

Distinguished Delegates, Ladies and Gentlemen,

In his address to the Houses of the Oireachtas in 1963, then US President JF Kennedy quoted a line from the Irish poet Ethna Carbery: *"They are going, going, going, and we cannot bid them stay."*

I doubt that there are many families in Ireland who have not been touched by emigration, as many of our young people migrate in search of work and better opportunities.

As the recent European elections demonstrate fair migration is an issue of real significance, not only to Skype parents and grandparents but also to workers and their trade unions who have for some time now voiced concerns about the way in which EU rules are creating a race to the bottom led by competition based on lower wages and conditions of employment for 'posted' crossed border EU workers.

Decent Work is central to fair migration and fair migration is central to the fight against xenophobia and racism.

Fair migration means a level playing field where, as a minimum, the host countries' employment rights apply to all workers regardless of their immigration status.

The recession in Ireland, as elsewhere in Europe, has had a greater negative impact on migrant workers. Partly this is due to the impact of the recession on certain sectors: for example the property bubble led to a disproportionate share of migrant male employment becoming concentrated in the construction sector, and its subsequent collapse led to a sharp drop in employment for those migrant workers.

Pre-recession disadvantages and discrimination, which were considerable for some migrant groups, have persisted and some communities have been particularly badly affected. I accept that the extent of discrimination is challenging to quantify but it is hard to argue that discrimination is not a factor behind the fact that black African workers are over four times more likely to be unemployed compared with white Irish colleagues.

Some exploitative trends have emerged. One of these is exacerbated by the employment permit system that leaves much of the control of the permit in the hands of the employer. There is evidence that points towards vulnerable migrant workers being actively targeted to fill certain jobs with exploitative working conditions.

Seeking redress on foot of that exploitation also raises a range of structural problems.

Making a complaint against an existing or former employer is a daunting and formidable step for any person to take, irrespective of their nationality, but for isolated migrant

workers, especially undocumented workers, this is particularly difficult as they may face intimidation in various forms, including threats of deportation, and threats to their families.

A core issue of concern are two recent court cases in Ireland that have set back the rights of irregular migrant workers.

In the first case, the High Court has ruled against undocumented workers being entitled to their back wages (*Hussein -v- The Labour Court and Mohamamah Younis* [2012]). This case involved a situation of the most appalling exploitation, of seven days a week work, pocket money pay and no holidays and in respect of which the worker has no effective recourse.

A second case (*Lin -v-Governor of Cloverhill Prison & Othrs* [2014]) involved a ruling that workers in situations of forced labour are guilty of criminal activities even when they have been compelled to perform these activities. This case involved a man from China in a situation of forced labour growing cannabis.

But even where the workers win their case and are made an award for redress, the bad employer has one last trick: they simply cease trading in the name of that company and frustrate the employee from being able to enforce the award. This problem is likely to get far worse if the proposals for single person limited liability companies go ahead without any safeguards to hold Directors responsible for the wages of their workers.

We currently have a situation in Dublin where a number of migrant workers are on the 13th day of a sit in at their workplace – the Paris Bakery – having been forced to do so in order to secure payment of some 100,000 in unpaid wages due to them. They should not have to do this to win what they are owed.

Labour is not a commodity and for many the week's wage is all that stands between the worker losing their home and being able to feed their family. I think that policy makers, focussed on company law, forget this or ignore this too easily.

The Irish Congress of Trade Unions encourages the Director General to include in his consideration what measures are needed to ensure that worker exploitation and employment rules evasion do not accompany labour migration and cross-border service provision, in particular the mechanisms that are needed to secure redress for the migrant workers and the measures needed to effectively address the problems faced by irregular migrants.

Importantly consideration needs to be given to what measures can be taken to adequately promote the inclusion of a Decent Work in international trade agreements, including the development of a Social Progress Clause aimed at providing safeguards against potentially

negative economic and social repercussions and requiring the promotion of the labour standards of the International Labour Organisation (ILO).

Finally I would like make the Director General aware of an important breakthrough in relation to proper respect for the right to collective bargaining in Ireland. The Government has agreed to bring forward legislation that will include effective protections to prevent the dismissal or other prejudicial retaliation by employers against workers who seek to collectively bargain through a trade union. This will go a long way towards ensuring that migrant workers can exercise their right to collective bargaining.

Irish Congress of Trade Unions

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