

Migration

Introduction

In its report, *Migration in an Interconnected World*, the Global Commission on International Migration noted:

*International migration has risen to the top of the global policy agenda. As the scale, scope and complexity of the issue has grown, states and other stakeholders have become aware of the challenges and opportunities presented by international migration.*¹

Ireland has well and truly shared in this international experience – at first, and for centuries, as a country of emigration and, more recently and at a quite rapid pace, as a country of immigration.

Being relatively recent and rapid, the magnitude of Ireland's new experience of migration is well publicised even if, at times, somewhat exaggerated. However, the diverse forms which migration takes are, on the whole, rarely acknowledged, much less understood. Even the broad categories, *asylum* and *immigration*, so critical when it comes to understanding the relevant rights and responsibilities arising under each, are often merged.

Asylum

In Ireland, with the increase in numbers of people arriving for work or study, there is a growing tendency not to give due recognition to those who, *albeit* in decreasing numbers, come here to seek asylum. Even more serious than this is the not uncommon relegation of people seeking asylum to the category of irregular – so-called 'illegal' – immigrant. A clear and comprehensive understanding of the *right to seek asylum* is a cornerstone of any discussion of migration.

As a signatory to the Geneva Convention on Refugees (1951) and the New York Protocol (1967), Ireland has accepted clearly-defined international legal obligations towards people seeking asylum. Central to this commitment is an undertaking to admit to the country any person who arrives at the borders and asks for asylum. As the United Nations High Commission for Refugees (UNHCR) has pointed out, for a person to have the right to be admitted to a state that is party to the Geneva Convention and facilitated in making an application for asylum, it is sufficient that she or he simply intimates their request, without necessarily being able to express it in clear or accurate words. Statistics from the Garda National

Immigration Bureau show that, in 2004, some 10 per cent of the 4,844 people refused permission to enter this country were categorised as people seeking asylum. That this breach of obligations is not confined to Ireland is obvious from the recent call by a range of non-governmental organisations to European States to develop 'a regime of border controls that is ...in compliance with these States' international obligations'.²

Once in the State, persons seeking asylum have a right to adequate legal and interpretative supports while completing the initial application form and during all the further stages of the asylum process with which they have to engage before a decision is reached on their application. During this process, regardless of its duration, applicants have the right to be provided with accommodation, food and other basic necessities. To meet this requirement, Ireland has put in place a system of 'Direct Provision'.³ From many viewpoints, this is an unsatisfactory arrangement since, in reality, the vast majority of people in this situation would much prefer to support themselves – as they have been accustomed to doing – but cannot, because, unlike most other EU countries, a Government regulation here prohibits them from taking up employment.

Of critical importance, but generally not understood, is the fact that those who apply for asylum are legally in the country while their case is being examined and up to and until a decision is made on their application – when either the person is recognised as a refugee (or given *leave to remain* in the State) or, in the event of their application being unsuccessful, must depart 'voluntarily' or be removed from the State.

While there was a brief but sharp rise in the numbers of new asylum applications in the first years of the new millennium, figures for each of the past two years, 2005 and 2006, are just over 4,300. Given that some 10 to 13 per cent of applicants are eventually recognised as refugees, and with an annual average over the past seven years of 110 people being granted leave to remain in the country, we get a picture of the limited scale of 'successful' asylum applications in Ireland. For the most part, neither public opinion, nor media reporting nor information from official sources accurately reflects this picture.

Neither is it generally realised that upwards of 85 per

cent of refugees in the developing world find a safe haven in neighbouring countries, putting huge strains on these countries' already limited resources. Of the remainder who apply for asylum in the industrialised world, only 1.5 per cent come to Ireland.⁴ While the overall number of 'people of concern' to UNHCR has remained more or less stable in recent years, the proportion of international refugees has decreased and that of people displaced within the borders of their own countries has increased. Few voices are heard asking why this change has occurred. Are there not serious humanitarian and moral questions to be asked about a fortress mentality in the EU and beyond?

Migrant Workers

Ireland's unprecedented and sustained economic growth since the early 1990s has resulted in a dramatic increase in employment opportunities and a continuous demand for migrant workers to fill labour and skills shortages across a range of occupations.

Between the 2002 Census and the 2006 Census, the number of foreign nationals normally resident in the country increased from 224,000 to 420,000 (a rise of 87 per cent), so that foreign nationals now represent some 10 per cent of Ireland's population.⁵

Relatively speaking, nationals of the European Economic Area (EEA)⁶ are the people for whom it is easiest to come to Ireland. Immigrants from those EEA countries with access not only to the State but also to the labour market have a distinct advantage. Because no transparent, sustainable, rights-based, coherent immigration and employment policies, procedures and practices are in place, people who are from outside the EEA, and therefore require one or other type of permit to live and/or to work in Ireland, are faced with an administrative maze. Among the serious obstacles to putting in place comprehensive and just systems is the lack of detailed statistics. While some global figures are available, basic information such as, for example, the number of foreign nationals from the various countries of the EEA working and residing in Ireland is unknown.

A further factor militating against the formulation of a cohesive plan is the assignment of responsibility for immigration in its different aspects to a range of government departments. With no one body having a coordinating role, what results is a range of measures which, for the most part, are unclear, disjointed and inconsistent. As a consequence, potential immigrants are left confused and frustrated by a system for which, without counting the human cost, they pay dearly in terms of both time and money. It is likely that, if not in the short-term, at least in the

medium to long-term, there will be a cost to Ireland also that is both material and human.

The Global Commission on International Migration pointed out: 'In every part of the world there is now an understanding that the economic, social and cultural benefits of international migration must be more effectively realised ...'.⁷

While the *economic benefits* are, by far, those most effectively realised in countries of in-migration, the inadequacies of this uni-dimensional focus are becoming much more evident and much less easy to ignore. Even Ireland, in this context a relatively new player on the world stage, is slowly and somewhat reluctantly coming to recognise that when we look for workers it is human beings who come.⁸ The human person who comes to fill a job vacancy is not just a work-unit – he or she is a person whose needs are not just economic but also social, political, spiritual and psychological. He or she is a member of a family, an immediate and extended family, and belongs to various social networks, is rooted in a culture and a tradition, is a person with ties to home and homeland.

Over the past decade, there have been alarming examples of how employers in Ireland have exploited migrant workers' vulnerability – which can arise because of their position of being here on a work permit, or because they lack a knowledge of the language and of their rights and entitlements. This country faces a continuing challenge to ensure that legislation governing migrants' rights in the workplace – for example, in relation to pay, working conditions and holiday entitlements – are effectively monitored and enforced.

Ireland has been slow also to respond to the reality that many migrant workers do not see their presence here as a short interval during which they earn money to send home, but rather see themselves having a long-term future in this country and wish to be joined by family members. The recognition of the right to family reunification and the need to ensure that processes to enable it are fair and transparent, as well as procedurally prompt and efficient, are critical issues of justice for a country that has come to depend on migrant workers for its continued economic development.

Increasingly, there is a realisation that participation of immigrants and their families in all aspects of life in Ireland must be promoted and enabled. Here, a one-size-fits-all approach is not adequate. To guard, insofar as possible, against discrimination, racism and exclusion, the various societal structures, institutions and services must be re-imagined, re-designed and

resourced in creative ways which respond to the new heterogeneity that characterises Ireland's population today. Above all, if integration is to be a two-way,⁹ dynamic, positive and constructive process, there must be a guiding vision. This vision can be realised only if there are just and transparent policies and procedures in place, with accompanying resources, wholehearted political will and committed leadership to ensure their implementation. All concerned – long-time resident and newcomer alike – must be enabled to be involved, to participate and to contribute to the creation of a society in which the full spectrum of human rights of all persons – persons of great diversity but equal dignity – are respected and are vindicated.

Policy Priorities

With international migration, its challenges and its opportunities, at the top of the global policy agenda, which are the most urgent and important issues to be addressed if Ireland is to have asylum and immigration policies which are rights-based and in accordance with our international legal obligations? Priorities must include:

- Upholding, in full compliance with Ireland's obligations under the Geneva Convention, the right to seek asylum, in the face of the widespread erosion, nationally and internationally, of many aspects of this right.
- Changing the regulation which prohibits people seeking asylum from taking up employment at any stage in the asylum process.
- Regularising the status of people who have been in the asylum system for two years or more without receiving a decision on their application.
- Revising the system for collection of data on migration flows – in a format which would inform policymaking and service provision.
- Signing and ratifying the *UN Convention on the Rights of All Migrant Workers and Members of their Families*.
- Abolishing the Habitual Residency Condition for entitlement to Child Benefit and ensuring that there is an adequate and flexible safety net for migrant workers who find themselves out of work.
- Following up the recent signing of the *Council of Europe Convention on Action against Trafficking in Human Beings* with ratification and putting in place appropriate legislation and services in this area.
- Appointing a Minister of State to have special responsibility for migration and establishing a Government Office to deal in a unified, coherent and consistent way with all aspects of migration policy, procedures and practice.
- Developing a comprehensive policy on integration, founded on a defined set of core values and setting

out the rights and responsibilities of Irish people and of people who have come here as migrants in the creation of a truly intercultural Ireland.

Conclusion

The many difficulties inherent in creating just and appropriate policies and services in the areas of migration and integration should not blind us to the opportunities presented by the evolution of a more diverse and intercultural Ireland. President Mary McAleese has reminded us of the rich possibilities that inward migration brings:

*Today's emigrants to Ireland whether they come from Poland or Nigeria, China or Latvia are helping to replenish the wells from which tomorrow's Ireland will draw its inspiration for the arts, politics, commercial and social entrepreneurship, community building, cuisine, education and much more. Our human links of family and friendship, with parts of the world from which we were historically and geographically removed, are being strengthened day by day, helping us to build global networks of shared memories, shared children, common endeavour and mutual understanding, things which build up rather than diminish our world.*¹⁰

Notes

1. Global Commission on International Migration (2005) *Migration in an Interconnected World: New Directions for Action*, Geneva: Global Commission on International Migration, p. vii. The Global Commission (2003–2005) was made up of nineteen members from all over the world and included Mrs Mary Robinson, former President of Ireland. (www.gcim.org)
2. Address of ECRE Information Officer to UNHCR Executive/Standing Committee, 6–9 March 2007. (Available: www.unhcr.org/excom)
3. Under 'Direct Provision', people seeking asylum are assigned to a hostel where food and accommodation are provided, with a weekly cash allowance (unchanged since introduced in 2001) of €19.10 per adult and € 9.60 per child. Many regulations attach to residence in such hostels and standards vary greatly between hostels.
4. For additional statistics, see 'Asylum Levels and Trends in Industrialised Countries, 2006', on the UNHCR website at www.unhcr.org.
5. Central Statistics Office (2007) *Census 2006: Principal Demographic Results*, Dublin: Stationery Office, p. 25.
6. Countries of the European Union, plus Norway, Iceland and Liechtenstein.
7. *Migration in an Interconnected World*, Preface #1, p. vii.
8. 'We wanted workers, but human beings came', Max Frisch, German sociologist, quoted by Martina Liebsch, Chairperson of the Migration Commission of Caritas Europa at Caritas Europa Migration Forum, El Escorial, Spain, 12–14 June 2003.
9. Interdepartmental Working Group on the Integration of Refugees in Ireland (1999) *Integration: A Two-Way Process, Report to the Minister for Justice, Equality and Law Reform*, Dublin: Department of Justice, Equality and Law Reform.
10. Address by the President of Ireland, Mrs Mary McAleese, 'The Changing Faces of Ireland – Migration and Multiculturalism', British Council, Wednesday, 14 March 2007.
Full text: <http://www.ireland.com/focus/mcaleese/index.html>