

ASYLUM SEEKERS RIGHT TO WORK – IMPLEMENTING THE SUPREME COURT RULING

Input by David Joyce 21 September 2017

Let me begin by congratulating City of Sanctuary Dublin, your Chairperson, Andy Pollack, and Tian (along with the IRC and the ICI) for organising today's important event and to thank you for the invitation to speak on behalf of the [Irish Congress of Trade Unions](#). For those of you who don't know us, we are the largest civil society organisation on the island of Ireland, representing and campaigning on behalf of some 723,976 workers, of whom 527,048 are in the republic and 196, 928 in Northern Ireland, over 50% of whom are women. There are unions for all groups of workers; industrial, professional, managerial, clerical or general labourers. There are 44 trade unions affiliated to Congress in 2017

I note the twofold aim of this conference:

1. To bring some pressure to bear on the government to implement in a humane and effective way the Supreme Court's May ruling that the current ban on asylum seekers working is unconstitutional;
2. To assist those policy makers charged with changing law and policy in this area with some constructive ideas.

Hopefully my brief contribution will assist in that regard – although probably more to the former aim.

I only recently became aware of the Places of Sanctuary Ireland movement when I was put in touch with Tian by Hassina in the IRC in order to access some speakers from the Asylum seeker community for a couple of events we were organising. Thanks to Tian, over 250 trade union delegates got to engage directly with three remarkable women who very courageously laid out their stories to the rapt attention of those gathered and I hope will agree, received very warm and friendly reception from all present. It certainly was a useful experience for us and hopefully for those three courageous women also. Relationships and friendships were forged which will hopefully enrich on both sides into the future.

I can say with hand on heart that the issue that sparked most conversation on those occasions was the absence of the right to work for asylum seekers. Somewhat surprisingly, some delegates were simply not aware of the lifestyles imposed by our direct provision system and absolutely horrified at the lack of the right to work.

It is almost 20 years since this issue came on the radar of Congress and indeed many of us in Ireland as the number of asylum seekers grew in the late 1990s. In a position paper adopted by the Executive Council of Congress back

then, Congress noted that one of the main shortcomings of the then Refugee Act, 1996 was that it prohibits asylum seekers from taking up employment. (At least 6 European Union countries (the UK, Spain, Sweden, Germany, Belgium and Finland) allow asylum seekers to work after various periods of time – and note today that we are still out of step with many EU partners). We went on to write to the then Minister for Justice, Equality and Law Reform

- ◆ expressing serious concern about the current procedures for dealing with asylum applicants,
- ◆ calling for a speedy, independent and fair asylum process
- ◆ And, seeking the introduction of a policy to allow asylum seekers the right to work and study after six months

In 2000, a Congress Submission on refugees and asylum seekers to the Minister for Justice, Equality and Law Reform, reiterated that call, noting how research had clearly illustrated that the right to work is essential for a number of reasons including adequate income, feeling of worth and human dignity, interaction with local communities and challenging stereotypes to which asylum seekers are subjected. Congress considered then, and still holds the position today, that the current situation is totally unacceptable and reiterates its demand that the right to work be extended to all asylum seekers within six months of their original application.

More recently, following a visit to the refugee camp in [Calais](#) in

September 2016, a working group was established to coordinate trade union work in this area.

With support from IMPACT and SIPTU, Gansee Films produced a short documentary ***The Jungle of Calais***. This looks behind the humanitarian situation to the needs, fears and hopes of those seeking a safe haven in Europe. The film was launched on the February 8, 2016 in Temple Bar with speakers from Oxfam and Amnesty International and is now available to watch on the Congress [YouTube channel](#).

Through the Global Solidarity Committee, the working group has written to affiliates to encourage them to organise events or a screening of the film at their conferences to create awareness amongst trade unionists on the role of unions in addressing the needs of those fleeing conflict and persecution.

Together with other groups the Committee campaigned with the 'Not on Our Watch' campaign to request the Irish government to give refuge to 200 unaccompanied minors from the Calais Refugee Camp. A cross-party motion was subsequently adopted in the Dáil on this and I know that Tusla – the Child and Family Agency – are committed to implementing the Government's decision to accept separated children who previously lived in the unregistered refugee camp in Calais. Progress on this has been painfully slow and the group continues to work to have it implemented. The working

group is continuing to nurture the relationships it has built through this activity with organisations such as Oxfam, Amnesty Ireland, Irish Refugee Council and others in this room. There are plans to develop a 'welcome pack' for programme refugees and those leaving the direct provision system, which will provide information on rights at work, including the right to join a union – something I will return to before I finish.

Other unions have organised other initiatives, including:

- A PSEU Diversity Forum on Refugees in December 2016;
- An IMPACT table quiz to raise funds earlier this year – and coincidentally, the actor Liam Cunningham will appear in a special event in IMPACT's offices this to be presented with a cheque for World Vision €8,000 raised by the IMPACT Young Members group for the charity at their 'Great IMPACT Quiz' in May;

And the working group is currently updating the Congress policy position on the 'Right to Work' for Refugee and Asylum Seekers, which will be submitted to the Congress Executive Council before Xmas. I want to acknowledge the leadership of Yvonne O'Callaghan of SIPTU on this work.

This will include a proposal to join with the European Trade Union Confederation in joining the UNHCR, the UN Refugee Agency, [#WithRefugees Campaign](#) in order to further

demonstrate our commitment in support of refugees and their full integration in society.

In 2018 world leaders will come to the UN to agree on a more just way of managing the global refugee crisis. This agreement, called the [Global Compact for Refugees](#) is (or should be) all about sharing responsibility; where all parts of society stand together #WithRefugees. It is against this backdrop that the UNHCR has launched the #WithRefugees [Campaign Petition](#), which asks leaders to ensure that:

- every refugee can work or learn new skills to support their families
- every refugee child gets an education; and
- every refugee family has somewhere safe to live

The [ETUC](#) were also involved in a March 2016 joint statement with employer representative organisations in Europe on the refugee crisis which included references to the need for integration of asylum seekers and refugees into the labour market.

They have consistently condemned the shameful agreement with Turkey, as they have the recent development that Europe is going to pay also the barely-existing Libyan Government to keep refugees and migrants away from our borders. Thousands of them are stuck in Greece, in Italy and the Balkans, or are

blocked in inhuman conditions in camps and prisons in North Africa, where they suffer violence, persecution and death. Most EU countries simply refuse to take in their fair share of these desperate people, and refuse even to accept the refugees they agreed to accept. It's a humanitarian crisis simply kept out of sight, to please voters instead of building a positive narrative on the contribution and potential that migrants bring to the European economy, labour market and society.

In the meantime, the possibility of reforming the EU Asylum System is nil. Despite the announcement of the Prime Ministers of France, Germany, Italy and Spain who recently met in Paris, the Commission knows that little room for manoeuvre exists in the Council to reform the Dublin Regulations. The ETUC would consider it a huge mistake to abandon the legislative proposals submitted more than one year ago for a genuine EU Asylum Policy.

NGOs, trade unions, and even the United Nations, are denouncing the European Union for not having a policy for migration and for breaking international rules and conventions, but nothing happens. For sure we will never give up in denouncing this scandalous situation, and will continue to call on the Commission and Governments to take responsibility.

We are also affiliated internationally to the International Trade Union Confederation ([ITUC](#)) which works at UN level –

particularly at the International Labour Organisation. In difficult circumstances, they have successfully negotiated positive references to access to the labour market for refugees and asylum seekers, not least in the July 2016 "[Guiding principles on the access of refugees and other forcibly displaced persons to the labour market](#)" which set out principles to support Members on the access of refugees and other forcibly displaced persons to the labour market and to assist those Members impacted by these situations, in providing responses that meet the needs and expectations of host communities, refugees and other forcibly displaced persons. It goes on to ask Members to formulate national policies to ensure the protection of refugees and other forcibly displaced persons in the labour market, including in respect of access to decent work and livelihood.

And adds that "National policies and action plans should be formulated in conformity with international labour standards, decent work principles, humanitarian principles, obligations under international law, including human rights law and refugee law, as applicable and in consultation with labour ministries as well as representative employers' and workers' organizations".

Finally, Congress [welcomed](#) the May 2017 decision by the Supreme Court in the case of *NHV v Minister for Justice and Equality* on the right of an individual living in direct provision to earn a livelihood. The Supreme Court ruled that, in

circumstances where there is no time limit on the asylum process, the absolute prohibition on seeking employment under the Refugee Act 1996 is contrary to the constitutional right to seek employment.

It has been Congress policy for almost 20 years that that the right to work for asylum-seekers is essential for reasons outlined earlier. Congress believes the current situation is totally unacceptable and reiterate our demand that the right to work is extended to all asylum seekers **within six months of their original application**. Eligibility to attend ETB courses and the right to English language classes to prepare people for the job market should also be extended to asylum seekers.

Finally, the Irish Government played such a positive role in the negotiations that lead to Agenda 2030 and the Sustainable Development Goals in New York 2 years ago. Crucially from our point of view, these include [Goal 8 – Decent Work for All](#). The ILO Decent Work agenda is defined as follows:

“Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men”

In integrating asylum seekers and others into our labour market, it is to all of our advantage – workers and their trade unions, decent employers and society at large, that this be done on a level playing field, in line with labour standards.

Can I extend an invitation to any asylum seeker / refugee who does access the labour market to join the trade union movement in that regard. As our strapline says – we are “Stronger Together”.

And can I encourage the Government to act bravely in line with the supreme court ruling so that when undergoing our voluntary national review in New York next July under the Agenda 2030 monitoring process, we can speak about having changed the lives of Asylum seekers in that regard in our country.

Many thanks for listening.

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