job. As they had only been in the UK a short while they did not understand the Worker's Registration Scheme and their employers neglected to explain the system, help them register with the Home Office or obtain national insurance numbers. When they were injured while working, they not only lost their employment they also lost their housing as their employers also owned the accommodation they lived in. As they had not worked the required 12 months, they were not entitled to claim any benefits. They have only received assistance from Social Services while receiving hospital treatment. Their damages have left them injured for life and they are no longer able to work in the same capacity as they had been previously.

Even those workers who come from other EEA countries such as Portugal, France and Spain, have difficulty claiming benefits if they become unemployed. They are only entitled to be here if they are working or work-seeking, unless they are self-employed or self-sufficient. If they become unemployed, they must pass the habitual residence test to prove they are entitled to reside here. If they are not working, it is difficult to prove this, and thus these work seekers often find it very difficult, if not impossible to receive Job Seekers Allowance among other benefits.

There are even more restrictions placed on A2 nationals as they can only be employed in the UK if they are skilled workers in authorised work (which is a very difficult category to get placed in as there are extremely rigorous requirements), they are students (they can work for 20 hours), or they are self-employed (also difficult due to the language barrier and requirements). Similarly to A8 nationals, they are only entitled to claim benefits when they are in authorised work. If they become unemployed, they can only claim if they have been in this authorised work for 12 months. Our next myth and the following case studies will examine this further.

Myth #2: They Take our Jobs

Fact: As there are more work restrictions placed on A8 and A2 nationals in addition to the language barrier and differences between education and skills experience in their home country and the UK, these workers are often forced to take the lower paying jobs where they are easily taken advantage of. This is especially true for the A2 nationals who find it very difficult to overcome the rigorous work restrictions due to the language barrier and lack of understanding of the Home Office/HMRC rules and regulations. As mentioned previously, if A2 nationals are unable to secure authorised work they are not entitled to claim benefits. This was evident when one of our A2 nationals came to us to get assistance with obtaining authorisation for his employment with a local restaurant chain. Due to the fact that our client and his employer did not understand the Home Office restrictions (it must be skilled work for him to get authorisation) he will not be able to gain employment. He is currently living off money sent from his parents in his home country. If he cannot become self-employed he will have no choice but to return home.

Life has become very stressful for our other clients who are a family of A2 nationals. The parents have not been able to secure authorised work and their son now has contracted a life long illness. They are not entitled to claim for benefits and the father is trying to become self-employed. As he does not speak English or have any skills this will be very difficult to accomplish.

Myth #3: They Take all Our Social Housing

Fact: It has already been mentioned previously that A8 and A2 nationals are not entitled to social housing unless they are in registered/authorised employment or have completed 12 months registered/authorised work (if they are unemployed). In addition to this, more often than not our clients are unsuccessful in obtaining any points towards Social Housing, let alone obtaining a house. **Often, A8 and A2 nationals who are on lower wages and unaware of their rights as tenants, are taken advantage of by unscrupulous landlords. They find themselves paying very high rent for houses that are uninhabitable (due to the cold and damp).** Those of our clients who found themselves in this situation have not been successful in obtaining Social Housing. As the next case study shows, there are other instances when our clients should have been provided with social housing and were not.

One of our more frustrating client situations was when a family of A8 nationals who had been racially harassed, had been unable to secure Social Housing. Despite suffering these violent racist attacks for over five months, even after the perpetrators were found guilty in court, they were not provided with any social housing. Eventually they were provided with monetary assistance from the Housing Executive to rent privately.

In summary...

Hopefully these case studies will have made it easier to relate to the migrant worker individuals/families living in Northern Ireland and to put their lives into an appropriate perspective. During these turbulent economic times, it is easy to think that there may be

better economic opportunities in England, Australia or America that would allow us to be better earners/providers. Whether we decide to make that move or not, remember that these migrant workers have come here with the same aspirations. They work very hard, make many contributions to Northern Ireland and often face great difficulty acquiring the same level of equality local people often take for granted.



Groups of the month

By Mark Donahue, Equality Officer

An Munia Tober

Irish Travellers & Racism

In the last census, in 2001, the number of Irish Travellers in Northern Ireland was 1,709 people. Traveller organisations and Travellers themselves would say that the actual number of Travellers in the North of Ireland is much higher. An Munia Tober Travellers Centre has had a lead role in the recent All Ireland Traveller Health Study, which included a 'Traveller Census' which recorded well over 800 families giving an approximate Traveller population closer to 3,000.

The Traveller community are an indigenous minority ethnic grouping within Ireland, with a distinct culture, history, traditions, language and a nomadic way of life. We have such a rich culture and heritage, but the vast majority of the settled population have very little or no knowledge of this. As a trainer in Travellers culture & anti-racism, I am still shocked as to how little non-Travellers (Settled people) know about our way of life.

We have always considered ourselves an ethnic minority group within Ireland but have only been recognised as such in GB and in Northern Ireland from 1997 (Race Relations Order NI 1997) but still do not have this legal recognition in the Republic of Ireland. The Order states that Irish Travellers are a *"people with a shared history, culture and traditions, including historically, a nomadic way of life on the island or Ireland"*.

However, Travellers continue to be frequent victims of racial discrimination. Both the UK and Irish Governments continue to receive criticism for their failure to address Travellers' accommodation needs, the poor achievement by Travellers in education and the health issues that affect Travellers, resulting in disproportionate mortality rates amongst Travellers when compared to the settled community.

Even though the RRO includes a specific section to protect Travellers as a racial group (a definition of 'Traveller' is provided within the law), many Travellers and Romany Gypsies still face widespread discrimination in all aspects of their daily lives. For example, Travellers find it difficult to gain access to pubs and restaurants, and many are refused bookings by hotels when they discover the client is a Traveller. This is a common occurrence in my local area in West Belfast and Travellers from here now tend to go outside the area to other parts of the city where they are likely to be mistaken for tourists. This type of discrimination is not only an inconvenience to Travellers (while also remaining against the law) but it reinforces an internal feeling by Travellers of being society's 'outsiders'. **The result of this can mean that for some Travellers they are less likely to engage in society and prefer the protection from racism**

and discrimination that ‘sticking to your kind’ can bring. Travellers are then accused of not wanting to participate in society and this illogical scenario perpetuates.

The views of many in society towards Travellers can be quiet shocking. In 2009, The Equality Commission published a survey on attitudes to minority ethnic groups in Northern Ireland.

- Over two-thirds would mind having a Traveller as a work colleague;
- Over half of people questioned (51%) would mind a little or a lot having a Traveller as a neighbour, ten percentage points more than in 2005;
- Over half of people questioned (51%) would mind having a Traveller as an in-law.

The same people who were interviewed for this survey were asked who were treated most unfairly in NI and only 16% said Travellers. Personally, I am not so shocked by these findings, as many of the participants in my courses speak honestly and would agree with the majority view in this survey.

An Munia Tober supports Travellers and their families who face discrimination when it occurs, providing support and guidance, and we do our best to assist them. In 2009, AMT supported a pilot ‘Equality and Human Rights’ training project involving 12 Travellers from across the region. The evaluation of this course highlights the motivation of Travellers to become ‘Community Advocates’ on Travellers human rights issues and to support fellow Travellers where discrimination is perceived to have occurred. However, AMT has no funding for such a valuable service that could empower so many Travellers to support others. AMT has recently made this evaluation available to the 3 Commissions (Equality Commission for NI, NI Commissioner for Children and Young People, NI Human Rights Commission), OFMDFM and the NIO and would welcome their joint support to bring such a service to fruition.

By Donald Bell

The Indian Community Centre (ICC)

The Indian Community Centre (ICC) is possibly the only voluntary and community organisation in Belfast to be housed in a listed historical building. We have occupied the former Carlisle Methodist Memorial Church in North Belfast since 1981, when a group of India Hindus purchased the building to use as a religious, cultural and social centre.

In the early 1980s the small Indian community integrated comparatively well into NI society, thanks to sharing values with the indigenous host community, such as being very family orientated, keen to see their children do well educationally, as well as being hard working and good entrepreneurs that contribute money and jobs to the local economy. At that time many Indians were business owners, either in the textile trade, catering or professionally qualified who lived through the Troubles, having to cope with the daily threat of the disruption or loss of their business due to bombing.

Today, this original Indian population has grown and diversified, as there are now children of Indian heritage born in Northern Ireland, many of whom are in their late teens. A new influx of Indians has arrived in Northern Ireland in the last ten years; they come from all over the Indian sub-continent, joining the mainly north Indian Hindus and Sikhs already settled. South Indians, who are mainly Christian and of a different linguistic identity to north Indians, now number around 800 families across Northern Ireland, being well represented as healthcare professionals. There are also Indian and Pakistani Muslims here as students, medical professionals and in other professions. Indians from all faiths and areas of the sub-continent work in business and IT services. Parts of this highly diverse population are transitory migrants, in a globalised world economy, so that it is difficult to be exact about the size of the Indian population, conservatively estimated as between 6,000 and 8,000 at any one time.

One of the main goals of ICC is to educate the indigenous population about Indian history, culture and needs of specific vulnerable groups, so as to support mutual understandings that improve relations and ensure engagement with the wider community. We organise many cultural visits each year to educate the wider community, including schools, youth clubs, women's associations, public institutions and majority community groups. Our major arts and cultural events are the annual Diwali and Festival of India celebrations, allowing a wide audience to share and engage in Indian culture; these attract up to almost two thousand visitors. We provide a regular programme of religious services in our Hindu Temple, catering for ritual occasions and encouraging visits from Hindu devotees and the wider public, which reflects the status of Hinduism as a major world religion. We have an oral history Heritage project to capture the lived experiences of the first generations of each of these waves of Indian migrants to Northern Ireland, so that a record exists for their descendents and posterity of the founders of their community.

ICC operates as a social centre for Indian Hindus living in Belfast and runs clubs for younger people and senior citizens, to help maintain a sense of belonging to their culture and to provide resources and training that supports their recreation and social development and lifelong learning.

ICC is active politically and seeks to engage with other ethnic minority and majority community organisations, as well as with major statutory organisations, in working for better recognition of the rights of all Indians and to expose and counter discrimination. We have delivered a successful conference in January 2010, on racist Hate Crime, in partnership with the NI Policing Board, to create more public awareness and multiple agency working. We are represented on a wide range of committees and forums such as the Housing Executive BME, Interfaith forums, and the Youthnet BME reference group.

Please visit our website (www.iccbelfast.com) or contact us at our centre, if we can be of service to your organisation or to you in person. You are assured of a warm welcome.



By Mary Lafferty

Omagh Ethnic Communities Support Group (OECSG)

Omagh Ethnic Communities Support Group (OECSG) was set up just over ten years ago as an expansion of an already existing women’s ethnic support group. This was the result of a growing awareness of the increasing number of ethnic families coming to live and work in the Omagh area and a desire to become more involved in helping them to integrate more fully into the local community. OECSG was originally funded by the Millennium Commission and then in 2004 by the Omagh Local Strategy Partnership. A year later we received a three year grant from the Big Lottery Fund which enabled us to employ three full time staff. At present, we are being funded by Peace III, with two full time employees. Our office is located on the ground floor of Omagh Community House.

Originally the majority of our members came from Asian countries such as the Philippines, India and China, but since the expansion of the European Union in 2004 the emphasis of our work has shifted dramatically towards migrant workers who have come to Northern Ireland from Poland, Slovakia, Hungary, Lithuania and latterly Romania and Bulgaria. Altogether there are families from over forty nationalities living in the Omagh area and we estimate that approximately 10% of the population identifies itself as belonging to an ethnic minority community.

The overall aim of our group is to develop and improve the quality of life of the different minority ethnic groups living within the Omagh District Council and surrounding areas. We are committed to delivering support services and training to all our members, to encourage their participation and integration into the local wider community.

To help us achieve this aim we are engaged in the following activities:

1. Under Peace III funding we are delivering cultural diversity training programmes, an anti-racist programme for primary schools in the North West Region, and cultural events aimed at bringing local and ethnic groups closer together. This is in partnership with other ethnic support agencies in the North West.
2. Providing advice services, especially to newly arrived workers and their families. This involves helping people to access health and education services, to complete forms related to benefits, tax credits, national insurance, immigration status etc.
3. Supporting people in their search for employment, helping them compile CVs, providing references, offering training whenever possible.
4. Organising cultural and social events that bring people together within their own ethnic community and also encouraging interracial integration.
5. Providing access to English language classes in partnership with South West College.

6. Liaising with local statutory and voluntary bodies like the PSNI, South West College and Omagh District Council to make the services provided by them more accessible to members of ethnic communities. This includes support in acquiring interpreting and translation services.
7. Acting in an advocacy role for members who feel they have been treated unfairly by employers, public services, or who require support in dealing with complaints against landlords or other service providers.

As the families who came to live here begin to settle more permanently we will be facing newer and different challenges in the years ahead. Due to the current economic climate there has been a sharp decline in the numbers of people coming to live and work in Northern Ireland, especially from the new EU countries. This reality will, no doubt, have a strong bearing on our work and activities over the next few years. **It is imperative that a support infrastructure is in place to help those who remain here and community integration continues, ensuring that everyone within Northern Ireland's society enjoys equality and has their voice heard.**

Next time on Minority Rights Now!

Dear Reader,

We hope you enjoyed this second issue of Minority Rights Now! as well as its new look.

Our summer issue will focus on health issues affecting Black and Minority Ethnic communities in Northern Ireland. Following the extensive report we published in 2004 on the impact of ethnicity on health needs and relevant statutory service provisions in Northern Ireland, we will review our recommendations and assess the progress made in the health sector six years on.

As always, to ensure balanced and varied views on the subject, we will invite guest contributors to share their thoughts, analyses and suggestions for future on-the-ground and legislative actions.

We welcome offers of contributions and suggestions of topics of interest.

For any queries you may have please contact:
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24-31 Shaftesbury Square
Belfast BT2 7DB

Or via our website: www.nicem.org.uk

Thank you for your support.
Till the next time...

We would very much appreciate if you could complete and return the quick questionnaire enclosed to enable us to consistently improve the quality of our publication by taking your views into account.

Announcements

New Charity law and its implications for BME Groups in Northern Ireland

As you may be aware, the new Charities Legislation came into force in April 2010. This will have a significant impact on BME organisations in Northern Ireland. New measures will mean that groups will have greater requirements to fulfill in order to satisfy new legal obligations as enforced by the recently established Charities Commission.

NICEM recently held information sessions in Belfast, Ballymena and Derry/Londonderry to provide advice and support on how these changes will affect BME groups and what measures the organisations should take. We have received very positive feedback and the groups in attendance have reported that they felt the sessions were very helpful.

We are continuing to meet groups on an individual basis if needed and will continue to help and support groups as the new changes come into effect.

For more information you can visit the Charities Commission's website at <http://www.dsdni.gov.uk/ccni.htm>. Please feel free to contact us if you have questions about the new legislation.

equality
understanding
tolerance
change



• Northern Ireland Council

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NOTES



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