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UCD SCHOOL OF POLITICS AND INTERNATIONAL
RELATIONS

*The evolution of immigration legislation and policy in
Ireland*

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'Givens' 1

- A mono-ethnic, mono-cultural society?
 - Culture of emigration
 - Economic development at any cost
 - The Ireland/UK Common Travel Area
 - The EU context
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'Givens' 2

- We are economically dependent, for better or for worse, on what we can produce and sell to the wider world. A reasonably investment-friendly environment, tempered by social partnership, is a feature of a consensus-based approach to economic planning and development and to political, economic and social issues generally.
- However Swedish-style 'social engineering' would not fit with Irish culture
- The rapid growth experienced by the economy since the mid-1990s has come to depend in part on high rates of immigration. Moreover, immigrants are present in every sector of economic activity, including those which impact most directly on the social fabric of our society.
- Immigrants are here to stay. Not all *will* do so; but many will. Their presence and that of their children, as socially and culturally as well as economically active beings, will have a permanent effect on the character and identity of Irish society.

Approaches to migration in Ireland

- **Economic pragmatism:** a laissez-faire approach to labour market needs, with the emphasis on flexibility at all costs. **Mainstream view**
- **Human rights concerns:** the search for a humane, transparent, just, inclusive and permanent migration system, embracing the social as well as the economic challenges to Irish society. **Minority concern**
- **An 'open-door' approach,** which has been promulgated only by a small number of individuals and NGOs. **Minority concern**
- **Highly regulatory and restrictive approaches** motivated by poorly-defined concerns about the perceived dangers of excessive in-migration, undocumented migration and related issues of terrorism, the 'Islamist threat' and control. **Minority concern but growing**
- **Xenophobic approaches** informed by a reactionary desire to maintain the alleged 'homogeneity' of Irish society. **Minority concern but growing**

- The above notwithstanding, there **is as yet no significant, explicit 'anti-immigrant' party or movement** in Ireland **Immigrants themselves** are rarely heard. **Increasing organisation.**

- **Historical background**
 - **Immigration**
 - **Integration**
 - **Outlook**
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Historical background

Historical Context

- Inclusive 'universalist' tradition of republicanism in 1798 United Irishmen rebellion gave way in part to 19th century nationalism of more traditional kind, stressing cultural identity, language, religion. Defining characteristics of Irishness: genealogy, land, exclusion.
- Independent Ireland espoused economic autarky. Inward looking, isolationist
- Indigenous 'other' – Travellers – badly treated; still are. Minorities e.g. Protestants, Chinese, Jews, expected to 'know their place'
- Colonisation meant that the State was impoverished and marked by under-investment, culture of failure and/or under-achievement. Climate was repressive: censorship, patriarchy, bigotry
- A culture of emigration. Strong ideology of victimhood especially concerning Famine and emigration
- Major European social, political and economic trends of first half of 20th century largely passed Ireland by (WW1 and WW2, social and cultural change, secularisation, (post) colonial immigration...)

Historical Context

- Commonwealth period
- CTA from 1950s
- Alignment with Home Office
- Limited parliamentary scrutiny; most policy questions regulated at departmental level
- Fundamental legislation (Aliens Act 1935; Aliens Order 1946) draconian, even if modified over time by custom and practice

Modernisation

- 1950s: bleakest period. The 1956 Hungarian refugees.
- Shift in emphasis at end of 1950s: Foreign Direct Investment (FDI), social and cultural opening, modernisation
- Period of growth and ultimately major social change
- 1973: EEC membership a turning point; boom years and rapid change
- 1980s: painful economic restructuring, return of high unemployment and emigration
- 1990s: the 'Celtic Tiger' period; return migration, immigration

Migration after the 1960s

- Common Travel Area with Britain a key in influencing Irish policy, immigration as much as emigration. Department of Justice and (UK) Home Office have close relations
- Post-EEC boom 1973-78 was short-lived but did attract some return migration by skilled migrants and their families
- Emigration roared back in the 1980s; failure of economic policy combined with arrival of new generation of baby-boom children of 1960s onto shrinking job market
- ‘Counter-cultural’ migration on modest scale in this period.
- 1990s: radical change

Mid-1990s

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- Along with Denmark, one of the most homogenous societies in EU
 - Migrants largely from English-speaking world; smaller numbers from other EU countries
 - Little experience of multi-ethnicity as a reality or challenges of living with diversity
 - No policy or infrastructure, especially regarding integration
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Immigration

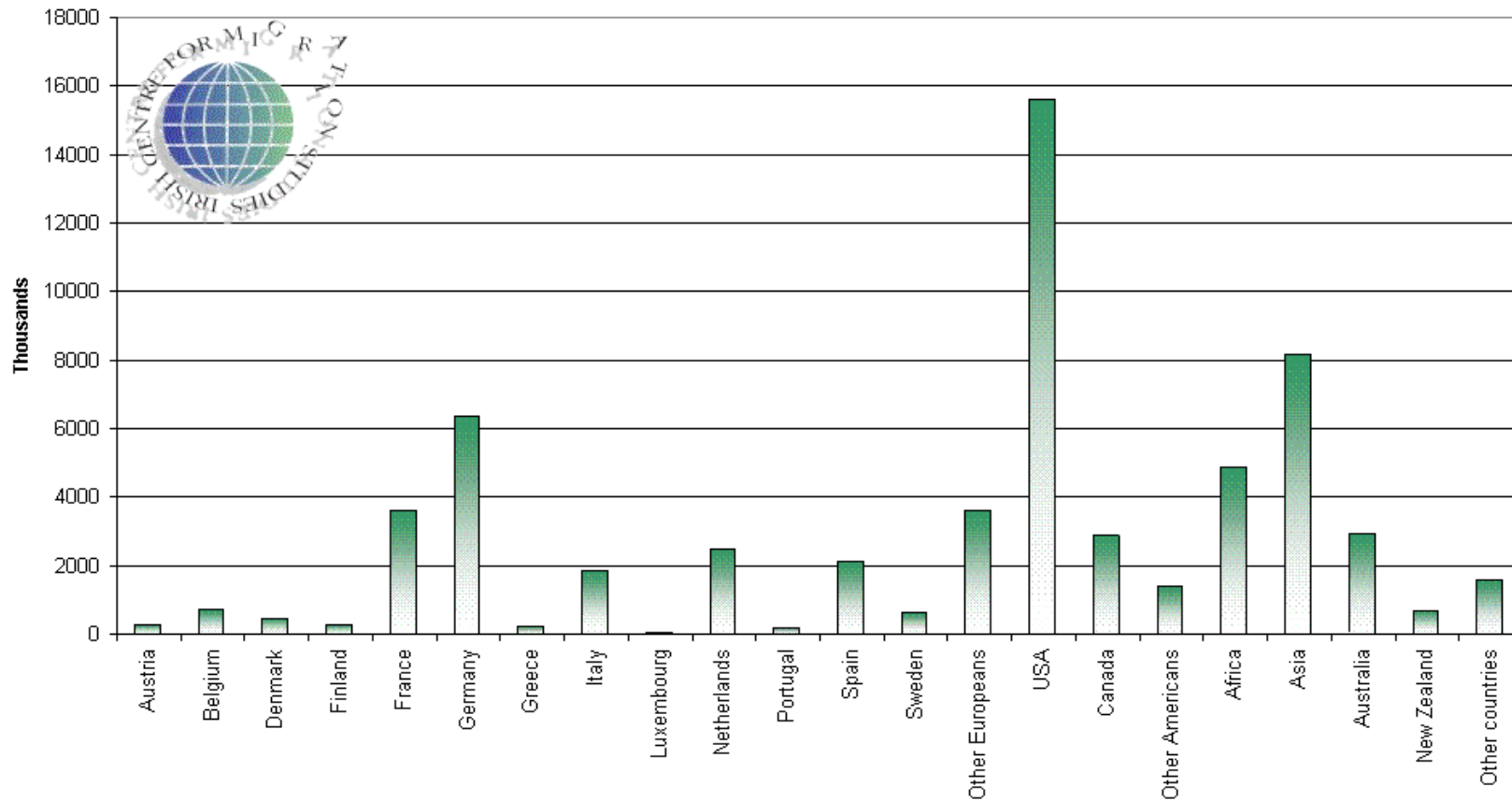
Recent developments

- A rise in asylum seeker numbers, but still modest by European and international terms, followed by a levelling off and a sharp fall in past two years. Peak: 1000 per month (2002). Now less than 400 per month
- A prolonged boom in job creation led to return Irish migration, a fall in unemployment and more women at work
- Over time, it also led to substantial inward migration from EU and non-EU countries
- Overall economic growth likely to continue in range 4.5-5% barring major upheavals (oil, avian flu, 'war on terror'..)

1996 Census: non-British foreigners

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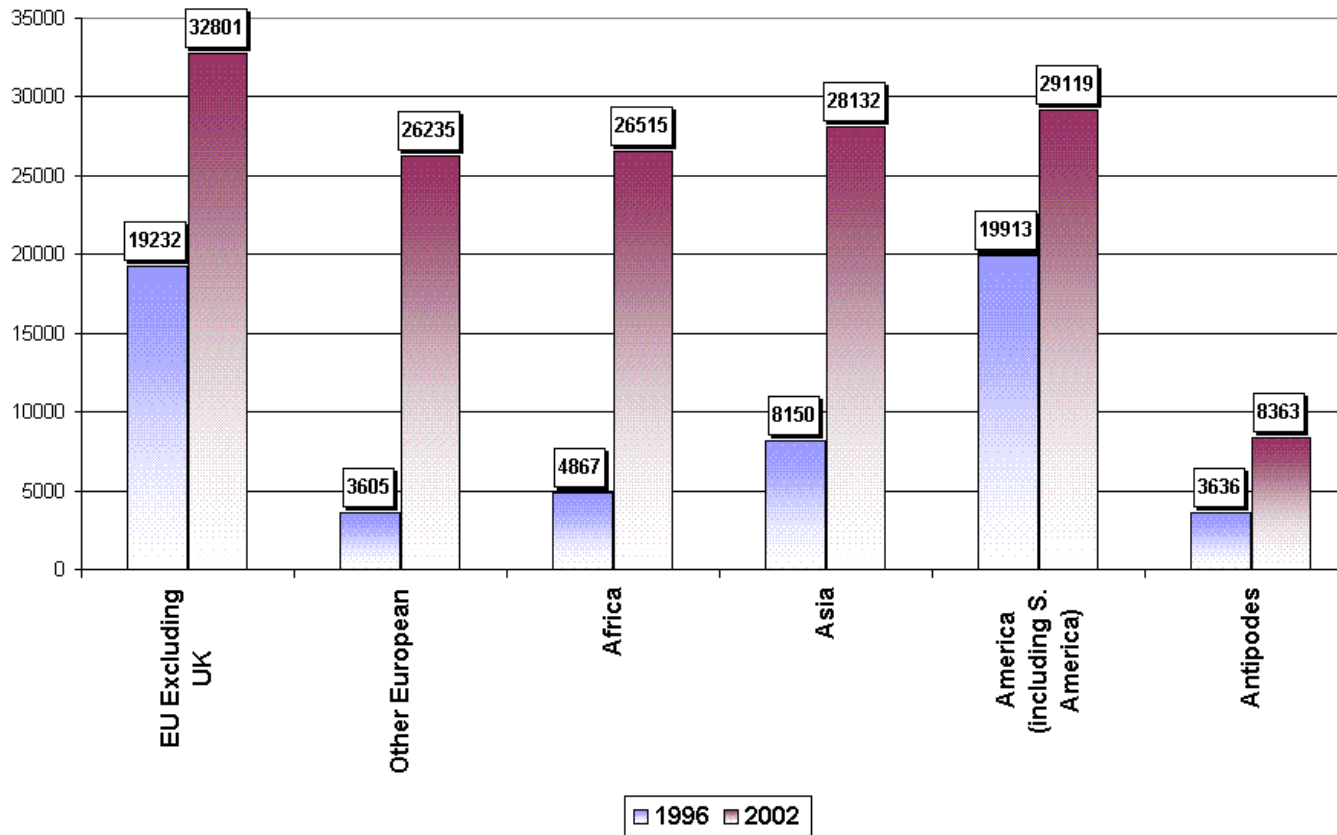
10 Foreigners in Ireland excluding those born in Britain, 1996 (source: CSO)



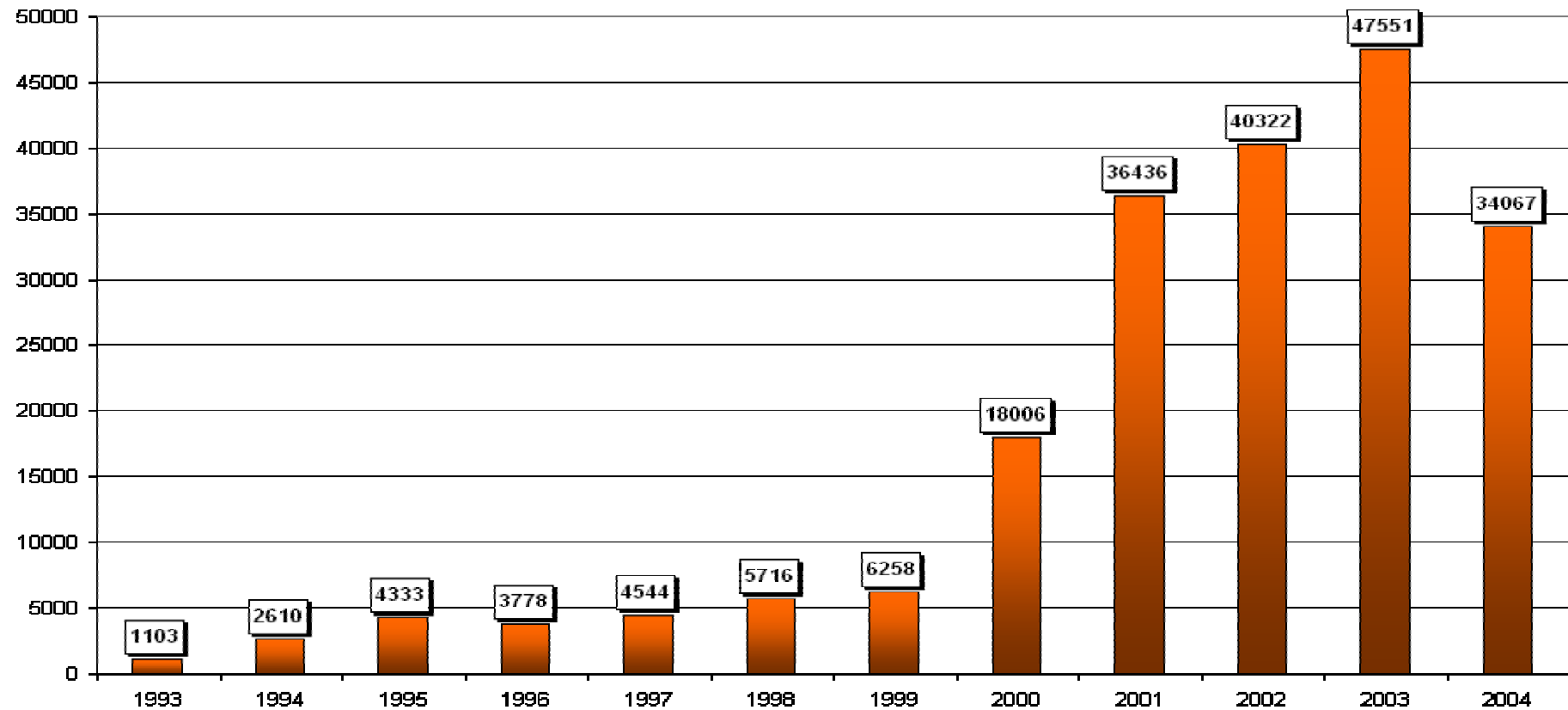
Changes in Foreign population 1996-2002

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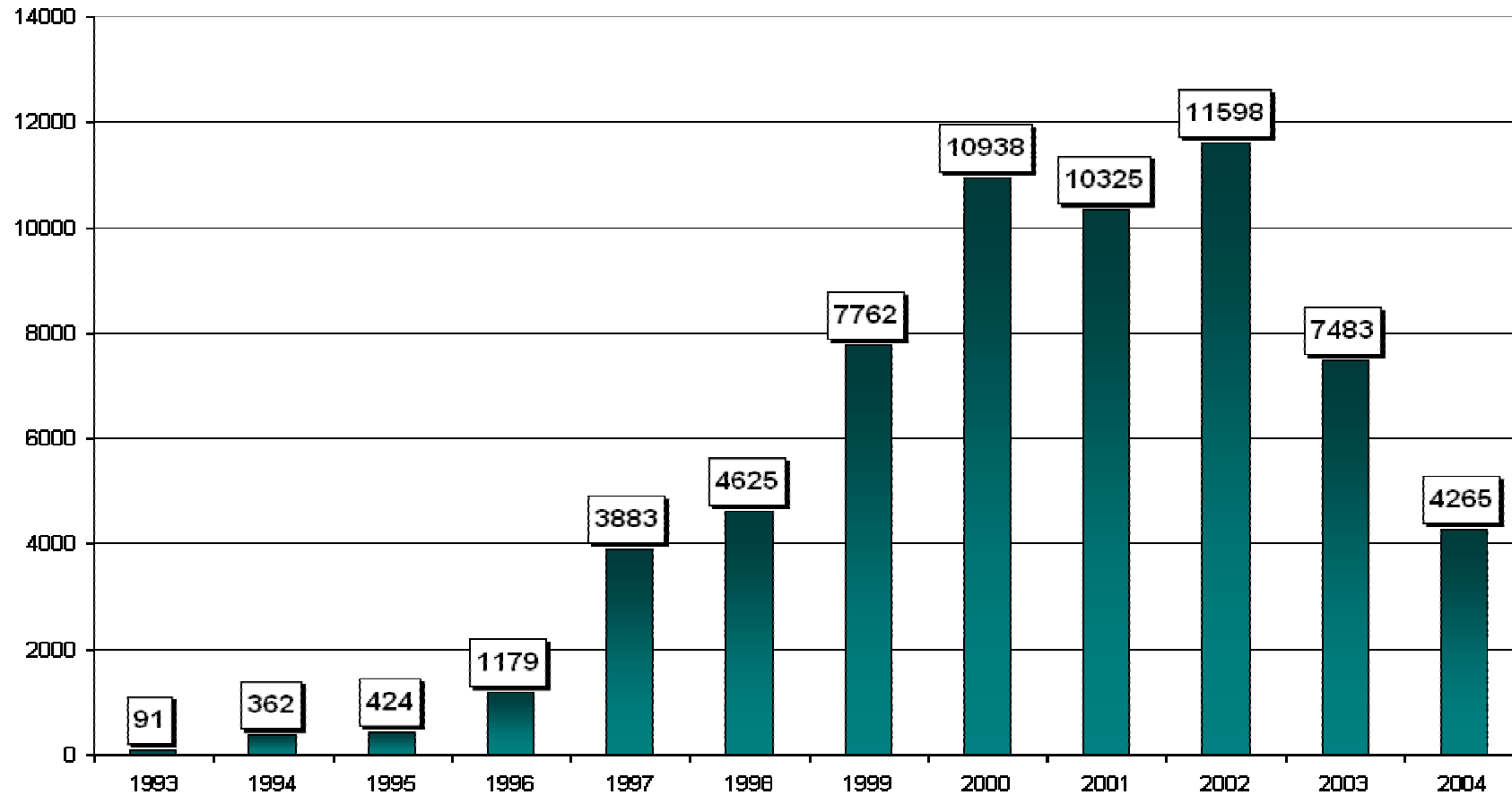
Changes in Foreign Born Population, excluding Britain, 1996-2002 (source: CSO)



Work Permits, non-EEA workers



Asylum Applications, Ireland



Net migration 2002-2005 was 114,800
(53,400 were returning Irish & an unknown
number were foreign-born children of such
migrants)

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Country of Birth (2002 census)	
Total island of Ireland	90.9%
UK	0.1%
Rest of EU	0.9%
USA	0.6%
Rest of World	2.5%
Total not born in island of Ireland	9.1%

% of gross immigration made up of return Irish migration			
Year	Total	Irish	%
2000	52.6	24.8	47
2001	59.0	26.3	45
2002	66.9	27.0	40
2003	50.5	17.5	35
2004	50.1	16.9	34
2005	70.0	19.0	27

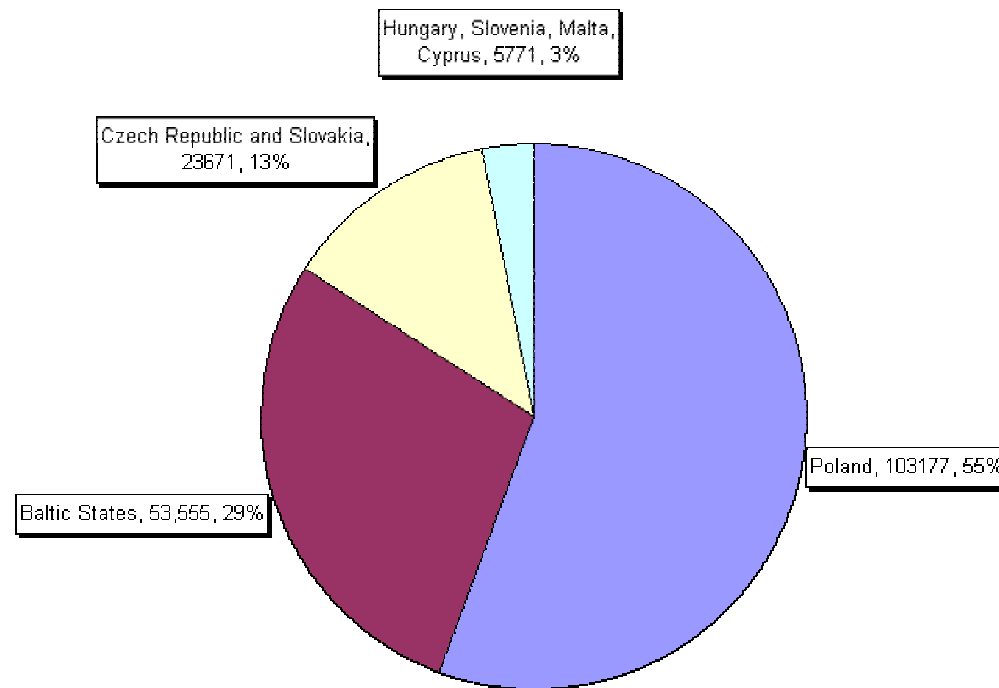
Labour migrants

- Full access to Irish (and UK, Swedish) labour market for citizens of accession states from May 2004
- Application of concept of 'habitual residence', borrowed from UK administration but tweaked in order not to catch returning Irish migrants
- Employer and employee fines for infringements
- Safeguard mechanism during transition period under Treaty of Accession
- Restrictions announced in Work Permit regime for persons from non-EEA, non-Accession states.

**Personal Public Service Numbers
(National Insurance) issued to EU10
citizens, May 2004-February 2006**

Source: Doyle, Hughes, Wadensjö, 2006
Swedish Institute for European Policy Studies/ESRI

PPSNs May 2004 - February 2006



Policy and legislation

- Work permits for 'ordinary' labour migrants.
- Work visas and work authorisations for high-skills migrants in high demand – more favourable conditions.
- Employment Permits Act 2003
- New legislation on employment permits 2006
- Research and studies of international good practice
- New proposal for Immigration, Protection and Residence legislation just published (6 September)
- As yet, few if any serious initiatives on integration

Asylum

- In general, close parallels with UK policy developments
- Refugee Act 1996 and other legislation including carrier liability.
- From Refugee Agency and Directorate for Asylum Support Services (DASS) to Reception and Integration Agency (RIA), part of D/JELR, with seconded officers from several Departments
- Dispersal and Direct Provision.
- Right to work; education; health; welfare; information; translation and interpretation.
- EU developments: Dublin Convention, Schengen, Eurodac. The '9/11' effect. The rise of the Right.
- May/June 2003: increase in arrests, deportations and refusals of leave to land
- January 2003: parents of Irish-born children Supreme Court decision
- June 2004: referendum on citizenship

New Immigration, Protection and Residence proposals *The evolution of immigration legislation and policy in Ireland*

- Radical overhaul of all existing legislation, dating from 1935 onwards
 - All non-EU residents to be obliged to carry ID with biometric data at all times
 - Non-regular status will constitute an automatic offence
 - Speeded up methods of deportation/expulsion and restricted appeal procedures, including provision for deportation even in event of minor offences
 - Asylum seekers and those with non-renewable work permits will not be allowed to marry
 - Refugee/Leave to remain status: three years in future, not permanent
 - Long-term residence: only for five years (renewable)
 - Minister will still have sweeping discretionary powers
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Integration

Integration

- **Integration** is the general term for the process whereby foreigners become members of our society
- **Social cohesion** a common post-Cantle (UK) term. Stresses interaction between communities, not just diversity
- **Assimilation** requires them to become 'like us' if they want to fit in - 'more Irish than the Irish themselves'
- **Multiculturalism** attempts to achieve co-existence of differing cultures in the same society, with core shared values. Currently under criticism in UK, NL

Terms and Definitions in Ireland

“Integration means the ability to participate to the extent that a person needs and wishes in all of the major components of society, without having to relinquish his or her own cultural identity”.

Integration: a two-way process. Report to the Minister for Justice , Equality and Law Reform by the interdepartmental working group on the integration of refugees in Ireland. (1999)

This definition, while well-meaning, does not sufficiently recognise the role of the State, nor the complexity of finding a balance between individual and communal identities and rights, within a clear context of core values and duties.

Anti-racist initiatives

- Prohibition of Incitement to Hatred Act 1989 (under review; almost entirely ineffectual)
- Equal Employment Act 1998
- Equal Status Act 2000
- Article 13 of Treaty of Amsterdam also creates legal basis for EU action in the field via 'Race Directive' 2000/43/EC. Equality Act 2004 updates legislation in this light.
- Adoption of National Action Plan against Racism (NAPR)

Other 'voluntarist' measures

- National Consultative Committee on Racism and Interculturalism (NCCRI), created 1997.
- "Know Racism" Campaign; one-off only
- National Action Plan against Racism
- Growth of strong support network around the country. Mostly NGOs.
- Migrant workers are still somewhat isolated but moving fast up the political agenda

Achieving integration: *The evolution of immigration legislation and policy in Ireland* some challenges

- A lack of strategic forward planning, in part because we still lack an overall concrete framework although the gradual operationalisation of the National Action Plan will go a long way to addressing this
 - Severe under-funding of both statutory and voluntary service provision for immigrants and minorities
 - A lack of indicators, targets and benchmarks of a kind which would enable the efficacy of service provision to be monitored and improved. This is not the case in British jurisdictions. Example: numbers of EU workers and families in country at any one time. Inter-censal data has many gaps.
 - The absence of any substantial degree of coordination or 'joined-up' policy, with different agencies and departments pursuing unrelated and sometimes contradictory roles
 - A danger of conflict with local socially excluded communities
 - On the plus side and especially at local and/or sectoral level, interesting examples may be cited of specific targeted initiatives to assist migrants and minorities
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Achieving integration 1

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Addressing the negative aspects

- Combating racism, xenophobia, discrimination (NAPR)

Promoting the positive aspects

- Promoting integration through focused, targeted initiatives in key areas: health, housing, education and training including language training, paths to employment
 - 'Big picture' debates: multiculturalism v. assimilation; respect for diversity within a framework of core values (not an 'anything goes' approach)
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Achieving integration 2 *The evolution of immigration legislation and policy in Ireland*

NAPR

- NAPR is the major template for action on racism, xenophobia, discrimination
 - 'big picture' debate is a matter for national as well as local action, embracing important political questions and a far-reaching debate about a changing Irish society. It would be fair to say that this debate has not yet begun in any substantive way
 - In spite of the above there is huge scope for bottom-up local action, targeting key policy areas and aiming at a more effectively integrated approach at local level, sensitive to specificities of needs of refugees and persons with leave to remain
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National Action Plan against Racism

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- Effective **protection** and redress against racism, including a focus on discrimination, threatening behaviour and incitement to hatred;
 - Economic **inclusion** and equality of opportunity, Including focus on employment, the workplace and poverty;
 - Accommodating diversity in service **provision**, including a focus on common outcomes, education, health, social services and childcare, accommodation and the administration of justice.
 - **Recognition** and awareness of diversity, including a focus on awareness raising, the media and the arts, sport and tourism
 - Full **participation** in Irish society, including a focus on the political level, the policy level and the community level.
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Achieving integration 3: fighting the negative

- **Nine grounds** of legislation: gender; marital status; family status; sexual orientation; religion; age; disability; race; membership of the Traveller community.
- **Individual discrimination** against someone on any of the nine grounds covered in the legislation is unacceptable. Service providers need to implement appropriate and effective policies including awareness training, information campaigns and enforcement mechanisms but also recruitment and promotion.

Achieving integration 4: promoting diversity (a)

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Service providers need to consider **the extent to which they may need to vary the ways in which services are *delivered*** and whether these need to take cultural differences into account. One frequently hears the assertion from frontline staff that ‘of course no-one should be discriminated against, but they are in this country now and they have to learn how things are done here’. If we are to achieve an approach to service provision which stresses equality but is flexible in delivery methods, we must address the *specificities of the needs of migrants and ethnic minorities* – that is, those needs, over and above those of others who may use the same services, which arise *because* they are members of migrant and ethnic minorities.

The questions raised are not simple ones and provision for diversity must always take place within an agreed framework of common values. Certain core values, such as gender equality, may over-ride issues of cultural specificity. One cannot ignore either the effects of a set of policies targeting one socially excluding group on another excluded social group.

Achieving integration 5: promoting diversity (b)

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Organisations such as service providers need to carry out **comprehensive audits** of their existing policies with a view to implementing specific targets for change, reliable indicators for monitoring and evaluating change and measurable outputs. Such an approach should reflect the understanding which we now have of the nature of institutional racism and xenophobia and should include recruitment and promotion practices within the organisation. There is a considerable body of experience in Ireland on a related topic – gender discrimination – which could usefully be drawn upon. The aim should be to ‘equality-proof’ and ‘diversity-proof’ service provision in the same way that some organisations have already sought actively (although not always successfully) to gender-proof their services.

Achieving integration 6: promoting diversity (c)

Service providers, both voluntary and statutory, are **players and stakeholders within broader civil society**. Policy and service provision will need to take account of emerging policy and legislation at national level. They also need to be pro-active themselves. Example: recent decision concerning Gárda recruitment policy.

Can the State be neutral?

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- The French approach – privatising difference, the *hijab* and all that; not in Ireland!
 - The UK approach (Jenkins 1965) multiculturalism as ‘not a flattening process of assimilation, but as equal opportunity accompanied by cultural diversity in an atmosphere of mutual tolerance.’ But people do not want simply to be ‘tolerated’.
 - Identities are communal as well as individual. States have to accommodate this.
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Outlook

Outlook 1

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- Unemployment lowest in EU at about 4.3%. No evidence of displacement but some of wage pressure
 - Forecasts two years ago were for 200,000 more workers up to 2007 approx. or up to 350,000 persons including family members.
 - Even if this is revised downwards there are already considerable numbers of foreigners here and more are likely to come.
 - 2002 Census: about 6% of population were born outside Ireland and have no ethnically Irish background; about half of these are ethnically British.
 - 2006 Census: foreign-born now about 10% although this includes people who are ethnically and/or legally Irish because of substantial return migration
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Outlook 2

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- Common Travel Area will mean that UK policy will still be the biggest determinant of Irish policy.
 - There will not be an open door for Romania and Bulgaria, still less Turkey
 - Introduction of ID cards in UK, if it proceeds, will require similar measures here. One possible side-effect will be to pave the way to UK and Irish adherence to Schengen *acquis*
 - EU Common Basic Principles are good basis for action and fully compatible with NAPR. But due to legal and other reasons it does not seem likely that early progress will be made on CBPs.
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Questions to be answered

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- What are the underlying assumptions on which current economic and migration planning is based?
 - What is the scale of immigration into Ireland at present and how does it compare to other countries?
 - How dependent is the Irish economy currently, and how dependent is its future growth, on the presence of immigrant workers?
 - Is there a link between social exclusion within indigenous Irish society and high rates of immigration?
 - Who benefits under the present arrangements?
 - Who loses under the present arrangements?
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Implications for Policy

The evolution of immigration legislation and policy in Ireland

- Modelling based exclusively on labour market forecasting will not suffice. There are social and financial costs linked to managing migration and change
 - Certain forms of labour migration are *not* acceptable. It is invidious, undesirable and ultimately bad for immigrants and for society in general to create conditions leading to a world of citizens and denizens
 - If we want to promote a policy of genuine integration, are we willing to pay the extra costs associated with it?
 - We must address indigenous social exclusion if we are to avoid future conflict.
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Key challenges

- Lack of understanding of the limitations to integration by members of new communities.
- Insufficient recognition of needs of new communities ability to engage in the policy process.
- Insufficient resources made available to build the capacity of new organisations to engage in the political arena.
- No space for new communities to interact with host society to create an expanded civil society.
- A lack of commitment by many in the established economic employer and (until very recently) organised labour sectors, to engage with new communities, beyond purchasing their labour and collecting their dues.
- No desire shown by the State for new communities' participation in Ireland's civil and political sectors.

The State and new communities

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in Ireland*

- 1. The State must actively encourage new communities to build up their social capital by enabling them to bond internally:**
 - Dedicated budget line for migrant led organisations, with funding at local community levels.
 - Available technical assistance and support for migrant led organisations.

 - 2. The State must actively encourage new communities to bridge with all aspects of mainstream Irish society:**
 - Must enable space to network, create links and complete the integration process.

 - 3. The State must actively engage with all strands and sectors of Irish society on immigration.**
 - Must inform Irish society of the real facts and figures, must assist segments of Irish society to understand new communities, must create the space for Irish society to network and create links with new communities.

 - 4. These measures are an essential part of ensuring that new communities integrate into the mainstream and develop their full potential as partners in civic, social, economic and political participation in Ireland.**
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