

# CLR-GB

## Newsletter 1/2005

The CLR-GB Office is a platform linking CLR activities at EU and GB levels as well as trade union and academic work in GB in the field of Construction Labour Research. It will support related initiatives specific to GB.

### Introductory Note

CLR-London had an Annual General meeting in December 2004 and changed its name. It is now CLR-Great Britain or CLR-GB for short. This name is to express the scope of its activities rather than the place of its office. This change has no significance, however, with regard to its aims and objectives.

At the AGM another issue was raised which is worth highlighting here: "The Newsletter should become a forum for debate." The last Newsletter 3/2004 has published an article by George Fuller in the column 'Debate' which might be regarded as one that would stimulate controversy and, thus, provoke a response. No such thing has happened yet and bogus self-employment remains a widely tolerated part of 'neo-liberal' employment relations in Britain. What we would have liked to receive is an angry letter defending the benefits and virtues of self-employment and accusing George Fuller of old fashioned anti-capitalism. Is CLR too far removed from the realities of British construction sites on the one hand and from academic discussion on construction economy and management on the other hand? George Fuller definitely tried to bridge the distance between these two spheres and we should follow his example.

The ESRC/CLR seminars on 'People in Construction' however keep attracting a numerous and interested audience, and they do address issues which are at the forefront of European labour policies, such as employment conditions, worker representation and co-

determination, social protection, and the development of skills – all this within a trans-national context. A full report on the seminar 4<sup>th</sup> February 2005 in Brussels on 'Participation and Worker Representation' will be published in CLR-News, because it became really a fairly comprehensive account of present developments in the construction industry of the European Union.

*Jörn Janssen, 28<sup>th</sup> February 2005*

### CLR-GB Events

#### CLR-GB Annual General Meeting

7<sup>th</sup> December 2004, 5 p.m. University of Westminster

#### 1) CLR-London activities in 2004:

Linda Clarke:

Three seminars on 'People in Construction', sponsored by the Economic and Social Research Council (ESRC) in cooperation with CLR have been held at the University of Westminster:

- Women in Construction, 18 March 2004;
- Historical Change and the Future of Construction Unions, 27 May 2004;
- Contracts of Employment vs Contracts for Services? 28 October 2004.

Two books of CLR-Studies have been published by Reed Business Information, Den Haag:

1. Linda Clarke, Jan Cremers, Jörn Janssen (2003) EU Enlargement, Construction Labour Relations as a Pilot.
2. Linda Clarke, Elsebet Frydendal Pedersen, Elisabeth Michielsens, Barbara Susman, Christine Wall (2004) Women in Construction.

Jörn Janssen:

3 CLR-Newsletters have been produced by the London Office. They are being sent to about 100 members.

## **2) Building Link-Up activities in 2004:**

George Fuller and John Grahl:

A number of issues have been discussed in meetings, such as the implementation of the European Directive on working time, the initiative of the Greater London Authority to secure a 'living wage' in construction, to set up a training academy. The 'Barker Review' on the British construction industry was analysed and a critique published in the CLR-London Newsletter 1/2004. Whereas the interim report was critical of employers, the final report dropped these criticisms and concluded that planning permission ought to be speeded up.

## **3) Next ESRC/CLR Seminar**

Linda Clarke:

The next ESRC/CLR Seminar in the series 'People in Construction' on 'Participation and Worker Representation in Construction in the European Union' will be held in Brussels 4<sup>th</sup> February 2005. This is particularly relevant for Britain given the beginning of the implementation of the Directive on 'Information and Consultation' by April 2005. CLR might play a role in activating for all forms of participation including European Works Councils and employee Representation in European Companies (Societas Europea).

## **4) Planned CLR-GB activities in 2005:**

- a) John Grahl: The discussions in 'Building Link-Up' show a high level of breaches of EU Law. This should be monitored systematically and cast into reports to the European Commission and the European Federation of Building and Woodworkers, EFBWW.
- b) Linda Clarke: The Results from the Seminar on 'Participation and Worker Representation in Construction in the European Union' in Brussels may lead to events for dissemination in Britain.
- c) George Fuller: CLR should try to get involved in the GLA initiatives on the 'Living Wage and the 'Building Academy'.
- d) Jörn Janssen: The Newsletter should become a forum for debate. This can only be achieved by giving space to contributions on current controversies in the construction industry and related academic thought. We will try to instigate this in forthcoming issues.
- e) Linda Clarke: Two more ESRC/CLR Seminars on are in the pipeline:
  - Social Protection/Pensions/Health and Safety - taking advantage of the Bernard Friot's sabbatical in London during spring and summer.
  - Training and Skills - with the participation of David Mosely.
- f) Paul Chan: Paul Chan intends to make a film on construction labour. CLR will try everything to help and promote this project.

Stephen Gruneberg suggested that this regional CLR, representing British activities should, like CLRdenmark, change its name and become CLR-GB, which was unanimously decided.

## **5) Appointment of a Committee:**

The previous committee had been regarded as provisional and without legitimacy based on an election. This time elections were on the agenda. It was therefore suggested to appoint a committee consisting of all members present at this Annual General Meeting: Linda Clarke, University of Westminster; George Fuller, Building Link-Up; John Grahl, London Metropolitan University; Stephen Gruneberg, University of Reading; Jörn Janssen, Fachhochschule Dortmund; Paul Chan, University of Salford; Kevin Williamson, T&G.

This suggestion was unanimously accepted. The addresses remain as before, Linda Clarke/University of Westminster will be the secretary and George Fuller and Jörn Janssen editors of the Newsletter.

The meeting was closed with a drink.

## **Contracts of Employment vs. Contracts for Services**

ESRC/CLR Seminar, 28<sup>th</sup> October 2004, University of Westminster.

This subject was introduced by Jan Cremers/CLR who had just carried out a research on the implementation of the Posting of Workers' Directive across the EU. He showed the difficulty to maintain employment standards if the 'free movement of workers' is not accompanied by the enforcement of employment standards relating to the place of work.

Ernst-Ludwig Laux/IG-BAU presented an alarming picture of the decline in employment standards in Germany, declining rates of coverage by collective agreements and membership in trade unions as well as employers organisations, wage and social dumping through labour supply from Eastern Europe in various semi-legal and illegal forms, declining employment and working conditions including social security.

François Michon/CNRS analysed how in France labour market flexibility relies on temporary employment provided by labour agencies. Unlike in other countries, however, agency labour is highly regulated maintaining a degree of social protection alongside employment flexibility.

Hans Bauman/Unia reported the experiences of the attempt to enforce Swiss employment standards on the sites of the Alp-Transit (tunnels) project. Collective agreements with the Swiss railway were enforced by Joint Commissions, Labour Unions and European Works Councils on the sites. However, cheating could not entirely be eliminated and the health and safety record was poor – too many heavy accidents.

Brian Bercusson/Kings College put the contract of employment into the context of EU legislation including directives on agency, part-time, and temporary workers in the stage of drafting. He warned that the contract of employment tends to be undermined by the provision of services and recommended new criteria for identifying conditions of employment: the control test, integration in the process, economic dependence and mutual obligations. The fiercest threat is the planned Services Directive which would allow almost all employment standards to be circumvented.

In the final discussion Gerry Lean/Construction Confederation advocated the return to direct employment standards prevailing in the 1970s. All participants seemed to share a concern that the break down of employment standards was a danger for social conditions as well as for production quality.

*Jörn Janssen/CLR-GB*

## Report

### **Industrial Relations in Construction**

ESRC/EPSRC Seminar, 1<sup>st</sup> November 2004,  
Glamorgan University Business Centre.

The seminar in the series 'People and culture in construction' was chaired by Emeritus Professor David Farnham from the University of Portsmouth, a specialist in employee relations, who opened the session by suggesting that industrial relations have evolved (for the better?) in the construction industry from the days he could remember a building site.

Stephen Coppin from the Department for Work and Pensions began the series of presentations by reporting on a construction rollout programme within his department (Job Centre Plus) and illustrated the benefits and challenges of integrative working. While his presentation extolled the benefits of employee involvement and learning from past human experience, it appeared that Stephen was reinforcing political rhetoric and the importance of economic performance. It remained vague as to whether employee involvement was genuinely entrenched. Still, the themes of respecting the workforce and getting employee buy-in on organisational initiatives were worth reiterating.

Paul Chan from University of Salford then provided a snapshot of recent research into understanding the factors affecting construction labour productivity as he talked about the reaping of productivity improvements through integrating the workforce. His presentation provided an overview of the chasm between white-collar managers and blue-collar operatives in their perspectives of what was important in achieving higher productivity. Unsurprisingly, managers focussed on strategic issues while operatives were more concerned about the tools of the trade. Observations across two

projects indicated good practice as to how the gap could be bridged for mutual benefit.

Janet Druker, Head of Business School at University of East London, followed on by tracing the development of trade unionism in the UK. She observed how a pluralistic framework under unionism and unilateral decision-making on site co-existed and noted the persistence of unionism in construction against marked decline in other sectors. However, she warned that all is not rosy here for she suggested that such persistence derived from innate conservatism and a need to benchmark labour costs. In essence, collective agreements, she claimed, were a form of managing risk and less to do with employee representation. She left a provoking thought, therefore, as to how one might consider the issue of "employee voice".

Dr. Ani Raiden from University of Glamorgan, Dr. Jo Cullinane from University of Greenwich and Mr. Mike Pye from University of Hertfordshire proceeded to talk about the nature of the employment relationship in the UK construction industry. Through their presentation, they critiqued the notion of employee found in the literature and argued that self-employed persons should be regarded as "employees" in their own right. Their argument was further augmented by recent case study research and thus, raises the issue of employer obligation to such workers.

Finally, Dr. Wilco Tjihuis from the University of Twente in the Netherlands closed the session with his presentation of the wider European context by discussing the situation in the Netherlands and Germany. He suggested there was an increasing need to understand people in the industry and more importantly, what he termed as the "Fun Factor". He provided European examples of how the open market affected the image of the industry and explained how increasing the "Fun Factor" (and aligning differences between different stakeholder groups) would combat the adverse image of the industry.

*Paul Chan/University of Salford*

**A survey of staff consultation processes in the South West region of England: how construction compares and the implications for the new European Information and Consultation Directive.**  
Research conducted in December 2003

A new European Information and Consultation Directive (EICD) takes effect for firms with 150 employees or more in April 2005, those with 100 or more in 2007, and those with 50 or more in 2008. The results of a survey of staff consultation processes in workplaces located in the South West region of England revealed that the majority of companies are not prepared for, and indeed in many cases not aware of, the new Directive. Extant consultation committees were present in only 17% of businesses; and only one

out of thirteen construction companies surveyed had such a committee. There is much scepticism in those businesses with no consultation committees concerning their value, with about two-fifths saying that they would not produce benefits, only one-fifth saying that they would, and two-fifths undecided (results were almost the same in construction companies). As for the new EICD, two-thirds do not know the detail; and two thirds (four-fifths in construction) have no plans at all to deal with it. This provides an opportunity for trade unions to mobilise workers to secure their members' rights under EICD.

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## **PRESS RELEASE from EFBWW**

### **Cross-border posting in the construction sector.**

#### **Inadequate cooperation and supervision by member states leads to unfair competition and social fraud.**

Within the European Union, the cross-border posting of workers is a growing phenomenon. This is particularly true of workers in the construction sector.

As workers are generally posted from countries with less favourable conditions of employment to those with more favourable conditions, there is a very real danger of 'unfair competition' and 'social dumping'.

With a view to avoiding these problems, in 1996 the European Union adopted the European posting directive. All the countries have since transposed the directive into their national laws. The directive provides that – in the case of posting - the main conditions of employment (such as pay, working time, ...) of the country of employment are applicable, known as the country-of-employment principle.

The directive further stipulates that the member states must work together to exchange information and data rapidly. To this end, each country must set up national liaison offices.

According to extensive research by the European Federation of Building and Woodworkers (EFBWW), it appears that the great majority of the liaison offices are no more than 'paper tigers'. In most countries these offices are not even operating. As a consequence, cross-border cooperation and supervision amongst the labour inspectorates can generally be described as 'substandard'.

From a number of random checks in 10 countries it emerges that most of the liaison offices have

insufficient staff and other resources. Furthermore, it appears that the information obtained is often incomplete or even incorrect.

The EFBWW research also shows that the problems most often concern foreign subcontractors in the sector. The fact is that in the construction sector, foreign subcontractors are often used to post their workers temporarily to a foreign construction site. Owing to the inadequate supervision and cooperation between countries, the chance of non-bona fide subcontractors being caught is very remote. And even if action is considered, the subcontractor quickly disappears abroad.

The main reason for this situation according to the EFBWW is a lack of political will by the countries to really tackle cross-border social dumping and unfair competition.

The EFBWW urges the member states to take their responsibility for cross-border cooperation and supervision seriously. It is further calling on the European Commission for European legislation to make general contractors and clients liable for the fraud committed by their (foreign) subcontractors.

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## **To Our Readers**

The CLR-GB Newsletter is the organ of exchange for CLR in Great Britain. This function depends on the cooperation of its readers. The editors ask everybody who is interested in construction labour to contribute with information and commentaries. Please send your suggestions, articles, information, letters, etc. to

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