



Oxfam/MRN workshop

Supporting the employment rights of migrant workers: Policy issues and community activity

Background briefing for participants

Why do we need to discuss the rights of migrant workers?

Migrants comprise a significant proportion of the UK workforce and make an important contribution to our economy, yet they are some of the most vulnerable and discriminated-against workers in the country.

Economic contribution:

A strong body of opinion amongst researchers shows that migrants – particularly highly skilled migrants – are vital to our economy. A joint Treasury, Home Office and Department for Work and Pensions study in 2007 of the economic impact of all migrants found that they added around £6bn to the UK economy in 2006. Although the value of this contribution, measured as averaged GDP per head of the resident population, has been disputed in the recently published report of the Economic Affairs Committee of the House of Lords, it seems clear that the importance of migration to key, high competition sectors driving overall growth of the economy, as well as less skilled service industries, means that it will remain part of government policy for the foreseeable future.

This will particularly be the case in high skill sectors of employment. In March this year, a study compiled by the Centre for Economics and Business Research (CEBR) concluded that skilled migrants fill skills shortages and without them, Britain's international competitiveness could suffer. It estimated that these migrants already account for 2.5% of the country's workforce and generate more than £36bn for the economy in what they produce.¹

¹-Skilled migrants are vital to economy, study says, Guardian, 25 March 2008
<http://www.guardian.co.uk/uk/2008/mar/25/immigration.immigrationpolicy>

But even those who are not very highly skilled make an important contribution to our economy and services. For example, there are an estimated 105,000 carers from overseas working in the UK, according to 2006 figures. Together they make up 16% of the care sector workforce. Without them, social care experts say our system would crumble.²

Where are migrants working?

Hospitality:

According to the Labour Force Survey, the hospitality sector employed 1.23m people in mid-2006, of whom 21.5% were born outside the UK. Amongst restaurant workers this proportion rises to one-third of the workforce; in hotels, one-fifth; and bars one-twelfth of employees. The British Hospitality Association accounts for this high representation of migrants in the sector as arising from (a) the popularity of ethnic cuisine; (b) the prevalence of 'entry-level' skill grades across the industry; and (c) the view on the part of employers that migrants have more to offer in the workplace than native workers.³

Construction:

The construction industry, requiring by its nature a mobile workforce, has always employed migrants on a large-scale. For over 150 years Irish migrants were the principle reservoir of labour for its manual grades. The industry has seen a 30% increase in output over the past decade, much of which has been driven by construction in the South East region. The migrant component of the workforce, at the level of anecdotal evidence at least, is associated with migrants from the A8 EU countries, though across the UK they are believed to make up only 6% of the workforce. However, this UK total obscures their presence in areas of booming construction work, such as London, where they are believed to represent one-third of employees.

The true figure is also obscured by the importance of self-employment in the industry, accounting for about 40% of construction workers across the country. Self-employed work is frequently sourced by employment agencies, raising a series of important additional factors associated with the often vulnerable position of migrants in the industry. Larger concentrations of migrants from the new EU concentrations, particularly Bulgarians and Romanians, are being held captive because of prohibitions on them entering into formal employment.⁴ The association of agency work with the payment of fees by the workers to secure opportunities for self-employment, which is not lawful in the UK but which is a common practice for

² 'Portraits of respect', Guardian, 26 March 2008

<http://www.guardian.co.uk/society/2008/mar/26/longtermcare.socialcare>

³ Memorandum by the British Hospitality Association to the Economic Affairs Committee of the House of Lords, 2 October 2007.

⁴ See oral evidence provided to the Economic Affairs Committee of the House of Lords by the Construction Confederation, pp 98-113, 'The Economic Impact of Immigration' Vol II: Evidence.

agencies based abroad, is cited by employers as a source of vulnerability for migrants, in addition to difficulties caused by lack of familiarity with employment and workplace regulations.

The Construction Confederation believes that problematic issues arising from the presence of migrants is associated with conditions “south of the M62”, where the industry-wide working rule agreement operated between employers and the three main construction unions, covering wages and conditions, has less force owing to a higher proportion of smaller companies working in a booming sector.

Food production:

A final area of vulnerable migrant concentration is in industries involved in the food production chain, from agriculture and horticulture through to processing and packing. The Commission for Rural Communities (CRC) has noted that rural districts now provide bases for the operation of 30% of businesses in the country. The turnover of rural firms has increased by 10% over the last decade.

Migration into rural districts has been associated with A8 migration, with 120,000 people from the accession countries registering with rural employers during the period 2004 -2006. In addition to this group, nationals of Russia, Belarus and Ukraine made up one quarter of workers on the Seasonal Agricultural Workers Scheme up until 2007, when it was closed to their registration.

The jobs taken on by migrants are acknowledged by the CRC as being “arduous, relatively poorly-paid, and often do not utilise their skills to the full extent.”⁵ Poor levels of English and lack of knowledge about employment rights increase the vulnerability of workers operating in low-skill sectors where employers are themselves under pressure from end-users in the supply chain to reduce production costs to the maximum extent. Limited opportunities on the part of these workers to network with other groups of workers also contribute to the difficulties they experience.

Vulnerability of migrant workers:

Despite the contribution that migrant workers make, many find themselves in an extremely vulnerable situation. This policy seminar focuses particularly on the workplace-related rights of migrant workers, but recognises it is difficult to isolate them from other factors such as poor language skills, isolation, experience of racism and lack of group organisation

There is evidence suggesting high levels of exploitation in the workplace and denial of the rights that many indigenous British workers take for granted. Research conducted on behalf of the Health and Safety Executive in 2006 pointed to structural

⁵ Evidence from the CRC to the Economic Affairs Committee, House of Lords.

features that sustain this vulnerability and impact particularly on health and safety issues.⁶ These include:

- Relatively short periods of work in the UK;
- Limited knowledge of the UK's health and safety system;
- Different experiences of health and safety regimes in countries of origin;
- Motivations in coming to the UK, particularly where these are premised on earning as much as possible, in the shortest possible time;
- Ability to communicate effectively with other workers and with supervisors, particularly in relation to their understanding of risk;
- Access to limited health and safety training and their difficulties in understanding what is being offered, where proficiency in English is limited;
- Failure of employers to check on their skills for work and on their language skills;
- Employment relationships and unclear responsibilities for health and safety, in particular where workers are supplied by recruitment agencies or labour providers or are self-employed; and
- Lack of knowledge of health and safety rights and how to raise them, including knowledge of the channels through which they can be represented.

Further evidence about migrant vulnerability has been compiled by the Churches Rural Group⁷, the Citizens' Advice Bureaux⁸, and the TUC.⁹ Typical of the issues detailed by these groups include:

- Exploitation by some employers, for example:
 - low wages (below minimum) or non-payment of wages
 - excessive deductions for accommodation, transport
 - denial of employment rights to eg holiday, sick leave and pay, working hours, maternity leave, right to written statements of terms and conditions, itemised pay slips
 - illegal dismissals, eg for pregnancy
- low awareness of their legal rights
- lack of information about their employment (and other) rights
- lack of joined-up support in claiming them and getting advice

Research commissioned by the TUC and undertaken by COMPAS, a research unit based at Oxford University, underlined these concerns. It revealed that thousands of Polish and Lithuanian workers are being exploited at work in the UK. The research uncovered a range of abuses, particularly around pay and conditions: ten times as

⁶ Migrant Workers in England and Wales ó an assessment of migrant worker health and safety risksø Dr Sonia Mackay, Marc Crow, Deepta Chopra, HSE Books, 2006.

⁷ -Rural Migrant Workers ó Modern Slavery?ø Churches Rural Group
http://churchesruralgroup.org.uk/papers/crg_migrant_workers_leaflet.pdf

⁸ -Nowhere to turn ó CAB evidence on the exploitation of migrant workersø
<http://www.citizensadvice.org.uk/nowhere-to-turn.pdf>

⁹ See the website of the TUCø Commission on Vulnerable Employment (CoVE)
<http://www.vulnerableworkers.org.uk/about/what-is-vulnerable-employment/migrant-workers/>

many migrant workers as indigenous workers were paid less than the national minimum wage and nearly a quarter of migrant workers interviewed by Compas reported having no written contract.

The study also found migration had re-introduced the 'tied cottage' - where employers provide accommodation (at a cost) and use it to increase their control over migrant workers.¹⁰ 31% of those surveyed were living in accommodation that was found for them or provided for them by an employer and these living conditions were often very poor. Over 40% of those working for more than 48 hours a week were in accommodation provided through their employer.¹¹

What is being done to support migrant workers?

Various measures to support migrant workers have been implemented by bodies including trade unions, government agencies and voluntary groups. But, the level of support available to migrant workers can differ hugely depending on which country they come from and which area of the UK they are located in.

A wide range of actors has been drawn into efforts to support migrant workers across the country. These range from the work being done by trades unions to recruit and represent migrants in the workplace; community-led initiatives often led by people active in church and other faith communities; and government agencies such as the HSE and the GLA to the work being done by the devolved governments, local government and regional development agencies; and in some instances by employer associations.

Trade Unions:

This work has tended to emerge on a sectoral basis, driven by the specific association of the organisation with the situation of migrant workers as it occurs in each area. Trades unions are driven by the logic of workplace solidarity to seek to include migrants in their activities. The fact that they are dealing with migrants requires the adaption of traditional approaches to recruitment and representation to take into account such issues as the language and cultural backgrounds of the new workers. The TUC Portuguese Workers Project initiated work along these lines, bringing in union organisers from Portugal to assist them in the preparation of recruitment material and in approaching potential members. This work continues in different parts of the country, notably by GMB organisers in Norwich and Boston. Similar work has been developed with Polish migrants, making use of contacts with trades unions in Poland to get across basic messages.

¹⁰ -Study reveals exploitation of migrant workers, TUC news release, 7 September 2007

¹¹ All figures taken from *New EU Members? Migrant Workers' Challenges and Opportunities to UK Trade Unions: A Polish and Lithuanian Case Study*, Bridget Anderson et al, September 2007

Community-based groups:

Initiatives supporting migrants often emerge from community-based groups concerned about the welfare of newly arrived people. Churches have been prominent in this area of work, with regional chaplaincy groups developing strategies aimed at building bridges with potentially vulnerable people. In areas like Lincolnshire this has developed into an extensive project involving a wide range of groups concerned with employment issues and the situation of migrants in the community.¹²

Government departments and agencies:

Government departments and agencies have also developed in recent years with a focus on the situation of migrants. The Health and Safety Executive has commissioned extensive research on the workplace risks to migrants and runs a multi-language advice line for people seeking advice or reporting potential violations of health and safety regulations.

The Gangmasters Licensing Authority, established by legislation in the wake of the Morecambe Bay tragedy of 2004, has played a role in policing the role of labour providers in the agricultural sector. It has begun to develop an approach to the protection of labour rights, which has the potential to be transferred to other sectors where the role of employment agencies is prominent on organising the supply of labour to employers.

Other government agencies have conducted research into the predicament of migrants. In the West Midlands ACAS has given consideration to the ways in which its arbitration and conciliation service might be made more useful to workplaces employing migrants. The Department for Business, Enterprise and Regulatory Reform (DBERR) has continued the work of its predecessor government department, the Department for Trade and Industry, in looking at the ways in which business regulation can be made more sensitive to issues affecting vulnerable migrants, and the work of employment agencies.

Employers:

Employers have also played a role in pressing for higher standards in some employment sectors. 'Immigration Matters' – a company advising employers on issues concerning the recruitment of migrants – came to the forefront in a recent campaign to protect migrant workers in residential care homes whose security had been undermined by changes initiated by the Home Office to the work permit scheme. Acting as a lobby group in support of the sector's concerns about the loss of legal immigration status for thousands of care workers, the campaign, initiated by Immigration Matters, succeeded in extracting some important concessions for the workers. Similarly, employers in the Chinese restaurant sector have formed the

¹² For work in Lincolnshire, see <http://www.migrantworker.co.uk/>

'Chinese Immigration Concern Committee' to lobby the authorities on changes to the immigration rules, which they see as adversely affecting the position of workers in the industry.

Research and analysis:

The rapidly changing social and economic conditions in parts of the country where migrants are arriving has increased the importance of research and analysis for many organisations. Devolved government and local and regional authorities alike have undertaken basic research into the situation of migrants in their areas, often working with academic research centres and local NGOs to improve their knowledge of the situation on the ground. This material is available to assist a wide range of organisations in the tasks of planning public service provision and promoting social cohesion strategies. It has an important bearing on the conditions of work of migrants in each region also. In some areas this work has taken the form of a clearly defined project, aimed at driving networking and collaboration between a wide range of groups involved with migrants. The North West Regional Development Agencies work in promoting the Migrant Workers North West Project is one example amongst several of this type of work¹³.

A partnership approach?

The question which needs to be posed is whether a more joined up approach between the work of these different groups and agencies is possible and which will have the effect of amplifying the value of the activities taken by any one group. If there is agreement across the range of organisations that closer cooperation between the various civil society actors and the appropriate government authorities and agencies could yield better results, the question is what sort of strategy is needed to build up this approach?

Spontaneous examples of partnership have emerged in a number of areas, with the initiatives in the North West and Lincolnshire already cited, but to which could be added work in the Valleys districts of South Wales, and a number of networks that have emerged in Northern Ireland, Eastern England, and South West England. What has been learnt from these disparate experiences that might allow the formulation of some practical principles guiding the work of partnerships supporting the rights of migrants?

Discussion about the need for a 'partnership approach' is still at a very basic stage. A tentative outline of the issues that would be brought together by projects seeking partnership would include:

- **Building up a research capacity at local level:** The involvement of local universities in research activities should be investigated. Such research should be guided by project committees representing key groups, and orientated

¹³ <http://www.migrantworkersnorthwest.org/>

towards practical questions about the position of migrants in the local workforce.

- **Outreach to the migrant communities:** The need here is to build on the advice services such as CABs and other local groups, and enhancing their capacity to produce material – leaflets and brochures, DVD's, etc – directed at the specific needs of migrants.
- **Strengthening the capacity of unions to organise and represent migrants:** The positive message about the advantages of trade union membership needs to be taken up and amplified across all community groups, local government, and agencies.
- **Utilising the resources of local and regional government to promote greater protection for migrants:** The dimension of migrants and their position in local communities needs to be built into race equality and social cohesion strategies, and plans for economic development and renewal.
- **Building migrant confidence in the capacity of government agencies to act on their behalf:** The effectiveness of government agencies in acting against employers paying below minimum wage rates or violating health and safety regulations can be limited by the absence of trust on the part of migrants. Community-based partnership projects have the potential to address this and to build confidence in the capacity of the agencies to act in their interest.
- **Building links with local communities:** Clear bridge-building strategies need to be developed to join migrant interests with the needs of resident communities for better quality services and the protection of workplace rights.
- **Building migrant leadership:** Strategies need to be developed which will bring migrant community networks into the centre of discussion and activities and build their capacity for leadership and enterprise.
- **Local media strategies:** The partnerships should consider at each stage the messages they want to see presented in the local media and build up strategies for delivering them.

These ideas are intended as initial suggestions as to how projects could build on the body of work and experience that now exists across the country and integrate this into a new stage of concerted activities. Further steps might involve the establishment of pilot projects in areas where work is already established to see how the partnership approach could be further developed into the direction of a robust approach to the issues. Ideas on how this might happen will be sought from the workshop on the 30th April.

14th April 2008

APPENDIX

FURTHER NOTES ON ORGANISATIONS AND AGENCIES WORKING ON MIGRANT WORKER-RELATED ISSUES

Trade Unions:

Trade unions have implemented a range of measures to support migrant workers. The **TUC** has established a Commission on Vulnerable Employment (COVE) to look into the issues surrounding vulnerable employment, including the position of migrant workers and is expected to produce its final report in the course of 2008.

The South West branch of the TUC has taken a leading role in highlighting vulnerable workers and in working with migrant workers through unions and voluntary and community organisations such as Polski Bristol.

Unite and the **GMB** have also taken a series of actions to support migrant workers. Unite hold ~~know~~ your rights events and the GMB are calling on government to stop the trafficking and exploitation of migrant workers.

Government Agencies:

The **Vulnerable Workers Enforcement Forum** brings together front line unions, workplace enforcement agencies, business groups and advice bodies to look at the evidence about the nature and extent of abuse of workplace rights. It addresses whether abuses are being tackled effectively through existing enforcement and support mechanisms, and move on to consider whether improvements or new approaches are needed to raise compliance without increasing burdens for good employers.

The **Health and Safety Executive** commissioned research into risks faced by migrant workers and is taking steps to implement the findings and make the workplace safer for migrant workers. Its temporary and migrant project group aims to reduce levels of risk, injury and ill health experienced by casual and temporary migrant workers or other vulnerable workers in agriculture, horticulture and related on-farm food processing sectors through the provision of authoritative guidance.

Voluntary sector:

Migrant Gateway is a website operating out of the East of England that provides access to information advice and guidance for existing and potential migrants as well as service providers, employers and trade unions. Its training resource will provide ongoing and developmental courses around legislation and other issues which impact on migrants.

Immigration Matters is an online resource for migrants, providing information on issues relating to arriving and accessing advice in the UK, including a newsletter updating on government action on migration.

The **Southampton Polish Drop-in Centre** - SOS Polonia - provides a range of support services for Polish migrants including English classes, a tax surgery and sessions with a Polish-speaking psychologist.

Health and Safety Executive

Government body responsible for protecting people's health and safety through ensuring risks in the changing workplace are properly controlled and enforced by the HSE and local government.

ACAS

Aims to improve organisations and working life through better employment relations. Works with employers and employees to solve problems and improve performance.

Unite

Unite is the largest union in the United Kingdom, with over two million members in the public and private sectors.

Citizens Advice

Helps people resolve their legal, money and other problems by providing free information and advice from over 3,000 locations, and by influencing policymakers.

Chinese Immigration Concern Community

Campaigns for changes in immigration laws and policies to make them more sensitive and appropriate to Chinese communities in the UK.

South West Region TUC

Represent the TUC by supporting TUC campaigns and objectives and seeking the views of trade unions in the South West region.

Lincolnshire Chaplaincy Services

LCS is an ecumenical organisation established to oversee the work of sector ministers who serve within the contexts of large and small scale industry, retail and town centres, local authorities, and education institutions.

National Minimum Wage Inspection Compliance Unit

The NMWICU is a part of HM Revenue and Customs. Its inspectors receive complaints about employers who are alleged to be paying below minimum wage rates and to visit a sample of employers each year to check compliance.

GMB

A campaigning trade union focused on protecting its 600,000 members in their workplaces. It is a general trade union, open to all.

Immigration Matters

Online information resource for migrants on issues relating to arriving and accessing advice in the UK.

Gangmaster Licensing Agency

Works to curb the exploitation of workers in the agriculture, horticulture, shellfish gathering and associated processing and packaging industries. There are currently 1155 gangmasters licensed by the GLA.

UK Border Agency

An executive agency of the Home Office, the BIA is responsible for controlling our borders and managing immigration in the UK. It considers applications for permission to stay, citizenship and asylum.

Oxfam

Oxfam works with others to overcome poverty in the UK. We work directly with migrant workers, homeworkers and other low-paid or part-time workers to ensure they know and can claim their rights, and campaign to ensure government and employers enforce these rights.

Migrants' Rights Network

A national network of organisations working in support of the rights of migrants. It's involved in research, the promotion of policy discussion, lobby and campaigning for a stronger rights-based approach to immigration law and policy.

Southampton Polish Drop-in Centre

SOS Polonia exists to help Polish migrants share knowledge and experience and provide mutual support. It provides a range of services including English classes.

Valleys Race Equality Council

A voluntary organisation committed to working towards eliminating racial discrimination and campaigning for equality of opportunity.

Overseas Nurses Network

Provides an opportunity to meet and get to know other nurses from overseas and also provides information and support.

UNISON

UNISON is Britain and Europe's biggest public sector union with more than 1.3 million members.

Empowering Asylum Seekers to Integrate Development Partnership

Aims to combat discrimination in the labour market and contribute to the social and vocational integration of asylum seekers by enabling them to acquire skills in preparation for employment.

Vulnerable Workers Enforcement Forum

Brings together front line unions, workplace enforcement agencies, business groups and advice bodies to look at evidence about the nature and abuse of workplace rights, and addresses whether these abuses are being tackled effectively.