

Why not Organising?
Trade Unions and Precarious Migrant Workers
in Germany, South Korea, and Spain

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Introduction

Given the situation of an increasing migration movement across national borders and continents and given the fact that most of the migrants are workers, migration is an important issue that needs to be addressed by the labour movement. Trade unionism claims to rest on the principle of solidarity. In this study we want to explore how trade unions in two European countries and one East Asian country, cope with the challenge to integrate migrant workers in their rank and files. This is particularly interesting politically because migrants in most places of the world are discriminated in many respects:

- Migrant workers have fewer rights than national workers; they are often victim of exploitation and of discrimination.
- Migrant workers are less integrated in the trade unions of the receiving countries: sometimes they are not aware of the role and functions of trade unions. In many cases they are intimidated by employers or prevented to be unionised by state regulations.
- Low union density of migrant workers can also be caused by the unions themselves. Unions do not express high interest in migrants' rights, national workers see in migrant workers competitors for lower wages. Additionally, many migrant workers are undocumented which aggravates their whole situation as migrants and their status decreases the likeliness for unionisation (Hofmann 1999, Piper (w. y.), Taran/Geronimi 2003).

Additionally, unions are predominantly organised within national borders and focus on their national members. Although the international orientation and collaboration at international level of many unions, there is no doubt that the greatest part of their activities is carried out within the national arena. To what extent do trade unions put the principle of solidarity concerning migrant workers into practice? Trade unions face a difficult global situation: decreasing membership, aggressive economic policies and fading bargaining power are well known in many countries. It is a real challenge for unions not to fall into the trap of interest representation along the lines of ethnicity, nationality, gender and safe employment. This is emphasised by Hyman:

“Solidarity is a project to reconcile differences of situation and of interest, to offer support and assistance to the claims of groups and individuals irrespective of immediate advantage in respect of one’s own circumstances. Solidarity became a slogan of labour movements precisely because the working class was not a homogeneous unity, because divisive sectionalism was an ever-present possibility, and because painful experience showed that isolated and often competitive struggles by fragmented groups were more often than not mutually defeating” (Hyman1998b).

With our background of trade unionism in different countries we were aware that unions are differently involved with migration. The direct form of engagement can be seen in the issue of organising migrants, as the title of this paper indicates. If migrant workers are unionised, of course, the treatment of migrants within the union becomes relevant. Finally, sometimes unions are not directly engaged with organising migrants, but they take part in shaping (national) policies. These are the reasons why the scope of our work turns out to be somewhat wider than the title suggests.

Our preliminary research showed that there is much literature on different orientations of unionism and also on trade unions and migrants/migration. Surprisingly, there seems to be very little academic work on the relation between unions’ types and their engagement with migrant workers, especially precarious migrant workers. We would like to contribute to close this research gap therefore, the focus of this paper is on the union type in the social and institutional context, in order to explain the involvement of trade unions with precarious migrant workers. Three case studies of general unions and confederations and unions for migrants in Germany, Spain and South Korea¹, mainly in the agriculture and construction sector, provide the empirical material to analyse our findings. To give a brief outline for the structure of this work, the first chapter explains the research design; there the hypothesis, the research questions, important definitions and the method are developed. The theoretical framework, in the second chapter, elaborates on factors which were thought to influence trade unions in their engagement towards migrant workers. It is in this theoretical framework that the case studies, in chapters three, four and five, are conducted. After the case studies we analyse our empirical findings in chapter 6.

¹In this text, we use the terms Korea and South Korea interchangeably.

I. Research Design

1. Hypothesis

The hypothesis of our thesis stands on the argument that trade union engagement/involvement with precarious migrant workers is mainly shaped by the type of trade unionism within the broader social and institutional context. In this context, we believe that, in order to understand trade union involvement with migrant workers and the differences between union strategies, the type of trade unions should be taken into account. However, since the union is embedded in a given society framed by the national context, the type of trade unionism as well as trade union strategies should be considered with reference to the social and institutional framework. This means that factors like the history of migration, national/global and public discourses, and the institutional and legal context also have an influence on the engagement of trade unions toward migrant workers. We are fully aware that other factors like the position of the leadership toward migrant workers and its relation to the members (and the other way round), have also an influence on the mentioned trade union involvement. Nevertheless, we will not deal with this and other issues of importance since our empirical material and the scope of our study is not appropriate for such investigations.

2. Research Questions

Since the overall purpose of our thesis is to empirically analyse the differences and/or the similarities between trade unions in different countries in order to understand their strategies on precarious migrant workers, the question that guides us is what are the factors determining trade union's engagement with precarious migrant workers in the selected countries. This question reflects our hidden question asking why some trade unions focus on organising migrant workers whereas some of them do not. What makes these differences and/or similarities important for our thesis is that they can help to understand the reasons for the engagement/non engagement as well as the form of engagement (strategies) of the unions.

Following our main concern, we identify the relevant factors and explore to what extent these factors influence the attitude of trade unions toward migrant workers. Firstly we intend to analyse the role of trade union types for shaping union strategies and policies. Is it possible to understand trade union activities concerning migrant workers by considering the union type? If it is, what is the appearance of this relation regarding the involvement with migrant workers? Together with the trade union type as a determining factor we intend to explore the role of other factors which we defined as the history of migration, national/global and public discourses and the government policies in the institutional and legal context. Considering these factors our main question is, to what extent they influence the trade unions' responses concerning migrant workers. We assume that all these factors have an important influence and shape trade union policies as well as organising activities toward migrant workers.

Following this framework shaped by analytical factors, it is possible to make consistent comparisons between different cases. However, it should be underlined that it appears not likely to make rigid comparison with the same information between countries since we had to rely on the data and research available in the country concerned. Moreover, we believe that applying a rigid comparative framework would lead to the neglect of the special characteristics and contexts relevant in the different cases. Therefore, when it is needed we touch upon different factors and emphasise on the particularities of our cases in addition to those factors mentioned above.

3. Defining the Terms

Before starting our analyses, it is needed to clarify the terms we refer to in our thesis. The first and main term is "migrant workers". In our thesis we focus on transnational migrant workers who work in precarious jobs. Some people use the term to refer only to people who come from abroad and settle permanently in a country. However, since we focus on migrant workers working in precarious jobs we are also concerned with migrants who settled in a country for few years only, as well as seasonal workers who come for a short period. Our broad definition of migrants as Castles/Kosack argues has two reasons:

"Firstly, no rigid distinction between permanent and temporary migrants is possible. Few migrants actually intend to remain away from

their country of origin for ever when they first depart, and there is no way of knowing in advance whether an individual will settle permanently or not. Even men who originally come in as seasonal workers sometimes remain for good. Secondly where most individual migrants come for a limited period only, migrants as a group are permanently present. This group, despite its changing membership, may have the same long-term effects on society as a group of permanent settlers. [...] temporary migrants are as important as permanent ones” (Castles/Kosack 1985: 12).

Taking into account these considerations, the definition of migrants illustrated in the article 2 of the UN Convention on The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) is comprehensive enough to define all “non nationals” who have to sell their work force:

“The term migrant worker refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national” (ICRMW).

In this framework, however, it is important to emphasise the fact that we consider all precarious migrant workers regardless of their legal status. Therefore, we deal with documented and undocumented² migrant workers as well. For the purpose of this study, undocumented migrants comprise people who enter a country without the proper authority (for example through clandestine entry and entry with fraudulent documents) and people who, after entering by using legal documentation, have stayed beyond the time authorised or otherwise violated the terms of entry and remained without authorisation (Koser 2005: 6).

The second term is the trade union type. With trade union type we refer to different style of trade union activities which are distinguished from each other due to their strategies and policies on certain issues. Since we deal with trade union types in detail in the second chapter, for the time being we only touch upon certain characteristics for different trade union types. These characteristics can be categorised as follows: the strategies on how to achieve goals; challenging the political and economic system; the involvement in the international sphere and an internationalist stance, the relation with political

² We use of the term “undocumented migrant” as opposed to “illegal migrant” for two main reasons: firstly, defining people as “illegal” can be regarded as denying their humanity. It can easily be forgotten that such migrants are human beings who possess fundamental rights whatever their status. Secondly, it implies criminality. Most undocumented migrants are not involved in crimes such as murder.

parties; the scope and the style of activities, the importance given to economic and social/political goals and how to organise members, who is to organise?

We assume that with these features we can identify different trade union strategies concerning their attitudes toward migrant workers. However, concerning the determination of trade union types it is important to indicate that we are all aware of the fact that these categorisations refer to ideal types which are mainly North centred and would not fit the reality of the Global South all the time.

With the trade union engagement/involvement we, in general, mean the mode of trade union activities concerning migrant workers. Therefore when we deal with trade union engagement we look into certain points which are: applying to inclusive or exclusive policies, support or control activities (either at the union or at the state level); we equally look at organising activities, involvement in political or solidarity campaigns and providing legal support. In some cases, due to the particularity of the case study and the available material, we deal with the internal participation of migrant workers within the union and with the political activities of the union in terms of the sector regulation concerning nationals and migrants.

Lastly, it is needed to touch upon precarity, since we focus on migrant workers working in precarious jobs. As Dörre (2005, 2006) argues, precarious work refers to all possible shapes of unsure, not guaranteed, flexible jobs: from irregular, seasonal and temporary employment to homework, flexible and temporary work to subcontractors, freelancers, so called self employed persons or even jobs with collectively agreed low- or poverty wages as well as “illusive” work like 1 €-jobs in Germany in the non-profit sector. The importance of precarious work for our study stands on the fact that precarious work increasingly meets persons who always have been excluded from typical work; these are mainly migrant workers and women. Given the fact that informality is at the very end of precarious work, we find it important to state that in the late 1980s and the 1990s Castells and Portes have argued that migrants in stepping into their (ethnic) community networks (Portes 1994: 434) are better able to make use of the informal than the formal labour market because of the (ethnic) community networks they find set in place. However, as Sassen has emphasised, this does not mean that the expansion of informalisation depends

on migrants. Nationals are sometimes in majority in informal enterprises or employment and undocumented migrants sometimes work in formal enterprises (Sassen 1998: 157-158). Nevertheless, migrants are strongly represented in the informal labour market, due to legal status and discrimination; they are more excluded from the formal market than nationals (Schweizer 2004: 56-57).

4. Method

Generally speaking, we use comparisons in order to observe and understand similarities and differences (Bayat 2001). As our title says “why not organising?”, we want to know why some unions are organising migrants and why some are not so much involved in organising migrants. Since we are generally asking why the involvement of unions with migrants differs, we want to know why some unions have an inclusive and other an exclusive approach toward migrants.

Comparative methods have often been labelled as comparing apples with oranges (Locke/Thelen 1995, Lim 2006, Bayat 2001), because they compare cases that are, due to their context, not exactly similar. As researchers utilising comparative methods argue, in order to understand differences, we have to take comparable units; these are cases which are similar but have differences in their features. Apples and oranges are fruits but have different colours and tastes (Bayat 2001, Lim 2006: 24). Generally speaking, unions are organisations for the interests of workers. But they also differ. This begins with the question, what is their organisational form? What are the interests of the workers? And who are the workers?

In order to find suitable unions, we looked for unions in immigration countries having different types and dealing differently with migrants.

Due to our preliminary research, we assumed that the IG BAU is a corporatist union and has a double strategy of exclusion and inclusion (for a certain type of migrants). Unions in Spain and especially the SOC have a distinct political orientation (which is not the case with the German “Einheitsgewerkschaften”) and are rather inclusive with migrants. KCTU unions in Korea are social movement unions. The KCTU has, it was assumed, set up a migrant union for undocumented workers and this is a strategy that none of the two other cases have considered.

As many have argued, the whole case matters, since structures, practices and discourses have different meaning depending on their context (Locke/Thelen 1995, Lim 2006: 19, Bayat 2001). Therefore we can not consider the union alone but also the society in a national context, in which it is embedded. We are comparing primarily unions between each others. Since, we assume, based on previous studies, that national discourses, government policies and the history of migration are important factors influencing unions, we took unions in different countries. Nevertheless, the countries are not our units of comparison. We do not compare South Korean, Spanish and German unions, but certain unions in a given country with certain unions in other countries.

Additionally, contextual differences are the product of history. Generally, we are dealing with the involvement of unions in a historical perspective but focussing on their recent involvements. In focussing on recent discourses and practices, we can have a better access to material (interviews, documents), especially in the case of Germany, where due to our geographical position and language skills we can more easily have access to this kind of information. Additionally, in this way, the time frame of our study is more suitable to comparison, since global forces increase similarities in structures and struggles. Aware of this and of the danger to overestimate the “flatness of the world” we agree with Bayat that making comparisons, one has to recognise that:

“It is true, the homogenization thesis is often exaggerated, since in reality global influences are mediated, negotiated, and modified by local cultures and histories, resulting in hybrid types and differentiation. In fact, it is these differences that are so vital for our comparative purposes. Yet, one cannot underestimate the increasing resemblance in social and economic structures (for instance, in urban processes and economic operations) as well as in social forces and types of struggles” (Bayat 2001).³

As it has been emphasised, one uses comparisons to test the research hypothesis in order to see if the assumptions of the hypothesis are valid or refuted. In so doing we can eliminate some variables of the hypothesis and focus on the important ones (Lim 2006: 21, Landman 2003: 4). Nevertheless, we do not falsify or validate our factors affecting union involvement in a definitive way, since another case study could falsify or validate one of our

³ Bayat speaks about the resemblances of the area of its studies, the middle east, that he considers as a peripheral region. Korea has been considered has a peripheral fordist system of accumulation (Gray 2007), nevertheless, Korea being in the OECD, we consider it is comparable with our two other countries.

theses. We regard reality as so complex that our findings can not be definitive. Moreover, in order to avoid complexity reduction, we do not classify national discourses, migration histories and government policies. We make an exception with union types because the concept of types is per se a classification.

Finally, we have to point out that we make comparative qualitative studies. Statistics on the proportion of migrant workers in a certain sector or the percentage of their membership in a given union are only used as illustrations. Nevertheless, due to our time resources, we can not pretend to use a specific qualitative method.

We are working both in a deductive and an inductive way. Since we want to test a hypothesis based on previous studies we are making deductions. But, much more we will be led from the findings of the case studies and therefore work inductively.

We are using all kind of materials available from our location, Germany. We make documentary analysis of union documents like union statements found on internet, or presentation brochures; we analyse texts from government institutes (e.g. the Korea Labour Institute) or newspaper articles. We use literature from scholars and activists. Additionally, we use statements from e-mail, telephone and face to face experts' interviews, such as interviews with union officers or a journalist on Asian and union matters. We use the interviews strictly as additional information sources and illustrations for arguments. The experts interviewed, with the exception of the journalist, have a so called firm⁴- as well as a context knowledge (Meuser/Nagel 445-448). They are experts in their own field (the union) and also in the broader context, in our case, legislations, the situation of migrant workers, the discourses on migrants and so on. Due to our geographical position, we had to pursue e-mail interviews in Korea and Spain. At this point, we would like to say, that the languages used for our interviews are German, English and French (for the Spanish case). The e-mail interviews are in their original and translated form in the annex. The face to face and the telephone interviews are, due to time limits, paraphrased or only the questions we asked are in the annex, but quoted in their original version. Lastly, we did not use the same guideline for our questions, since we do not

⁴ From the German „Betriebswissen“.

compare expert knowledge, and the additional information needed are very different from case to case.

Last but not least, in dealing with countries in which we are, on one hand, insiders (Germany), and on the other hand, outsiders not knowing the language (Spain and Korea), we are fully aware of our limitations as well as our strengths. As Smelser explains:

“[...] those who have been socialized into a given culture and society are the only ones who can truly understand it. This position has had a number of different formulations, the most recent of which is ‘standpoint theory’. The contrary aspect of the point is that those who have been thus socialized are blind to the understanding of their own, because so much of it is unconscious, taken-for-granted or not-to-be-discussed – ‘the last creature to discover water is the fish’.” (Smelser 2003: 655)

So far, for the German case, we have the advantage to understand the meaning of certain discourses and practices that outsiders might not have. Our blind spots can be checked by the “outsider” of our team. For the Spanish and the Korean case, we have the advantage to take nothing for granted but we do not underestimate the shortcomings due to our language and general contextual limitations.

A last point, also belonging to the field of global studies, is the fact that comparative analysis has always dealt with categories developed in the West (Smelser 2003: 648-649), a point we will discuss in our second chapter when discussing our unions’ types.

II. Theoretical Discussion

1. Literature Review

Framing a theoretical perspective to understand the implications and the affects of the international migration has been main concern for many scholars all around the world. In the context of international migration, there are different approaches to explain the international migration. Each approach ultimately seeks to elucidate the major causes, mechanisms, and dynamics behind the labour to move across borders. On the one hand, macro approaches namely the World Systems approach, Dual Labour Market approach, and Equilibrium approach focus on the structural factors leading to migration of labour. On the other hand, the neoclassical economics approach evaluates this phenomenon with a micro level of analysis and conceives this phenomenon as an individual decision for income maximization (Arango 2000).

However, analysing the issue of international migration as a global trend from trade union perspective can be seen as a rather new concern for both trade unions and scholars. Since international labour mobility and particularly organising migrant workers became a crucial issue for trade unions which suffer from decreasing membership and legitimisation, a recently developing body of literature has started to deal with the trade union's stances towards migrant workers by mainly standing on empirical research (see Penninx/Roblad 2000, Castles/Kosack 1973, Kühne 2000, Delgado 1993, Milkman 2000a, Milkman 2000b, Wrench 1997, Wrench 2004, Lühje/Scherrer 2001 etc.). Among these studies some points are brought in the foreground, which are from our perspective of importance to understand trade union strategies concerning migrant workers. We would like to touch upon these discussions which affect the course of our case studies.

International migration has always been a complex phenomenon. However, the international migration movement during the last few decades have become more complex, diversified and heterogeneous. On the one hand, new sending and receiving countries have started to become important in the migration scene. On the other hand, new migrant groups have started to join to the migratory flows. Under the new global division of labour, precarious jobs which

are mainly irregular, insecure and undocumented have become main employment opportunity in the labour market for the migrants.

Economic globalisation has had a significant impact on the developing countries. They were encouraged to adopt new policies and accommodate new conditions which are associated with globalisation in order to solve economic crisis. This was done by opening their economies to foreign direct investment and by eliminating state subsidies. However, most of the countries involved in these economic restructuring processes did not succeed. Among the most significant outcomes of the restructuring programmes are the growth in unemployment, the increase in poverty, and a heavy burden of government debt in most of these economies. In turn, people were forced to migrate to overseas for gaining employment or earning better paid jobs (Sassen 2001: 102-103). Most are motivated by the desire for higher wages and better opportunities, but some are forced to leave their homes because of famine and poverty, natural disasters or environmental degradation, and violent conflict or persecution. Now more and more countries are involved with migration, either as origin, destination, or transit countries, or all of these simultaneously (ILO 2004: 3).

Nevertheless, the hope for a better life did not come true for many migrant workers who left their home for the uncertain future. In reality, the majority of migrants is at the bottom of the ladder and often does the dirty, dangerous and difficult –“3-D”– jobs that, once they become “migrant jobs”, tend to remain migrant jobs (ILO 2004:10). Migrants tend to suffer lower standards of housing and education; they regularly hold worse paid and least prestigious jobs – irrespective of their qualification- and are exposed to health and safety risks insofar they occupy more dangerous jobs. They are excluded from certain jobs and they are not fully entitled to social security since they are mostly employed in the informal economy (Kahmann 2002; Schweizer 2004). Since new labour migration which has different implications from the labour migration to Western Europe in the 1960s in terms of their position in the labour market and their legal status, we will focus on migrant workers, documented and undocumented, who fill precarious jobs in a certain sectors.

Following to this discussion, the question arises whether trade unions in the receiving countries are prepared to take up the challenge of an increasingly

multi-national, multi-lingual and multi-ethnic workforce to tackle the formal and informal discrimination to which these groups are regularly exposed and to organise them into their rank and files (Kahmann 2002: 6). So far, migrant workers, particularly undocumented migrant workers, have often been considered “unorganisable”. The reasons behind this thesis stand on the widely accepted argument that

“migrants are vulnerable persons who are intensely fearful of any confrontation with authority; who accept substandard wages and poor working conditions; and who therefore extremely unlikely to actively seek unionisation” (Milkman 2000a: 64).

A number of studies and campaigns, however, disprove the “unorganisability” thesis. Delgado (1993) and Milkman (2000a) argue that the idea of unorganisability of undocumented migrant workers is a myth. Delgado suggests that

“their organisability depends less on their citizenship status [...] and more on labour market forces, the legal environment, organisational capacities, forms of labor control, migration and settlement, and other such factors” (Delgado 1993: 11).

The Justice for Janitors (J for J) campaign, organised by the Service Employees International Union (SEUI)⁵ in the USA and the self-organising experience of the MTU in South Korea are good examples of migrant workers undertaking successful collective action to make their lives better.

However, the position of trade unions toward the accelerating trend of global labour mobilisation changes from time to time in a given country as well as among the countries. In the literature, authors (Castles/Kosack 1973, Kahmann 2002, Penninx/Roosblad 2000, Wrench 1997, 2004) emphasise on the dilemmas that trade unions face concerning migrant workers and changes in the labour market. Some of them use control-based approaches, while some of them prefer supportive approaches towards migrant workers (Schmidt/Schwenken 2005). We argue that the response of the trade unions to global labour mobilisation oscillates between the national priorities and international solidarity. In the light of this, in certain historical moments some unions oppose to liberal labour immigration because of its potential for lowering wages within regulated labour markets and providing alternative labour in the

⁵ For more information on SEUI and J for J see www.seiu.org

case of disputes. Considering that trade unions owe their first loyalty to the native workers who created the organisation, trade unionist may lead campaigns to keep out migrant workers or even reduce the existing number (Castles/Kosack 1973: 127). In the course of time this argument is supported by some European trade unions for example in Austria or Switzerland which see migrant workers as competitors, therefore according to them restrictive approaches toward migrants should be implemented by the government and trade unions as well (Penninx/Roosblad 2000, Wrench 1997). However, a restrictive policy contradicts the doctrine of internationalism which is considered as a strong tradition in the history of the labour movement. Moreover, employing any kind of restrictive policy would lead to weakening of the unions' power within the society as Castles and Kosack argue:

“It may seem logical to oppose immigration, but once there are immigrant workers in the country, it is essential to organise them – not only in their own interest, but also in the interest of the rest of the workers. If the unions oppose immigration initially and even continue to do so, they may find that the immigrants do not trust them and are willing to join. Where this happens, the unions have the worst of both worlds. Not strong enough to prevent immigration, their attempts to do so only serve to alienate the new workers from them. The result is the weakening of the unions and the deepening of the split in the working class” (Castles/Kosack 1973: 128).

Contrary to the restrictive approach, a recently developing body of literature documents that the labour movement has actually become more open to migrants and brought new organising models (Delgado 1993, Lüthje/Scherer 2001, Milkman 2000a, Milkman 2000b). Rather than opposing all migration, unions in the United States, in South Europe (Spain, Italy) and in Asia (South Korea) have mobilised migrant workers for better life and working conditions, for laws granting amnesty to undocumented workers and for increasing family reunion rights (Kahmann 2002, Ward 2006, Cachon/Valles 2003, Kim 1999). Once trade unions supports inclusive approaches, different strategies which are shaped by equal versus special treatment dilemma appear. Some trade unions strategically concentrate exclusively on the common interest of native and migrant workers and follow general policies for all workers. Contrarily, some of them back the specific interest and needs of their migrant members, and devise specific policies in order to attain material equality (Penninx/Roosblad 2000, Wrench 1997, Wrench 2004).

In light of these arguments, it is important to evaluate the factors which shape the exclusive or inclusive approaches in order to analyse different trade union positions toward migrant workers. Following Pennix/Roosblad's (2000) framework, but not solely depending on it, three factors can be identified: the history of migration, national/global and public discourses and the government policies in the institutional and legal context. However, we argue that, in addition to these factors the role of union type should be emphasised and taken into account. Since these four factors are the backbone of our research, before starting the case studies we want to discuss these factors in detail.

2. The Elaboration of Factors

2.1 Does the history of migration influence union behaviour regarding migration?

The history of migration has in so far an influence, as it can explain in which sector migrants are working and what the demands of the unions are. We assumed that permanent migration and a long migration history would make unions more likely to engage with migrant workers. Economic considerations concerning the sectors which are open for migrants could also have an effect, since migrants are often considered as a threat for the employment of nationals. In addition, since all labour migration schemes in our cases, except the EU free movement of workers, were launched as response to labour demands, either absolute labour demand (no labour available – Germany in the 1950s, Korea in the 1990s), or relative labour shortage (which is due to reluctance of national workers to work in specific sectors – Spain in agriculture, construction and domestic sector, but also Germany and Korea in a later period) (Hogart/Mendoza 2000, Kühne 2000).

In addition, either a high or a low proportion of migrants could be important: If the numbers are high we anticipated a more likely engagement of the unions because it would have an effect in their action field. Furthermore, we consider that confronted with a new immigration, unions would need time to adapt to the new situation. Equally, temporary migration would not encourage unions to engage with migrants, since short-term workers are not the base for a permanent membership. The origin of the migrants could be another important point for unions' responses. Firstly, because every country discourse defines

which migrants are welcomed or not. Secondly, the experience of migrant workers in their home countries with trade unions could be a factor gaining higher or smaller interest of the trade unions. As Milkman argues that foreign-born workers' attitudes are more favourable toward unions than are those of native-born workers (Milkman 2000a: 65-66). According to her, many recent immigrants -especially from Central America- have some positive experiences of unionism and left-wing political ties in their home countries which lead them to take part in union activities. However, in contrast to Milkman's argument, Penninx and Roosblad argue that the specific features of migrant have no decisive influence (2000: 200-201). Considering these different arguments, we argue that in every country the origin of migrants is linked to the opinion which migrants are "the required migrants". This leads to a hierarchy of the positions in the labour market (stratification) (Kahmann 2002, Cornelius 1994, Flam 2007). The possible history as an emigration country could facilitate unions to make the relation between the former fate of their fellow nationals and the one of the current migrants. If they have international collaboration in order to improve the situation of emigrants in other countries they could see the need to have similar practices toward immigrants.

Finally, if migrants are historically employed in certain sectors which are well unionised/not unionised, that would encourage/discourage unions to organise them. It can be that a sector where one would find a great share of migrants for a long time is not an area of practical concern for unions as it is the case in the informal economy.

2.2 Does the national public discourses on migration and who belong to the nation influence union behaviour regarding migrants?

National identity and public discourse are important factors that may influence the policy of trade unions towards migration and migrants. Trade unions are inextricably linked with the society in which they take part. As Penninx and Roosblad rightly pointed out that it is the national arena in which trade unions have taken their form and in which they have to exert their influence. Therefore, they are not only influenced by national histories, but are indeed the product of those histories (Penninx/Roosblad 1993: 14). However, the strength and concept of the national discourse itself could change from

country to country in a given time. In addition, it is possible to have different national discourses within one country.

This assumption becomes clear for the case of Austrian trade unions and their attitude towards migrants, especially after post-war period. Austrian trade unions have supported a certain policy which protects native workers from immigrants and opposed any significant immigration by using their strong position in economic decision-making in order to keep labour quotas as low as possible. From the perspective of the Austrian trade unions, migrant workers should be defined as a special, temporary category that should not enjoy equal rights in a number of aspects. Migrant workers are always supposed to be sent back or even migrants had to be laid off before Austrian workers (Penninx/Roosblad 1993: 188). On the other hand, in France, the existent Constitution centred patriotism, based on the belief in the French Republican values, gave, before it was challenged by the right in the 1990s, large possibilities of naturalisation (See Flam 2007: 31-32). As Lloyd argues, the discourse on the French Republican values which are symbolised with ideas of "Equality, Liberty and Fraternity" influenced the trade unions attitudes toward migrant workers (Lloyd 2000: 112).

However, as it is obvious in the Austrian case, due to the national formation of trade unions (Van der Linden, 2004), it is safe to say that trade unions in general give higher priority to the interests of the national workers. In fact, post-war western trade unions had a concept of solidarity which was bound to the nation state and its citizenship. Although trade unions may ideologically have an internationalist orientation, their actual effectiveness has to be struggled for within national context (Penninx/Roosblad 1993: 206). In this framework it is important to emphasize that the modern organised union movement did not start with industrialisation itself, but with the gradual growth of the nation state in the 19th century. Authors argue that the concept of the nation state, an imagined community within a national territory, became the dominant framework for the organisation of workers and employers, and that citizenship was first introduced as important distinction toward others (Penninx/Roosblad 1993: 2-3).

On the other hand the concept of nation enforces a form of exclusive solidarity that divides the working class. Castles argues that one of the features

of the nation state is the control of the “difference” (2003: 6-8) and by doing so the nation state defines the boundary of citizenship: Who can belong to the nation or who can not as it is best exemplified with the concepts of *jus soli* or *ius sanguinis* or even at the level of ethnicity or of skin colour. Therefore, the migrant workers became an anomaly for the organisation of labour, particularly, when migrant workers are seen as alien and temporary. Furthermore, it is argued that during the last century the union movement has contributed to the development of “the institutionalisation of the political, industrial, and social citizenship of all members of the nation state” (Penninx/Roosbald 1993: 3).

Although increasing attempts aim to build up new international solidarity among trade unions and workers, the national discourse seems to be strong once we deal with migrant workers in a certain country. In the face of membership decline, unemployment and job losses in traditional industries, along with job competition, trade unions are struggling to find ways of strengthening their bargaining positions in wages and working conditions at the expense of “the others”. Especially in the times of economic crisis migrant workers who are considered as a reserve army are perceived as an economic competitor thus threat. To avoid the negative effect of this competition, trade unions, traditionally, focus on the protection of the hard-won achievements for their native members which can become a dilemma for the trade unions. Such exercises in ‘exclusive solidarity’ can be characterised as being dangerously akin to nationalistic and xenophobic overtures, especially if they reflect elements of discrimination toward ethnic minorities (Fichter 2008: 3).

Beside the misperception of migrants as an economic competitor, the attitude of prejudice towards migrants also reflects the image of foreign migration as a socio-cultural threat. Firstly, migration is concerned as problem of citizens’ security since public discourse claims a connection between the growth of migrants and the increasing insecurity. Migrant workers, particularly undocumented migrants, are blamed to increase criminal incidents in cities and cause “cultural pollution” as Mr. Sarkozy used in his electoral campaign. Secondly, migration is also described as a cultural problem. Migrants become dangerous since they have a different culture which is considered as a kind of uncivilised culture, threatening the “modern culture” (Agrela 2002: 15).

In sum, since unions participate in the construction of the nation, “the national public discourse” is an important factor affecting their position towards migrant workers. While some trade unions have affirmative policy on organising migrant workers, many of them prefer to either stand in restrictive position or ignore the seriousness of the problem. Furthermore, not only trade unions but also native workers are often concerned with the presupposed negative effects of migration which reflects the embedded national discourse within the society.

2.3 Is the institutional and legal context in which migration is taking place of importance?

The institutional context is important insofar that it explains one of the points of departure of the demand of the unions. In the first instance the implemented laws and government policies in a given country shape the framework of rights of migrant workers.

In general, institutional discrimination is one of the most important constituencies of racism in society rather than individual prejudices or other explanations based on psychology. Certain legal provisions, organisations, institutions and their representatives as well as structures, processes and collective and institutional interpretative frameworks lead to discriminatory policies and practises. Nevertheless, individual action also plays a role in this approach in the form of so called “gate-keepers”, being politicians, civil-servants or managers, who have a crucial role in supporting and implementing or even opposing certain laws and rules. It is assumed that those gate-keepers do have the power, the influence and scope of discretion to argue either along the line of institutional discrimination to the detriment of migrants or act and argue in favour of migrants. The experience of gate keepers may also create a great share of professional, scientific and political discourses as well as media reflection in a national setting. Gate keepers are able to contribute to criticism or adversely, support of institutional discrimination and they also decide what kind of resolutions are taken and may impact the extent of (non)-discrimination (Flam, 2007: 15-17).

As gate keepers, influential unions have a certain freedom of action to reject, to accept or to demand the improvement of legislations. If in a certain sector most of the migrants are undocumented, the unions could call for their legalisation or for their deportation. If migrant workers are by law entitled to less

wages, the unions could strive for more wage equality or accept the different wage levels, or if migrant workers get in practice less wages but not by law, the unions could make anti-discrimination campaigns or accept the status quo. For instance, Penninx and Roosblad argued that unions which are not involved in policy making would have more freedom to generally express its opinion and therefore to criticise or oppose government policies (Penninx/Roosblad 2000: 203). These unions might even have the possibility to form counter discourses and new discourses on policies and the way policy making is conducted.

2.4 Does the union type influence union behaviour regarding migration?

The union type is a result of historical national processes. This type is embedded in industrial relations which are the result of the different political constellations at a given period of time. Unions strive for certain industrial relations which have an effect on the union type. These forms, in turn, are the result of the ideologies of a part of the labour movement at a given period of time and of political opportunities or non-opportunities (given or perceived opportunities or non-opportunities). They are as well the result of the interaction of the movement with civil society as it was the case in Spain during the Franco Regime.

New developing unions' types are influenced by the past history of the labour movement, for instance by its experiences of struggles. This is particularly clear for the "democratic" unionism in Korea and Spain, which sees itself as the continuation of the struggle for democracy during the authoritarian regime. But also, past forms of unionism form the understanding of the members of the labour movement on what can be a labour organisation. This understanding in turn influences the development of the unions.

Unions' types and industrial relations are nationally oriented; nevertheless, the labour movement has always had, more or less, an internationalist orientation (Van der Linden 2004), at least internationalist rhetoric. Therefore, global discourses on the labour movement influence also the unions' types (although in a less obvious way). One of the stated aims of the KCTU (Korean Confederation of Trade Unions) in Korea is to defend the human rights. In the last two decades an increased discussion on social movement unionism as a mean of unions' renewal has taken place in many places of the world. This discussion has been conducted by scholars (see among others Scipes 1992,

Frege/Kelly 2003) but also by trade unionists. For instance, officials of Ver.di (United Services Union) in Germany have travelled to the US in the last years, in order to learn about organising and social movement unionism. Of course, there is a difference between ideological discussions on the unions' types and the practices. Nevertheless, ideology and practice are interlinked and influenced each other. When possible, we will make the difference between the two, since practices are more relevant for organising migrants.

Discussions (at least in the literature) on union developments and union types have taken place mainly between scholars from western countries (Hyman 1998, Scipes 1992, Robinson 2000, Voss/Sherman 2000)⁶. The discussion on social movement unionism have been partly developed in order to try to understand the labour movement of the Philippines (Scipes 1992) and South Africa (Webster 1988)⁷ but also as a manifesto for labour movements on the global stage (Waterman 1998, Moody 1997). Additionally, the roots of the organised labour movement has been identified during the industrial revolution in Europe or, as already mentioned, with the growth of the nation state in Europe (Penninx/Roosblad 1993: 2). Therefore, the typology we have developed is very much oriented toward the development and the discussions in the West. We are in the same dilemma as the mentioned scholars, trying to build a global typology, being educated in the West and relying on the mentioned sources. Given the idea of contextualised comparisons (Locke/Thelen 1995), one should probably develop special categories for the Korean case. For instance Gray (also a western scholar), uses the term "social or strategic unionism" to refer to the new unions strategies in Korea and South Africa (E-Mail exchange with Gray on the 13.08.07). That we do not is one of the limits of our work. On the other hand a single typology for different countries makes comparisons easier to follow for the readers. The typology we will use for our study is the following:

2.4.1. Economic and business unionism

This model is viewed as the self-conscious pursuit of economic interests and often labelled with the US trade union movement. Its priority is collective

⁶ This mirrors probably, global inequalities, where labour and research institutions, universities have more financial means in the West.

⁷ Even if Webster comes from South Africa, he has been educated in western institutions.

bargaining, enforcement of the collective agreement in the enterprise and providing services to members such as health plans, insurance, and group legal services.

There are different views on the involvement of these unions within the political sphere. Hyman states that business unions are the primary organisation for the representation of occupational interests. These interests should not be subordinated to broader socio-political aims. Consequently, trade unions should distinguish themselves from any political and social issues, organisations and parties and restrict themselves to the agenda of collective control over employment. In contrast to this, Scipes perceives business unions which do also engage in the political system of the state “for the well-being of its members and its institutional self but generally limits itself to immediate interests” (Scipes 1992: 7). Therefore we think that business/economic unionism gives the priority to workplace issues before a possible involvement in the political arena. We agree with Scipes that the later will be also in the interest of their membership. Further on, another determining factor might actually be that economic or business unions do act without challenging the current political system.

Eventually, the question of internationalism can also be approved in a number of cases, while the objective to engage in international labour activities is certainly the maintenance of the current economic system of the respective state under the condition it serves their membership. We can assume that this type will be concerned with the economic interests of migrant workers who are already members of the unions. It will not particularly try to organise them or to change migration laws.

2.4.2. Political unionism

According to Scipes, Lambert and Webster have used the term political unionism as a substitute for social movement unionism (Scipes 1992: 6). This term has also been used by Korean scholars to describe a part of the Korean labour movement (Song 1999). Like Scipes, we prefer to use the term political unionism to refer to a union movement of Leninist or of “radical nationalist”⁸ type. This union is subordinate to a political party or state. Political goals either

⁸ This refers usually to the struggle to overcome colonialism.

dominate or neglect workplace issues (Scipes 1992: 6). The aim of these unions is the revolution. Therefore, in the first stage they won't compromise easily with employers and states and they will use strategies like mass demonstrations, strikes and sabotages. After the revolution their aims can be the development or the consolidation of the state. Working place issues become relevant. They won't engage in collective bargaining, since the state is representing their interests. We can identify political unions in (former) socialist states or in radical nationalist regimes.

Political unions also take part in the international trade union movement which are associated to the own ideology (Scipes 1992: 6).

We can assume that in the first phase of their activities, political unions organises workers regardless of their occupations. In the second phase it is to be expected that they organise all workers in state enterprises. In the first phase they will organise the migrants who adhere to their principles. In the second phase they probably won't organise new migrants since they identify themselves with the nation.

2.4.3. Political economism

According to Hyman (1998), political economism emerged as a new identity for trade unions when the trade unions, which had traditionally embraced broad political ambitions, either of revolutionary or reformist style, became in practice increasingly preoccupied with a collective bargaining agenda. Also business unionism had to change since the terrain of collective bargaining became progressively shaped by macroeconomic considerations and legislative regulation of employment relations. Political economism focuses simultaneously on collective negotiations with employers, and on influencing the broader legal and economic framework of collective bargaining. None of the elements can be disconnected from the other. However, political economism seems more to represent a broad framework of trade unions strategies, which can further be distinguished between the two following models.

a. Social Dialogue Unionism

Social dialogue characterises the involvement of unions in dialogue-based relations at different levels, such as in tripartite institutions and agencies, in

order to engage in legislative issues and also lobbying. Social dialogue does not imply having common or identical interests between the different actors in the dialogue, but it is highlighting the method to reach the aims of the unions.

Social-dialogue unions, as an interlocutor of the state, can mainly be detected in countries with a social wage system (the state takes part in benefits for unemployment, retirement, sickness etc.). In times of economic restructuring and decreasing social welfare state social-dialogue unions do increasingly take part in opposition movements but do not necessary abandon the dialog (Hyman 1998).

b. Corporatist Unionism

The corporatist type of unionism is mainly concerned either with the national scale of employment (macroeconomic level unionism) or with the performance at company level (micro-unionism). The first type of corporatism often applies to centralised unions, the second to decentralised systems. Nevertheless, both types of corporatism can be found in one union.

In both cases corporatist unions strongly assist the state and the employers and so enter a supportive and cooperative relation. They are not likely to oppose the system of industrial relations and modes of production. Their aim is the development of the state and they want to sustain the competitive performance of the economy. If the exports economy is not competitive (anymore) they will take part in a downward spiral of underbidding working conditions.

Beside their collaborative strategies, social dialogue and corporatist unions have a political party they prefer (usually social democratic parties). If this party is in the government they will be more cooperative than if it would be in the opposition.

We can assume that social dialogue and corporatist unions are more concerned with immigration issues, when their party of preference is in the opposition. Generally, we can assume that these unions are not very concerned with organising migrants, since they identify themselves with the nation state as social partner within the tripartite regime.

2.4.4. Social movement unionism

According to Hyman social movement unions (SMU) set their priorities on a broader agenda for social change whose outcome is not rigidly defined but may vary from the unions concerned. On the other hand, Scipes is arguing that SMUs demonstrate a commitment both to internal democratic practices as well as to the broader democratic and socialist transformation which aims to be free of repression on race, class and gender issues. In other words social movement unionism aims at changing political and economic conditions (Robinson, 2000) both for the smaller group of their members as well as the whole of the working class in the respective state (Scipes 1992: 2). By its name it is embedded in a network of community and political alliances with social movements (Scipes 1992: 16).

Social movement unionism places great emphasis on mobilizing the rank and file to organize new members and thus looking beyond the current membership. It relies on strong member commitment to unions and participation in union activities to realise its objectives (Robinson 2000). Additionally, Voss/Shermann (2000) point out the development of political skills and self-competence of members within social movement trade unions, as well as the promotion of greater levels of activism and participation of rank-and-file members.

Social movement unionism is active internationally since it recognizes the situation at the workplace and the country's situation as being closely connected to the current political and economic international relations (Scipes 1992: 3).

Some scholars (Bramble 2003, Lambert 2003, Reiss 2005) argue that social movement unionism is a highly mobilized form of unionism which emerges in opposition to authoritarian regimes and repressive workplaces in newly industrializing countries of the developing world. Moreover, some argue that SMU is not likely to emerge in countries with stable collective arrangements (Robinson 2000).

Crucial in the debate on SMU is the understanding of the role of the working class in the transformation of society. Authors like Waterman define the workers' struggle as one part beside other struggles, it is said to be neither the only one nor the primary one. They should be carried out on an equal basis –

that is why SMU is not solely limited to the workplace and not only undertaken by industrial workers (Waterman in Scipes 1992: 9-10). We will apply the concept that workers may not have only one identity and take on only one role in society but may recognise themselves as bearers of multiple identities. Thus, workers struggles can go beyond the work place (Munck 1998: 10).

In the view of Lambert (in Scipes 1992: 12) social movement trade unions have to overcome the artificial separation of politics and economics – the transcendence will finally impose a real threat to the capitalist system. This view opposes other views, mainly Leninist unionism, conceptualised for the pre-revolutionary stage which states that the workers alone are incapable of struggling for more than economic demands. That's why the workers need the assistance of a superior party (Scipes 1992: 11). In social movement unionism this is not the case.

We can assume that these unions are preoccupied with organising migrants and increasing the consciousness of the society at large on migrants' issues. At least, they will build coalitions with migrants' organisations, when struggling on other political issues.

2.4.5. Separatist/Guild model unionism

The guild model, described by Hyman (1998) as a contemporary form of trade unionism, in fact stems from an old heritage. Certain professions were joining forces in order to form occupational groups and seeking to defend their exclusive interest as uprising and powerful actors in the pre-capitalist society. We can still find these characteristics in the presence of the separatist unions with a strong stance to the guild model. They are formed by advantaged, skilled occupations and service workers. Their interests can be defined as elitists which are pursued parallel, but more likely in opposition, to other groups. One of their aims seems to be the rejection of narrowing pay differentials. For separatist unions it is not a dogmatic issue whether they will or will not engage in political struggles or develop strong relations to political parties. Their efforts will certainly embrace alliances in the socio-economic environment as long as their interests can be fostered. The demand of solidarity, one characteristic of trade unionism as such, is in our view not a constituent factor for this model which gives reason to deny their status as being part of a broad representative movement of the working people.

We can assume that these unions will try to organise migrants of their professions but won't try to improve migrants' rights in general.

2.4.6. Syndicalism

Syndicalism or anarco-syndicalism, originally a French movement is a militant, oppositional, explicitly anti-capitalist disposition towards employers and the state. It refers to a set of ideas, movements, and tendencies which share the aim of transforming capitalist society through political action by the working class on the industrial front (Sheppard 2005). The radical political attitudes are closely connected to revolutionary socialism (Hyman 1998). Syndicalism, as expressed by Bakunin, follows the principles of direct action exerted by the workers (demonstrations, sabotage, violence), economic strike, apolitism, anti-intellectualism and displacement of the state by a trade union government (Hodges 1961).

The main concept of syndicalism which is heavily influenced by the First International, says that the state is by its nature repressive and must be replaced by another ruling class. This class should be the workers and the society would be an industrial one. Yet, the economic struggle is the foremost aim and a precondition of the revolution which has to be carried out by the workers themselves. In relation to political parties, intellectuals and scientists syndicalism distances itself considerably from them, because it fears to be dominated by those authorities instead of reaching the intended autonomy of labour (Hodges 1961).

Being in the tradition of the First and Second International, embracing the special situation of the migrant colleagues would be fundamental. However, workers' solidarity is considered by the anarco-syndicalists that all workers, no matter what their gender or ethnic group, are in a similar situation in regard to employers (Sheppard 2005). In the short run this would exclude the strategic improvement of the migrant workers situation by employing specific policies. In the course of some success, however, this struggle would be certainly incorporated.

Case studies

III. Case Study – Germany

1. Problems of the Construction Sector

To understand the situation of the German construction sector and the concerns of the sector trade union IG BAU⁹ it is necessary to give a brief summary of the most dominant features.

Whereas in the early 90s, the construction sector faced an economic boom mainly through increased construction activities after German unification with migrant labour being a supplement of domestic labour, since 1995 the construction sector has experienced that domestic workers liable to social insurance are replaced (Cyrus 2002a: 196). The unemployment rate has risen from 12.7% in 1995 to 20.2% in 2000. In the years 2002 and 2005 peaks of more than 25% were reported. The situation only started to improve at the beginning of 2006; until June 2007 the rate of unemployed construction workers has slightly decreased to 22.5% (144,400 in total) compared to an unemployment average rate of 12.6% for the whole economy (IG BAU 2007d).

Researchers assert that the construction industry in the mid 1990s has experienced a profound change towards informalisation. Especially Berlin, as the most influential city in the industry, encountered the “globalisation of the construction site” (Hunger 2001): skilled workers from western European countries, contract workers from Poland, EU and Polish subcontracted workers, resident Berlin workers and workers from the Brandenburg neighbourhoods as well as global undocumented workers (Wilpert 1998: 287).

Additionally, the rise and economic outcome of informal work is a further core issue. IG BAU estimates one third of the GDP in the construction sector and handicraft is created via informal work. Informal migrant workers receive wages more than 30% below or just about 10 to 15% of the minimum wage of the construction sector, this means an hourly dumping wage of less than €2 net (IG BAU 2004). A secretary of the European Migrant Workers Union reported a common wage of €1.50 for Romanian workers (interview with Jarzyna on the 30.08.07). Due to this enterprise- and policy-led fall to the bottom in the informal sector this has strong repercussions on any construction worker.

⁹ Acronym for Industriegewerkschaft Bauen-Agrar-Umwelt (German sector trade union for construction, agriculture and environment industry)

In addition, the conditions of subcontracting and workers posting¹⁰ have a massive impact on the state of the construction sector. According to Hunger the practice of posting workers has led to a divided labour market in terms of payment and social security (Hunger 2001: 71). On the one side there are the safe and skilled jobs which are mainly possessed by Germans and on the other side the precarious jobs carried out by a high number of migrants and by a smaller number of German workers. We can also refer to this phenomenon as the “segmentation of the labour market” (Nickel 2004: 27)¹¹. At the end of the scale of precariousness we find informality. The existing legal provisions like the minimum wage or Posted Workers Act¹² do not provide adequate protection for the workers (Hunger 2001: 71). Furthermore, the social peace of the construction site is disturbed because of unfavourable developments such as: bargaining agreements not being implemented as wage development indicates. Trade union power is eroding due to high unemployment rates and ineffective organising strategies which are not able to meet the needs and practice of migrating workers (interview with Schmidt-Hullmann on the 23.08.07). Union membership is approximately 20% of the workforce after a decrease of membership from 780,000 in 1990 to 400,000 in 2006 and despite the entry of 100,000 members resulting from a merger with a smaller union (Lillie 2006: 5). What makes IG BAU very uneasy is the relation between migrant and native workers. Naturally there are different views on the question of how tolerant or xenophobic or even how marked by racist attitudes the working contact of national and migrant workers is. Schmidt-Hullmann denies the impact of nationality on the quality of working relations but rather points out tensions deriving from precariousness and informal work versus safe jobs and permanent staff (interview on the 23.08.07). On the other side, Hunger (2001: 77) reports on attacks against migrant workers and other sources support the opinion of construction sites being prone to racist interpretation of a global dilemma.

¹⁰ Posting workers means that a firm in one country sends their employees to a contractor in another country for a certain time. In Germany this is often connected to the fact that the general contractor is mainly responsible for the end product and the process, but draws up a contract with a subcontracting firm which on its part has a contract with another or several smaller subcontractors.

¹¹ We will apply the terms segmentation and stratification congruently for the just explained concept.

¹² Arbeitnehmerentendegesetz.

Finally, by outlining the precarious jobs in the sectors concerned, it becomes obvious that some of the forms of legal precariousness go hand in hand with informality and sometimes even illegal practices:

- posted EU workers mainly of subcontracted firms,
- workers on the basis of bilateral agreements with middle and east European countries on “work order contracts”¹³,
- workers of EU accession states in the frame of free movement of labour,
- seasonal work, mainly in agriculture,
- “disguised” hiring out of workers¹⁴,
- irregular work, often covered by false self-employment.

To sum up, the crucial concerns of IG BAU are wage dumping, “distortion of competition”, unemployment among national members due to oversupply of (migrant) labour and wage fraud - besides the erosion of trade union power (Lillie 2006: 27; compare Cyrus 2002a: 194-197).

2. Description of trade union engagement with migrant workers/ Labour Migration Issues

Kühne developed indicators¹⁵ which could measure the involvement of migrant workers in the trade union. Those indicators imply a quantitative approach assessing the outcome of trade unions’ efforts. Instead, we use a qualitative approach and are more interested in the actions of the union before we will possibly look at the outcome. The involvement of the German unions with migrant workers and labour migration issues is described on four different levels: (a) their organising strategy, (b) the internal participation of migrant workers within the union, (c) the political activities in terms of the sector

¹³ Werksvertragsarbeitnehmer

¹⁴ This is due to the fact that temporary work or hiring out of workers is not legal in the construction industry.

¹⁵ These are the degree of organisation of immigrants, increase in number of foreigner holding positions in worker representative bodies, involvement of foreign workers in wage disputes and strikes, increasing election of non-Germans to representative bodies of the trade unions, attendance of trade union courses and migrants employed by the trade union as secretaries (Kühne 2000:55.)

regulations and (d) further issues. This structure makes sense for the German case, since the engagement of the unions can be found within these categories.

Schmidt and Schwenken (2005) distinguish between control based and supportive styles of trade union engagement towards irregular migrant workers which can be easily applied to migrants with precarious jobs. Since the scope of the engagement of the construction union is to a high extent embracing political work we speak about supportive/inclusive and control-based/restrictive approaches.

To anticipate our findings, apart from launching the European Migrant Workers Union, IG BAU uses noticeably restrictive approaches but tends to develop supportive measures, for instance by distributing information flyers in several national languages for migrant workers (interview with Knerler on the 03.09.07).

(a) In terms of the organising strategy IG BAU does not carry out particular efforts in recruiting migrant members in precarious jobs although it realised that precariousness is an increasing phenomenon in the construction industry. The same holds true for the informal sector. IG BAU's approach is combating informal work no matter what the legal status of the workers is. According to an interview with Frank Schmidt-Hullmann, head of the International Affairs and European Construction Policies Department, the strategy for organising workers is always the same. IG BAU activists, like secretaries, members of the works council, or construction site-teams, enter the worksites, to discuss and possibly organise the workers. In the case of every construction site, different kinds of working relations can be found: skilled and high-skilled professionals (mostly German workers), as well as semi- and non-skilled workers often working under precarious conditions. The latter are both native and migrant workers, and in some cases, they might also be irregular or undocumented workers. Organising precarious migrant workers can be successful and can lead to a long-term union membership in cases where longer working relations between posted workers and German general contractors are established. In cases where migrant workers are only contracted for several months, this is more problematic and can either lead to no result of the organising effort or to rapid fluctuation (interview with Knerler on the 03.09.07). In any case, IG BAU cannot estimate the number or proportion of undocumented workers, since this is not

an issue discussed by the union with the members. Apparently, it always has been possible to become a member of IG BAU without a residence permit (interview with Schmidt-Hullmann on the 23.08.07). The union itself questions, whether undocumented workers do become union members. There is also the concern that unions are seen as a sort of state organisation in the perception of migrants from certain countries (interview with Knerler on the 03.09.07). Scepticism is shown towards the approaches taken by other unions which specifically try to organise undocumented workers since IG BAU expects confiscation of files with those kind of sensitive data differentiating between legal and undocumented status. In its estimation the trust of migrants towards the trade union also plays an important role which would be undermined by such inquiries.

Concerning the organising strategy of the EMWU, we have to see it closely connected to IG BAU. Most of the time migrant posted workers are organised. These workers are in some cases also Germans who are posted in other European countries with higher wages, yet the majority of the members are workers from Poland, Rumania, Turkey, Bulgaria, Hungary and Slovenia. If the IG BAU employees get hints that Polish, Rumanian, or other migrant workers might be treated unfairly in any way the EMWU will send an official to the worksite who tries to launch discussions with the workers. The bi- or trilingual staff of EMWU improves the likeliness that trusting relations can be established. Nevertheless, EMWU is not actively involved in organising. Moreover, it relies on arising problems of migrant workers. The secretary of the EMWU reported, that in the majority of the cases, migrant workers become a member directly before their contract is finished and the planned departure. What fosters their access to the union, is the employer which has not paid the recent wages for two to three months (interview with Jarzyna on 30.08.07). EMWU also unionises undocumented workers. Yet, EMWU seems to differentiate clearly between persons who need help, and persons that willingly try to exploit absent regulation in informal employment for their own sake. The latter, Jarzyna announced, EWMU would not support in cases of difficulties with the employer. The question needs to be raised, how the EMWU can objectively assess the difference between the two mentioned "groups" of workers.

(b) IG BAU does exert little special treatment or affirmative action for migrant workers within the union. Representation of migrant's interests and their involvement in the union's structure does not follow a deliberate policy. It can be argued, whether treating migrant workers in IG BAU like any other German colleague, represents a strategy rather than neglecting their possible special needs. The impression of the literature is backed up by the interviews with Frank Schmidt-Hullmann and Rainer Knerler, political secretary of IG BAU Berlin. It is stated that this neglected special treatment follows the assumption that in theory migrant workers have equal rights to German colleagues concerning labour and social law (Nickel 2004: 38). Schmidt-Hullmann, however, has tried in the past to spur a discussion concerning whether affirmative action should be integrated in the practices of the union. This could assure the involvement of migrants in the union structures in terms of decision-making, employment by the unions and so on. For this purpose he specifically addressed political secretaries in the union with migrant background, but stated that he did not get a positive reply. According to his view a "good number" of political secretaries in the construction sector have a migrant, mostly Turkish, background. In the janitor industry, which is part of IG BAU, migrants are well established on the federal representation level (interview with Schmidt-Hullmann on the 23.08.07).

In the past IG BAU has published foreign language issues of the union paper from 1972 to 1994 (Nickel 2004: 95). This was deliberately not continued since it limited the likeliness of integration from migrant workers in the union (interview with Knerler on the 03.09.07). Today, IG BAU distributes information leaflets about labour rights in several languages.

IG BAU launched the foundation of the European Migrant Workers Union for three reasons¹⁶. Firstly, it is argued by Cyrus, that the IG BAU could not take the stance of total opposition to the process of European integration. In this light it had to accept migrant workers from countries within the EU (Cyrus 2002a) appearing on the labour market. We think this issue is a motivation for the foundation of the EMWU. Secondly they acknowledged that migrant workers represent an important share of the construction sector and bear special risks,

¹⁶ This is certainly a great degree of special treatment, but since EMWU is a formally independent union, we cannot assess IG BAU and EMWU as they are one identical case.

thus need protection. Thirdly, migrants could be strong potential supporters of the union's movement but it was recognised that organising migrant workers is increasingly difficult for reasons of frequent workplace-, sector- and/or country-switching which is often the case in precarious jobs.

(c) IG BAU conducts extensive political campaigning in order to contribute to shaping favourable legislation (Posted Workers Act) be it on the national or be it on the European level (service directive, freedom of movement of workers, etc.). EMWU is far less involved in political campaigning, but one of their political goals is to set up a European wide sector minimum wage. Besides this, the union wants to achieve a better exchange of governmental and international institutions to find solutions for the problems of migrant (posted) workers. Equally, improved health and safety issues are expressed, which should be guaranteed by legal implementation (interview with Jarzyna on 30.08.07).

A further issue of political work can be seen in the educational campaign which IG BAU launched for construction workers (mainly apprentices) as a reaction to occurrences of right-wing extremism and racism among its members.

(d) IG BAU interacts with many unions on international level, mostly in European countries. The first international relations, built in the early 1990s were focused on mutual support during industrial actions. Since then, many international relations have developed. These relations do not apply the approach of solidarity "[...] irrespective of immediate advantage in respect of one's own circumstances " (Hyman 1998 b). They are rather building on the principle to pursue mutual interests (Interview with Schmidt-Hullmann on the 23.08.07).

(e) A very special approach which is explicitly not aimed at migrant workers was running a hotline in 2004. In practice, however, this method turned out to harm migrant workers more than it helped as it could punish employers. Moreover, it was to the detriment of the trade unions' international solidarity. The approach also attracted very fierce criticism from IG BAU members or other actors of the trade union movement and will not be discussed in this paper (see Arps. 2004; Rakowitz 2002, Cyrus 2002b, Wompel 2005).

3. The History of Migration

3.1 Germany's post war history of migration

“Germany has long been an immigration country with its approximately 6.7 million migrants, about 4 million ethnic Germans and an increasing number of naturalised persons given a population of about 82 million, inhabitants and 50 years of migration history. Whereas this recognition until the end of the 90s was accepted as a fact, at the same time it was appellatively disclaimed on the political and judicial basis...” (Reißlandt 2006: 136).¹⁷

Many scholars describing the German post-war labour migration refer to differentiated phases of development (Kühne 2000: 41 ff.; Flam 2007: 253 ff.; Kamalak 2006). It has become common to distinguish between the following phases¹⁸: **(a)** The recruitment phase started in 1955 and reached its peak of state regulated economic immigration in the 1960s by means of bilateral agreements with European non-EU-countries¹⁹, north African²⁰ countries, Turkey and South Korea. The reason was the increasing demand of foreign labour due to the post-war expanding economy, the economic boom which followed and full employment in 1961. At the time of the oil crisis in 1973 Germany had called 2.6 million “guest workers” in total. **(b)** The second economic recession following the oil shock introduced the halt to recruitment of 1973. A further attempt was to set up a reversal of migration by such means as the Act On Fostering Return in 1983²¹ by providing financial incentives. At the same time the priority provision became common practice which claimed jobs first for Germans.²² Although in 1989 nearly one million “guest workers” less lived in Germany, the total migrant population had risen to 4.9 million. According to Reißlandt (2006: 137) the paradox of increasing migrant population developed due to the recruitment stop which facilitated a perceived changeover from temporary work periods to permanent residence aiming at bringing family and marriage partners to Germany. Also at the beginning of the 1980s right-wing extremist propaganda and political discourse can be observed which is

¹⁷ Own translation, figures based on Statistisches Bundesamt (2005) “Über 30 Prozent der Ausländer stammen aus der EU“, press release, 02 May.

¹⁸ The immediate post-war phase of migration from Germans of former German (occupied) areas and from the Soviet sector is neglected in this place.

¹⁹ Italy, Spain, Greece, Portugal, Yugoslavia

²⁰ Morocco, Tunisia

²¹ 1983: Gesetz zur Förderung der Rückkehrbereitschaft von Ausländern

²² Later, when the provision was extended in 1998, it was applied to EU-citizens, accepted refugees and other immigrants with “privileges” (Flam 2007: 234).

dominated by politicisation and misuse of migration-connected issues in election campaigns. Finally, debates on “foreigners” as a point of principle turned into disputes on the increasing numbers of arriving asylum seekers and their alleged misuse of Article 16. Bade called the 1980s a “lost decade” (in Reißlandt 2006: 138) since politics insisted on the dogma of Germany not being an immigration country which had the consequence that integration measures were limited to small numbers and particular target groups of migrants. This can also be applied to the next phase. **(c)** The following years, 1989 – 2000, were characterised by fostering immigration of ethnic Germans from east European states and the former Soviet Union as well as restricted asylum politics. The latter led to the asylum-compromise, an amendment of article 16 of the constitution, which meant massive restriction of the right to acquire the status as an accepted refugee. This can be shown by the numbers indicating the approval of the asylum application procedure: more than 80% of the refugees were accepted in 1980, 29% in 1985 and in 2006 only 0.8% were officially recognised. Concerning the economic conditions, the first years of this phase were marked by a moderate decrease of unemployment whereas the last ten years experienced a sharp increase in unemployment to 12%. Even though the halt in recruitment continued, the implementation of a special provision²³ in 1990 guaranteed that migrant labour could be obtained. In this phase pogroms against migrants occurred repeatedly and must be seen in connection with xenophobic political propaganda and a heated racist public discourse in parts of the German population (Flam 2007: 254). The amendment of the citizenship law in 1999 partly reformed *ius sanguinis* in favour of *ius soli*, which facilitates naturalisation for children of migrants born in Germany as well as for permanent settled migrants. **(d)** The last phase (2000 – present) which aims at stimulating economic migration in sectors favourable to the German economy led to the legislative procedure implementing the Immigration Act by maintaining the repressive character of asylum politics at the same time (see chapter III.7.2).

3.2 Labour migration in construction and agriculture – a paradigm shift

The current severe situation of the construction sector which began about 20 years ago, embraces a significant difference to the guest worker period. The

²³ Anwerbestoppausnahmeverordnung.

latter was mainly installed in order to meet the labour shortage. The current situation is marked by different forms of labour migration whose legal provisions bear the strategy to undermine the social norms in order to enhance the competitiveness of business (Lillie 2006: 6; 39). A paradigm shift from national regulation towards neo-liberal arrangements by EU deregulation policies particularly facilitates competitive underbidding of working conditions.

In effect of those policies posting leads to an increased competitive situation which combines the exploitation of the advantages of both host and sending countries and finally leads to the divided labour market with a qualitative difference for the working conditions compared to the work concept which IG BAU is struggling for (Hunger 2001: 72). Until 1997, Germany was the only high wage country which accepted the development of low wages without limit which was possible due to companies which were not bound by bargaining agreements. Furthermore, in 1993 the labour market was opened but legal provisions to protect the workers were non existent. Only in 1996 did the national Posted Workers Act set up the application of German agreements and social provisions for all employees in the sector, embracing the sector minimum wage (Treichler 1998:113-120). In 1997 the EU Posting Workers Directive was enforced, pursuing the aim that foreign workers were employed by the regulations in the host country.

Due to the course of development Lillie sees the most crucial form of undermining in deregulatory EU-policies fostering transnational firm level subcontracting.

4. The Bargaining Power and the Importance of Unions in Society

German trade unions are organised at sector level which means an intermediate level of centralisation. The unions are generally involved in tripartite structures. Legally regulated labour relations have been set up at all levels: on the macroeconomic and social level, on the shop floor (although to a smaller extent), and at the political level. Extensive legal autonomy of collective bargaining is guaranteed by the constitution. Labour is represented on the supervisory board of big companies. Dual representation in the workplace via works councils and unions may strengthen (at times of crisis) and restrict the

trade unions at the same time. German unions have strong indirect ties to parliament and governments through political parties (Kühne, 2000:40).

So the importance of the German social partnership in the society is "...to contribute to the stability and order of German industrial relations" (Heinisch 2000: 71), thus playing an essential role in preserving social harmony.

German trade unions are involved in formulating migration policy: they were involved in shaping recruitment policy of the first recruitment phase and succeeded in obtaining complete equality for migrant workers in pay and legislation on labour and welfare (Kühne, 2000: 40). Additionally, among other unions it was mainly IG BAU which lobbied for the legislation of the national Posted Workers Act, 1996.

The influence on the European level is difficult. German unions do not have early access to legislation crafting unlike the employer side. This means that the German unions, including IG BAU, are heavily engaged in lobbying against European legislation which aims at destabilising national social protection and union power (Lillie 2006: 11; 13).

As in many countries, the unions in Germany face a crisis. Amongst other things, high unemployment rates contribute to membership losses; the bargaining power is diminishing which forces the unions to make concessions; general collective agreements are being eroded through employers leaving the employer associations and the extensive spread of opening clauses. In turn, besides neo-liberal attacks on unions' policies, this also means a generally diminishing influence in society.

Referring to the theoretical part on trade union types IG BAU is highly involved and EMWU is little involved in national decision making. According to Penninx and Roosblad (2000: 13-14, 202-205) this limits, for the case of IG BAU, and enhances for EMWU their freedom to express their opinion on certain political projects. This can be approved for the European Migrant Workers Union, since they are very critical on labour migration topics (interview with Schmidt-Hullmann on the 23.08.07). Yet their power in society and politics is relatively small given the small membership of about two thousand and their weak reputation concerning their goals in society.

5. The Union Type

Thinking about German trade unions in general we prescribe a mixed model of social dialogue and corporatism. Theodor Geiger has developed the notion of institutionalised class conflict (in Penninx and Roosblad 2000: 40) which transforms class conflict into interest conflicts and makes bargaining parties orient towards consent and compromise. This type of industrial relation impacts on how distribution struggles are conducted. Whereas in Scandinavia excessive corporatism made class struggle redundant, Germany's corporatism limited itself to bargaining processes. Some sections of the workforce do not see their counterpart in capital but in other worker fractions. The conflict of interest turned into perceived and actual conflicts between nationals and migrants – specifically, distribution struggles on state welfare and work places (Flam 2007: 24).

Lüthje and Scherrer advance the view of a corporatist union system by saying that German trade unions, given their historical development, try to maintain a stance close to government as a centre of power and not to lose their influence on national policies. This standpoint is explained by the engagement of trade unions with undocumented migration for German trade unions, this feature of migration seems to be a kind of “unsafe” topic. Certainly this leads to the fact that union policies on informal migration lack decisiveness and continuance and are unlikely to change in favour to more commitment on this topic. Lüthje and Scherrer (2001) formulate this thought in the following way:

“Practical experience, however, suggests that such changes [organising informal workers – B.A.] would be very difficult to achieve in an environment of well-rooted corporatist bargaining relations. Challenging the status-quo would raise fundamental questions about the incorporation of unions into the institutions of social partnership and the role of unions in capitalist society in general” (Lüthje and Scherrer, 2003: 164).

The relationship between the social democrat party SPD and the unions has been of major importance in the history of post-war Germany and led to favourable agreements for labour on the political scale particularly when the SPD was sharing power in government. The relationship has drifted apart to some extent in the recent past when the social democrats have undergone change towards more liberal policies especially on economic questions. In this

context we have to see the start of the prominence of the social dialogue characteristics which pursue the strategy of social dialogue but do not solely rely on consensus with the social partners anymore. This can also be observed in the case of IG BAU.

IG BAU shows significant conformity with the corporatist trade union type. Some specifics of “IG BAU-corporatism” read as follows. Hard conditions in the construction sector have contributed to the creation of favourable institutionalised regulations with the state and the employers to reduce the problems of and bind the workers to the sector. This has led to long-term unchallenged co-operation with the social partner, exclusive dispute settlement of the union acknowledged by the members, and a high membership rate of about 40% until the 1990s, even given the prevalence of middle- and small-size companies in the sector (Nickel 2004: 22).

To outline a few practical examples in terms of labour migration this estimate is based on:

- close cooperation with state authorities concerning chasing informal work (for instance by setting up construction site detectives by the union who give hints to the customs),
- to regulate and restrict migration (political campaigns on national and EU legislation concerning social standards and working conditions; collaboration in bringing national members into work),
- communication of a high interest in state sovereignty (e.g. tax losses due to informal work are regularly communicated as well as non-acceptance of undocumented entry into Germany. This indicates that the union identifies with the state and does not challenge the capitalist system as such),
- parallel pursuit of bargaining negotiations and broader influence in the social, economic and political arenas which are of major importance for the sector and its members,
- little deliberate engagement with migrant workers and their inherent issues.

The European Migrant Workers Union is considered as a business union. It is predominantly involved with workplace issues. Most of them refer to

employers which have not paid wages. The EMWU works to a certain extent in a patronising manner by struggling for their members rather than struggling with their membership. Their political engagement towards migrant workers is small. Although the EMWU is a formally independent union, we state that policies and approaches are incorporated with the IG BAU. Firstly, because it was launched by IG BAU, and secondly because of personnel overlapping. Three members of the executive board of the IG BAU including the chairman are also the only members of the EMWU board. Also the expression of an IG BAU official about the migrant's union as "our EMWU" supports this view (interview with Knerler on 03.09.07). We consider that the direction of the EMWU's engagement is more or less determined by the IG BAU. Of course, what is found to be different compared to IG BAU is the high identification with migrant worker's interests due to their mandate. The EMWU more explicitly expresses the unfavourable conditions and the employer practices and partly the legal provisions, which lead to the indecent working conditions (interview with Jarzyna on the 30.08.07). The workers are accepted as equal colleagues who have the right to require the same conditions as German workers – at least for the case of legally posted workers and workers who work in fact undocumented, but due to the reason, that no other job is available for them.

6. National Public Discourses on Migration and their Relation to Discrimination

6.1 Prevalent ideology on nationality

To understand the prevalent thinking of German nationality we have to consider the historical background. Nationality by descent (*ius sanguinis*) and the German language were the factors constituting the German nationality from the beginning. This concept enabled the inclusion of German persons outside German borders and excluded ethnic minorities (other "races"), thus relying on a very homogenous understanding of the German nation.

German nationality relying on the concept of *ius sanguinis* was very prone to a historical German racism which developed in the 19th century along with labour immigration from Polish workers and eastern Jews. However, this kind of cultural and descent determined racism is different from the colonial and leadership determined kind of the UK/French racism towards persons of a

different skin colour. Historically, German racism targets persons of the same skin colour but does not accept the same value on different cultures, nationalities or religions (Flam 2007: 31).

Only recently this concept was challenged and a more heterogeneous picture is developing - although it is not yet widely accepted: Constitution centred patriotism similar to the belief of the French Republican values, the possibility of naturalisation, the acceptance of a broadened German reality of different languages, creeds and political opinions made the 1999 amendment of the nationality act possible (Flam 2007: 31-32).

What is implicitly connected to the heritage of the descent based belief of nationality is that the post-war discourse principally assumes that it is the role of the nation state to take care of its own citizens and to grant them priority access to resources, rights and privileges. Foreign citizens should only be provided access to the community and its resources after naturalisation and/or assimilation. Any other case would be reason enough to treat them in a friendly way, indifferently or even with hostility but not to grant them the rights of the national community (Flam 2007: 11). Eventually the willingness for inclusion is dependent on the national background of the access-seeking person whose citizenship will be assessed on a “different values prestige” level.

6.2 The public discourse on migration: the logic of economic utilisation, threat and denied social affiliation

Most of the discourses which will be mentioned were firsthand of political and/or economic character but have close connection to public discourse.

The guest worker scheme was purely bearing the function of economic utilisation for the German economy. Besides the recruitment ban in the 1970s, the economy always found ways to meet its need for migrant labour in the course of time, for instance through exemption provisions or the rise of the single European market. Consequently, the migration policy was designed as a temporary project. This was clearly communicated in public discourse and was reflected by the missing integration measures until the new Immigration Act entered into force. Migrant workers were seen as economic buffers with compensation and extension functions whose presence could be adapted to the need of the economic cycle (Flam 2007: 137). Moreover, despite continuing residence migrant workers were denied social affiliation. The label of the alien

and outsider was passed from the first to the second generation at least, more likely even to the third.

Migration became an outstanding topic of the public and political discourse in the 80s when more refugees arrived in Germany²⁴, when alleged misuse of asylum was on the agenda and turned into horror scenarios of the capability of the German social system. As has been shown in chapter III.3.1, the right to obtain asylum changed severely. Although asylum is just a minor issue of this work we want to state that even the humanitarian aspects of migration became an issue of economisation.

Besides the missing integration offers and the general political will to grant space for integration, all of a sudden, the “Leitkultur”²⁵-discourse demanded integration which is often understood as assimilation to the dominant culture. Proclaimed breakdown of multiculturalism, failed integration, as well as the rise of a parallel immigrant society²⁶ became important features of the public discourse rejecting migration.

It would take too much space to further elaborate on the political discourses. What is argued here is, that many of those discourses have an undertone which rejects migration and certainly have highly influential repercussions on the public opinion.

Flam shows the attitudes of the population by pointing out the ALLBUS survey which has been conducted since 1980. One of the findings of ALLBUS indicates a growing intolerance by the Germans saying that migrants should better adapt their lifestyle to the German way of living. Further immigration is rejected by the majority of the German population (Flam 2007: 32-33).

Another survey published by the Friedrich-Ebert-Foundation comes to the conclusion that 27% of Germans are xenophobic (Decker and Brähler 2006: 43). In more detail, 43% of German people agree with the statement: “Foreigners migrate to Germany for the sole purpose of exploiting our welfare state”, 38%

²⁴ Until 1978, about 7,100 refugees per year arrived in Germany. Until the end of the 1980s, a continuing increase up to more than 100,000 refugees yearly was observed which reached its peak in 1992 with more than 400,000. After the establishment of Article 16a in the constitution the numbers of arriving refugees decreased to about 130,000 in 1999 and only 28,000 in 2005 (Flam 2007: 253).

²⁵ The German expression has a similar meaning like “dominant culture”. The discourse from the political right in general stated that migrants should adapt to “the German” culture.

²⁶ The topics of political Islamism and terrorism and their threat to the democratic states of course were the utmost features of discourse, but they are more related to a global discourse.

agree to the statement: “If jobs become scarce, foreigners should be sent back to their home country”. The last indicator for xenophobic sentiment attracts 40% approval “Due to the presence of so many foreigners, Germany is dangerously overrun” (Decker and Brähler 2006: 38).

The listed examples show that Germany’s political and public discourses are characterised by:

- the logic of reluctance to integrate the migrants and to grant them equal status,
- the logic of economic utilisation,
- the logic of economic and cultural threat,
- xenophobic/right-wing attitudes.

We understand that this is not entirely logical consistent but describe what we perceive in the discourses. Eventually, we have to ask how trade union policies on migrant workers are affected by these factors. On the last point, refer to chapter III.6.4.

6.3 Ethnic codification of class and distribution struggles, discrimination and racism towards migrant workers

From the beginning of the 1970s the class struggle became favourable for capital to the detriment of the working class. The possibilities for useful agreements diminished and the alliance between capital and the welfare state broke apart. In the face of unsuccessful class struggles many of the employees are searching for other possibilities of distribution within their own class and find those who should not be treated alike German citizens in the migrant workers. From the beginning migrant workers were made up as a distinct group of their own; supposedly being “strangers, non-nationals, aliens” and considered not to belong to the national community. Given this, it is easy to understand why some parts of the German working class seek to keep their monopoly on status, jobs, career opportunities and better wages, and fall back on the ethnic-racist codification in the distribution struggle (Flam 2007: 29-30).

According to Flam (2007) native workers feel they are not sufficiently protected by the welfare state and that they are exposed to more risks due to perceived competition with foreign workers in terms of state provisions. The perception of wrong distribution policies of the welfare state resulting from

misinterpretation of the class struggle, are the rationales, which lead to intensified racist sentiment and conflicts between fractions of the working class and migrant workers. Migrant workers become scapegoats (Flam 2007: 24).

This view is also supported by an earlier analysis of Bieling who extended this argumentation by suggesting, which parts of the working class are especially prone to ethnic codification. In many cases marginalisation, societal transformation and the connected feeling of insecurity have tremendous effects on the so-called “losers of modernisation processes” who are becoming very receptive to the formation of racist opinions. Also skilled workers, white collar workers, civil servants and the self-employed may fall in the trap of ethnic codification in distribution struggles. Although the latter are not directly in competition with migrant workers due to structural discrimination measures (like the priority provision), they still perceive the transformation of society as threatening their status quo. To fully understand it, it would also be necessary to discuss the role of political and social elites in this process, who, to a great extend foster fears of the workers for reasons of their own interest. Unfortunately, we cannot elaborate on that issue within the scope of this work.

6.4 IG BAU members and right-wing extremism or: IG BAU members and their opinion on labour migration

The topic of right-wing extremism is very important in relation to discourses concerning discrimination and rights for migrant workers. The question is what the relation between German workers and their migrant colleagues is. With our material we are not in the position to answer this question, but we want to raise certain issues which are of crucial importance.

According to Frank Schmidt-Hullmann (interview on the 23.08.07) the study of Zeuner et al. (2007) revealed that IG BAU members are not more right-wing than members of other trade unions, which might be the result of educational efforts conducted by IG BAU. This approach was most often used between 2001 and 2004 since the union had recognised the right-wing potential in their rank and file. So the project targeted a weakening of the right-wing extremist arguments which used the current problems of the construction sector for their ideology. Another interpretation, the relatively “good” result in the survey could also be an outcome of long-term practice of working together at the construction site. In this regard harsh discussions in the work place do not

take place between ethnic lines, but rather between permanent and precarious staff which is explained by the workers feeling threatened by loss of social status.

Yet IG BAU cannot be satisfied with their results. The study compares the right-wing-extremist scores of German non-trade unionists and trade unionists (both employed and honorary activists keeping a position, active members and “normal” members). It revealed that 19% of trade unionists have right-wing extremist attitudes – just as much as their non-unionist counterparts. But unionist unskilled workers as well as unionist employees in responsible positions are two times more right-wing extremist than their non-union colleagues (Zeuner 2007: 30ff; 100). Racism is one indicator of this survey beside authoritarianism, Darwinism, nationalism and chauvinism. Right-wing extremism is not only manifested in attitudes but also in actions. We assume that these results must have an effect, first of all, on the working relations on the construction site. Nearly one fifth of all workers, hence also construction workers and among them IG BAU members, were found to be right-wing extremists. Secondly, also the trade union itself and its discussions on migration and other topics which are prone to right-wing interpretation will have an influence on those attitudes.

In this context it is alarming that even members of the executive board around the year 1992 accepted the image of “the racist construction worker” in order to lower the quota for work order contracts (see some statements in Treichler 1998: 205).

“The logic behind this argument is as follows: ‘xenophobic anxieties about immigrants serve to justify a policy of restricting migration, and that policy is then expected to preserve the population from anti-foreigner ideologies’” (Blaschke quoted in Treichler 1998: 214).

We assume it is this right-wing extremist potential which makes it very hard for IG BAU to abandon with the common interpretation that migrant workers are not only a threat for their workplace, but also the cause of worsening conditions.

Finally, as the researchers of the study advise, the major way to get around this dilemma, besides other recommendations, is showing strong commitment to anti-racist discourses both from the grass-root level as well as from the leaders of the IG BAU (Zeuner 2007: 106).

7. The Institutional and Legal Context of Labour Migration

7.1 Introductory remarks

In this chapter we will describe the legal conditions for labour migration and briefly point to the stance of German trade unions in finally explaining the position of IG BAU towards labour migration in the given institutional and legal framework. Also some of their opinions will be discussed.

In the framework of the institutional and legal context it is very important to come back to issue of institutional discrimination which was earlier discussed in the theoretical framework since it is of special importance for the case of Germany. In the course of the chapter, having reviewed several levels of institutions (legislation and trade unions as actors), this will become clearer. Helena Flam (2007) and her co-authors shed great light on the discourse of the migrants' critical position in the German society,²⁷ including unfavourable conditions in the workplace. Among other factors this can be shown by indicators such as unemployment rate, level of education, university degrees, position in the company and so on. For instance, the unemployment rate of migrant workers is twice as high as the number of German worker's being out of work (Flam 2007: 296).

Accordingly, Flam is assuming a great deal of discrimination against long-term resident migrants in Germany is backed up by the institutional framework, be it education or legal provision, which also applies to access to the labour market. Contrarily, mainstream qualitative research is tracking the supposed missing qualifications of (young) workers with migrant backgrounds to explain statistical evidence for so called "disadvantageous" situations on the labour market (Flam 2007: 8).

Besides, recently migrated workers have to accept privileged persons on the labour market (Germans, EU-citizens, according to priority legislation) before they are allowed to legally enter. Additionally, before they even may find such a job, they need to gain residence and work permits. This legal framework makes access rarely possible (Flam 2007: 8f.).

²⁷ Although there are a good number of migrants who were able to establish their position as equal to their German counterparts or have a higher status in society, an un-proportional part of migrants have a low social status.

Contrarily, work permits for certain professional groups which could be called elite groups are issued without problem. Artists, athletes, scientists, if the German bureaucracy sees a “public interest” in their occupation, are favoured. The same order is true for business specialists and caring personnel for migrant workers. Also, in the case of certain industries or job profiles, which are demanded on the market and cannot be afforded by national supply, work permits are issued with durations from 3 months to 5 years (Flam 2007: 21). Thus, in the case of a desired group of employees, discrimination is comparably lower than in the undesired former groups - although it still exists. In any case, the economic interests of Germany apply.

7.2 Legal provisions for immigration

Migration is a hard-fought political issue in Germany with little consensus. This is shown by the experience of the legislative procedure of the new Immigration Act. The envisioned act was designed to reform the former Aliens Act by fostering immigration and be was thought to be implemented by 2002. However, a harsh parliamentary debate and a final decision by the Federal Constitution Court brought it to a halt. In 2005 the enforcement of the final version of the Immigration Act could clear away any illusion. Government-led lobbying calls it a modern migration scheme because it incorporates integration measures for the first time within a legal context; but it fails to be progressive. The utmost interests and conditions are evidently of economic attributes. Additionally, one cannot only speak of controlling migration but rather of restricting immigration²⁸ for non-EU citizens (Reißland 2006: 145). In respect of dependent gainful employment unskilled (for instance seasonal workers in agriculture) and qualified workers are only allowed to obtain a residence and working permit by a special executive order, in the latter case the public interest also has to be demonstrated. Already this requirement is extremely difficult to realise. Highly qualified persons can obtain legal status more easily since Germany has expressed a high interest of these persons (scientists, specialists, instructors). In any of these three cases an individual job offer needs to be exemplified and additionally the situation of the labour market is to be tested by stating that no German or privileged non-German (EU citizen, accepted refugee,

²⁸ The full translated name calls it an “Act on controlling and limiting immigration and on the regulation of residence and integration of EU-citizens and foreigners” (own translation).

etc.) would like to work in this job. In the end, in cases of a positive legal status for the unskilled and qualified worker, this will only be of temporary duration, whereas the highly skilled persons have the opportunity to obtain an unlimited status (Migration Online 2004). To put it differently, qualified workers are not recruited on a regular basis as the economy would have welcomed, instead the halt to recruitment and its exceptional provisions for non-skilled workers, continues as it did in the past (Reißlandt 2006: 146).

Additional legal provisions for the sectors concerned are the following. It should be noted that all of them embrace a specific likeliness for precarious jobs in the sectors. All of them fall, at least partly, under the priority provision.

Work order agreements were established from 1979, and more frequently in the 1980s, between the German government and middle, east, south European states²⁹ and Turkey (Treichler 1998: 110-112) – well before the special exceptional provision regarding the recruitment stop was set in place in 1990. Certain contingencies were aimed at regulating the numbers of those workers according to the labour market situation – but problems arose when the contingencies were over- or underused. The **work order contract** is concluded between a German and foreign company which is sending their workers to a German construction site. Bilateral agreements are agreed on the condition that those workers should be employed at local net wages, which was often not the case, and social insurance contributions are to be paid in the sending country. The protective measures of the state and the social partners intending to guarantee adequate work conditions are not able to regulate labour migration according to these demands. In addition, migrant workers under those contracts are highly dependent on their employer. Period of notice is not provided and the residence status is bound to the work contract. Likewise, work order-employees are only one option of cheap labour supply beside posted workers from EU countries and undocumented workers which means that they are also in a weak position with regard to the employer.

Since 1993 **posted workers** from (sub)contracting firms have been able to send their workers to German construction sites due to the establishment of the European single market and the freedom of services. Prior to that, no

²⁹ The work order contracts became obsolete in the cases of countries' access to the European Union in which European legislation applies.

European or national legislation regulated the conditions of employment; posted workers were allowed to be treated under the conditions of the sending country (Wilpert 1998). This only changed when the national Posted Workers Act came into force in 1996, which we have explained previously. Already in 1999, the number of EU-posted workers passed the number of work-order employees (Nickel 2004: 31).

In this context, some European principles and directives are important. Free **movement of services, of workers** (and of capital) represent the crucial principles of the European common market. Concerning the first and the second, important limitations apply to the countries which joined the EU 2004 and 2007. Free movement of workers is postponed for all sectors and countries except Cyprus and Malta up to a maximum of 7 years, whereas free movement of services is applied to all countries and sectors with exception of the construction sector at least until 2009 (IG BAU 2007a).

The **EU-posted workers directive** (1997) is important as it adheres to the principle of treating workers according to the destination country principle whereas the **service directive** (2006) opposes this standard by treating workers under the norms of the country of origin except for local people employed by a foreign enterprise and except those kinds of services which are explicitly mentioned in the directive or bear public interest. The construction sector does not belong to one of these areas which could mean employment of foreign workers in a foreign subcontracted company under the conditions of the country of origin and thus, to further erosion of social norms and industrial law. In any case, the protests of a broad political opposition movement could ensure the priority of the posted workers directive prior to the service directive (IG BAU 2007c).

Seasonal workers in agriculture may work for a period of 3 months according to a contingent of seasonal workplaces of 300,000 (Nickel 2004: 10). Since employers find it difficult to meet the demand for (cheap and) reliable labour, at least 80% of the workforce of a single agricultural company may be recruited without applying the priority provision, an additional proportion of 10% of migrant workers may be recruited in times of expanded capacities by verifying the priority provision. Regularly 10% of the migrant seasonal workforce must be formed by domestic labour (IG BAU w.y. b).

The **Employee's Representation Act**, 1973, stipulates non-discrimination of migrant workers which must be ensured by the works council and the management. The works council has to ensure that foreign workers are integrated at the work place and should enhance understanding between migrant and German workers (Kühne 2000: 41).

By analysing the legal provisions in relation to the considerations in the theory chapter of our work, we briefly conclude with the following statements:

Most of the legal provisions contain an inherent character of institutional discrimination especially against those migrants from non-EU countries, but also from EU countries with a weaker economy. These migrants are proportionally more likely to find themselves employed in precarious jobs (independent from their qualification) because the legislation is fostering a segmented labour market along ethnic lines.

German workers are generally advantaged by legislation. Moreover, in the construction sector as in most labour market segments the ethnic segmentation leads to the fact that even previously low-rank German workers are pushed to more responsible and well-paid jobs or that migrant workers only find marginal access to the middle and top hierarchy levels (cf. Nickel 2004: 28; Flam 2007: 175f.). This is to be assessed as a certain type of institutional discrimination.

German trade unions, in this case IG BAU and EMWU, should be seen as gate-keepers by taking part in shaping the institutional and legal setting because they are still a comparably well respected partner in industrial relations. As the theoretical discourse shows, their function is to lobby for or against equal treatment of migrant workers in terms of access to the labour market, social and political rights in the society.

The Industrial Constitution Act contains the potential to improve the migrant workers' situation at the work site – but only within the framework of existing legislation which has a bias against migrant workers.

In the next chapter we will demonstrate how IG BAU's position on the issue on labour migration and some features of the institutional framework developed.

7.3 The Stance of the German unions towards labour migration

Although the unions at the starting point of labour migration did not want to agree with labour immigration, once they realised there was no political option

to reject the plans of the government they tried to influence the conditions as much as possible. So their requirement was to achieve legal equality of migrant with native workers in workplace issues in order not to undermine the bargaining agreements and the social protection they had been able to establish (Kamalak 2006: 46ff.). Besides, the temporary nature of the guest worker system was not challenged for a long time, therefore, integration was not demanded. For the first 15 years of the guest worker period the unions partly looked after migrant workers in terms of legal advice but renounced organising them in the unions. IG BSE, the predecessor of IG BAU, at this time even rejected the publication of information leaflets in several languages. Migrant workers organising became standard practice since 1962 after a resolution of the German confederation (DGB). In the early 1970s the trade unions started to require social integration. The early 1980s illustrate a demarcation line to dissenting opinions of the DGB and some of its affiliates with the government about immigration policies which previously, for the most part, were accepted. This experience might have led to the process that the DGB and some of its trade unions became progressive forces in Germany about migration issues, be it about criticism of the Alien Act, the demand of political rights for migrants, criticism of the reform of the asylum law, the reform of the citizenship law, improved education and integration measures, or in fighting discrimination and racism. Nonetheless, trade union policy was (and is) often characterised by contradictions, for instance when the DGB in its programme rejected discrimination but still demanded priority access for German workers (Kamalak 2006: 43-101).

A more critical observation on the arguments of German trade unions says that for a long time they stressed the economic advantage of the sojourn of foreign workers by accounting a cost-benefit-advantage for the German economy. Thus unions have contributed to some interpretations which they actually do not accept and currently find difficult to get rid of. Now those arguments can be related to other claims, for instance of the political right, such as the often heard statement:

“those unemployed migrant workers who have to rely on social welfare should return to their home country” (Flam 2007: 24).

The first fundamental demand of equal treatment of documented migrant workers in terms of labour law and social security of all German unions has not changed since then. What has changed to different degrees is:

- the political opinion towards labour immigration, specifically at times of unemployment,
- the opportunities migrant workers are offered (or not offered) in the workplace and in society,
- the need and shape of integration measures and affirmative action both in society, the workplace and the union,
- the opinion on related issues, such as informality and undocumented stays,
- the proposals and policies to regain trade union strength and decent work.

Treichler (1998) has done most detailed research on the issue of the DGB's and its affiliated unions' position on migration and its legal framework. This was further developed by Kamalak (2006), but will not be elaborated on here. Still, it is crucial to affirm that the reactions and demands of the different German unions vary to a greater amount as it could be anticipated from the background of a rather homogenous German union landscape compared, for instance, to Spain.

7.4 Development and discussion of IG BAU's positions on labour migration

To describe IG BAU's demands on labour migration we can refer to a quotation by Lillie: "...their ultimate goal is to enforce nationally agreed collective norms..." (Lillie 2006: 38). Further goals to identify are re-regulating the labour market in order to protect the domestic labour market and earlier won achievements for the (native) members; reducing the labour supply pool or protect it against a further increase to stimulate employment and regaining union power.

Relying on Schmidt-Hullmann the present IG BAU position does not differ very much from its position in the past. This means that IG BAU has always demanded "limitation of the phenomenon labour migration" (interview with Schmidt-Hullmann on the 23.08.07). To make this approach more

understandable we will show some examples of what this meant in the past and what it means today.

Before the eastern expansion of the European Union in 2004, IG BAU campaigned intensively and finally pushed through a transitional period for labour mobility (freedom of movement of workers) (Rakowitz 2002; Lillie 2006: 16). IG BAU's initial proposal called for three more years of restriction than the government's proposal. IG BAU was also successful in lobbying for the exclusion of the construction sector from the frame of freedom of services in the second eastern accession round in 2007. Currently the union repeatedly calls for the extension of the provision of freedom of services for the newest countries Romania and Bulgaria (IG BAU 2007a).

IG BAU's demand on seasonal migrant work is somewhat different than in construction. Here it shows more "liberal" policies – as Nickel emphasises due to the early experience that short-term migrant labour in agriculture positively supported the development of the agrarian enterprises and its permanent staff. However, IG BAU also tries to hold up a quota – although a comparatively low one – in order to bring unemployed Germans into those jobs (IG BAU w.y. b).

In sum we point out that IG BAU tries to prevent labour immigration as much as it is capable. Non-native workers are still seen for the most part as a threat and (unfair) competitors which should, if possible, be excluded from the current difficult labour market situation. At least, the labour supply pool should not be extended by foreign labour. Some critics label IG BAU's standpoint and policies as protectionist, but its self-image does not agree (interview with Schmidt-Hullmann on the 23.08.07).

We identify the following logic backing up the demands of exclusion:

- the de-regulation of the labour market has led to the fact that migrant workers most of all, due to their likeliness to accept lower wages and poorer conditions, have unwillingly eroded the wage level and bargaining agreements,
- migrant workers fill jobs - thus increase unemployment amongst Germans,
- informal jobs destroy legal workplaces. In 2004 IG BAU has extensively lobbied against informal work whether carried out by migrant or domestic labour. The union pushed for more restrictive

national legislation and stated that about 300,000 informally employed construction workers faced 350,000 unemployed workers. By fighting informal employment 180,000 legal working places could be established (IG BAU 2004).³⁰

At this point it is necessary to contrast IG BAU's reasoning with an antithetical view. Hayter (2000) is arguing against immigration controls, i.e. against the control or prevention of labour immigration. Her main argument attests that economic migration occurs in response to labour demand in richer countries. By pointing to the high numbers of unemployed in the German construction sector it would be possible to refute her argument since there is obviously a huge labour supply. Hayter instead claims:

“When their [European Countries'] economies were expanding they obtained labour first from the poorer parts of Europe and then from the Third World. Now that European countries are in a period of low growth, and unemployment is high, immigration would have declined anyway: But these countries still need foreign labour to do jobs which the natives have ceased to be willing to do...” (Hayter 2000: 156).

In other words, a high unemployment rate of native workers does not indicate that there is an oversupply in a certain labour market segment. Because those job types (cheap labour) are demanded by transnational acting companies, and native workers are not willing to accept them, migrant labour does so due to its weak position. It is an issue for further empirical research to find out whether German construction is one of these sectors where labour is so cheap that native workers are not available. In the case of seasonal work in agriculture this can certainly be demonstrated³¹.

The claim that migrant workers cause unemployment is often used and implicitly supported by IG BAU policies but rejected by Hayter. We support the view saying that

“unemployment in Europe was lowest in the period of major immigrations after the Second World War. It is clearly caused by the capitalist economic recession rather than by immigration” (Hayter 2000: 158).

³⁰ They account for 10 illegal work places squeezing 6 legal work places out of the labour market.

³¹ Our reason for this assertion is the following: In 2007 IG BAU stated that the farmers in Germany have difficulties in finding enough German and Polish seasonal workers since the wages are so low compared to other EU countries where they go to work instead (IG BAU w.y. a).

A further issue concerning the relation between migration, unemployment and wages is that of undocumented immigration. To our assessment IG BAU does not take a consistent position. On the one hand they do not accept undocumented migration - which means that they take a stance of limitation and restriction. On the other hand in 2007 the IG BAU president Klaus Wiese­hügel took part in signing a petition supported by 400 politicians, artists, NGOs, churches and other signatories. This petition criticises the handling of informal migration based solely on the right to residency and take police measures. At the same time benefiting actors of irregular migration often are not punished by restrictive measures. Irregular migration is acknowledged as a continuing future phenomenon which needs to be solved in the interest of the migrants' concerned. Also the trust of Germany's citizens in order to be able to maintain the rule of law is a key point in the document, but it does not consider any restrictive approaches to undocumented migrants (Katholisches Forum Illegalität 2005). However, the general practices of IG BAU in the recent past moved towards not taking into account the difficult situation of undocumented migrant workers, such as the campaign "Ohne Regeln geht es nicht"³² and the installed hotline against irregular work indicates.

Coming back to irregular work there are views such as those of IG BAU supporting the destructive effect it has on regular working places by its low demands on conditions and remuneration. The claim is that this motivates employers not to make the workplace attractive for native workers in terms of conditions and pay. Others, like Hayter (2000) argue that without these workers the jobs would probably disappear altogether or be moved abroad. The latter is not possible for the construction sector. But drawing labour from foreign countries is what the practice shows and it certainly supports Hayter's view. In the end one needs to consider whether (undocumented) migrants lower wages and conditions, or whether the drive for de-regulation comes from another source: it is the inherent characteristics of capitalist development to find ways to channel the drive for lowering costs. Therefore in our view, if migrant workers were not in the country, liberal lobbyists would certainly find another source of cheap labour.

³² Translation of this campaign: "It's not working without regulation"

With regard to the demands of the European Migrant Workers Union, due to lack of material published and the briefness of the union's existence we can only point out that the first goal of the EMWU is to regain TU power (Lillie 2006: 31). It relies on forming a European-scale trade union which faces a European labour market. Some other demands, as described by an EMWU secretary, are the adoption and implementation of a minimum wage in the construction sector on a European level and further legal minimum standards as well as improved health and security protection of migrant workers (interview with Jarzyna on 30.08.07). However, union experts (interview with Schmidt-Hullmann on the 23.08.07) and scholars agree the EMWU has not yet proved successful due to low membership³³ and lack of leverage at the European level (Lillie 2006: 40). This might also be related to the fact that both EMWU and IG BAU are encountering resistance to re-regulation which is difficult to achieve once a deregulation process has started (Hunger 2001: 80).

8. Conclusion

Concerning its engagement, IG BAU shows small efforts to organise precarious migrant workers. If they are organised which is the case, it is the outcome of a general organising strategy which approaches the workers on a construction site. Moreover, if it is hinted to IG BAU that at a certain construction site migrant workers might be employed under precarious conditions this information will be passed to the EMWU. EMWU then tries to organise those colleagues which are mainly posted workers but can also be undocumented workers. Important for the EMWU is their own estimation of whether these colleagues really need help or whether they want to exploit the lack of regulation (interview with Jarzyna on the 30.08.07).

The “outsourcing” of issues concerning migration carries the implicit danger that the EMWU, beside its outstanding approach in the European trade union landscape and its important goals, might become a fig leaf for some lack of migration policies. The mandate of the EMWU also bears the risk that the segmentation between German and migrant workers is further developed, or at

³³ Currently the membership is at about 2000 workers, mostly from Poland, followed by Romania, Turkey, Bulgaria, Germany, Hungary and Slovakia (interview with Jarzyna on the 30.08.07).

least not decreased, and that migrant workers will be continually perceived as not belonging to the trade union community in Germany.

Also, IG BAU's internal policies towards migrant members concerning interest-representation and involvement in decision-making are rather left to chance than developing its own strategy. The same seems to hold true for migrants holding positions as political secretaries.

In its position as a gate keeper IG BAU takes the stance of supporting exclusionist and discriminating national legislation (Immigration Act, extending national transition period on EU labour and service mobility) and of opposing EU legislation. The motives lie in their endeavour to protect the social and industrial norms for their members. This applies especially to older policies where the focus is actually on the native members. We can also refer to, that IG BAU applies the two distinct principles of exclusion as the main approach, and inclusion only in lack of other possibilities (Cyrus 2002a: 211). The reason found (or at least the reason communicated) to be responsible for worsening conditions was seen in so-called intruding "categories of workers" (see the debate on migrant workers as interlopers by Cyrus 2002a; also Treichler 1998: 228). Recent policies show the tendency also to consider the rights of migrant workers in terms of remuneration and conditions and not to rely on the image of foreign workers connected to criminal activities. Recent IG BAU policies and communication strategies begin to accept migrant workers as equal colleagues rather than stigmatising them just as the Polish, British, and Rumanians etc. (Cyrus 2002a: 218).

To conclude this chapter we emphasise that Penninx and Roosblad in their studies have found a relation between the level of centralisation and the commitment to participation on migrants' issues. The more incorporated unions and unions

“...which are strongly committed to common socio-economic decision-making have tied their hand much more, and tend to stick more closely to the core activities of trade unions” (Penninx and Roosblad 2000: 196).

This is also to be observed for IG BAU.

IV. Case Study – Korea

1. Labour Migration in Korea

Labour migration to the high growth Asian countries is a relatively recent phenomenon. In the 80s, the labour markets tightened in the Middle East due to the decrease of the oil prices, and at the same time the Asian high growth economies were experiencing labour shortages. Thus, the direction of the intra-Asian migration changed its direction and workers went increasingly to countries like Taiwan, Hong Kong, Malaysia and Korea (Debrah 2002: 3).

A feature of labour migration in Asia in general, and in Korea in particular, is that it has been possible only as temporary migration (Debrah 2002: 4-6). Before the end of the 80s Korea was primarily an emigration country and attracted only “skilled” migrant workers (professors, language instructors, researchers, technology instructors, etc.) (Yoo 2005: 2 and 11). At the end of the 80s the country was facing labour shortages, especially in small and middle sized manufacturing firms³⁴; around 1987, migrant workers came to Korea with short term tourist visas and began to work on an undocumented basis in these firms or in households. The government tacitly accepted this migration (see among others Lim 1999: 6, Park 2002: 68, Seol 2000). Nevertheless, in order to legally overcome the labour shortage, but at low costs for the firms, the government introduced a short-term trainee scheme for “low-skilled” migrants in the industrial sector. The trainee system had the aim to make use of the labour pool in economically poorer countries, while denying the workers their status as workers and ensuring that these workers would not stay permanently. The workers rarely got a single day of training, and their “student” status, as well as their national origin, led to many abuses. Up to now most of the migrant workers are working in small and middle sized firms which are poorly unionised (See e. g. Lim 2003, Park 2002, Gray 2007). Male migrant workers are mainly employed in the manufacturing and the construction sector, while the majority of female migrants are employed in hotels and restaurants, in manufacturing, in housekeeping, nursing and the cleaning sectors (Yoo 2005: 4).

³⁴ Labour shortage in small and middle size firms makes 90 % of total shortage in the manufacturing sector (Park 2002: 73)

Since the beginning of the labour migration to Korea, most of the migrant workers came from Asian countries, and the majority are Chinese descendent of Koreans who left Korea during Japanese colonialism (1910-1945) (Lee 2007). Employers are willing to employ these migrants because they speak mainly Korean. Additionally a strong nationalist feeling based on descent is prevalent in Korea. Ethnic Koreans are considered as having the same “flesh and blood” (In Korean, Hyoruk: blood shared family). (Park/Md Nasrudin/Pitch 2005: 4, Moon 2002: 159). Currently, the largest percentage of the migrant workers is still of Asian origin but migrants are also coming from countries like Nigeria, Mexico, Ghana, Morocco, Egypt, Hungary, Russia, Brazil, Peru and Jamaica (Lim 2003: 426). Another feature of the migrant workers in Korea is their high level of education and their middle class backgrounds (Interview with Roth on the 31.07.07).

Due to the temporary nature of the legal mode of entry to Korea and the lack of rights for trainees, there have always been high numbers of undocumented workers. In 2005, according to some sources referring to the ministry of justice there were nearly 700,000 migrant workers and 209,951 were irregular migrants in South Korea (Park/Md Nasrudin/Pitch 2005: 4-5); to others, there were 358,000 migrants³⁵, 33,868 migrant trainees and 199,000 irregulars (Yoo 2005:2). Official sources can only notice the number of workers who have overstayed their visa but not those who enter Korea unnoticed. However, from the end of the 90s up to now the unofficial number of irregular residents was estimated by NGOs as being as high as 500,000 (Lim 2003: 426).

Besides their short-term contracts, many reasons drove trainees to decide to work undocumented; among others, the issue of wages is an important one. Since trainees were not considered as workers, their wages were even lower than those of undocumented workers³⁶. Therefore, they could not even pay back the commission fees to their employment agency. Additionally, the trainees were denied the right to move to another work place (some employers confiscate the trainees' identity documents to prevent them to leave their workplace illegally) (Park/Md Nasrudin/Pitch 2005: 7-8, Amnesty International 2006, Gray 2007: 301). This right is crucial because in time of labour shortages,

³⁵ For a total population of 49 million.

³⁶ According to Lim, in 1994 industrial trainees were earning 200 to 260 Dollars, undocumented workers 760 Dollars (Lim 2003: 432).

it indirectly prevents abuses at the workplace, otherwise workers would go to an employer with a better reputation.

During the Asian financial crisis (1997-1999), precarious workers and as such migrant workers, were particularly hit by the subsequent lay offs, delayed payments of wages and worsening working conditions. Official labour migration was interrupted and the government initiated “voluntary” departures, i.e. by lifting fines for undocumented workers. In this period, half of the migrant population left Korea, but as early as 1999, trainee contingents were imported again (Kim 1999: 32-33).

Up to 2003 the number of undocumented migrants increased steadily. The ministry of Justice registered 48,231 undocumented migrants in 1994; in 2002 they were 289,239, making up 80 % of the migrant workforce (Yoo 2005: 9). For this reason, but also due to pressure and lobbyism from NGOs supporting the migrant workers, the government promulgated the “Act concerning the Employment Permit for Migrant Workers” in August 2003. Under this act, implemented in 2004, “low-skilled” foreign workers may work as employees for a few years, not as trainees. This statute gives them more rights and benefits as workers. Nonetheless, due to a dual strategy of short-term legalisation and deportation, from November 2003 to January 2004, 10 000 migrant workers left the country “voluntarily”. Many were deported and nine migrant workers chose death instead of returning to their countries (KCTU 2004). From the implementation of the permit system (2004) up to the end of 2005, 30,000 migrant workers were deported. This led to the decrease in the number of undocumented migrants, but in 2006 it increased again to 189,000 (Amnesty International 2006, Yoo 2005: 1-3).

Migrant workers in Korea have not all endured the harshness of their situation without raising their voices. Documented and undocumented have led many struggles, alone and with parts of the Korean civil society. Migrant workers who were able to stay in the country have organised gradually and have finally set up their own union in 2005. Nevertheless, labour migration to Korea is still a story of short-term migration for “low skilled” migrants. Migrant workers, documented or undocumented are mainly working at the low end of the labour market and are not considered as part of the Korean society.

2. National and Global Discourses

The understandings of the concept of the nation, which are prevalent in Korea, are important to understand the state migration policies (Lee/Park 2005: 144); but also to understand the position of unions toward migrants, although for Korea, due to our research material, the connections are not evident. In addition, as Reitz argues, pre-existing inter-ethnic attitudes and inter-group hierarchies may give rise to formal and institutional arrangements including laws, and provide the social framework for integration (Reitz 2002: 1008).

In general there is a strong nationalistic feeling in Asia. One kind of nationalism comes from the experience of colonisation (Park/Md Nasrudin/Pitch 2005: 24). This nationalism calls for sovereignty and in the case of Korea also for reunification between the North and the South. Nevertheless, this kind of nationalism, coming from a position of subordination, can also be misinterpreted, depending on how the fear for external influence leads to reject any contact with “outside”. Possibly, it can also lead to accept migrants only when they are seen as weak and in need of support.

Another kind of nationalism is a sentiment of superiority toward people of economically poorer countries. Without wanting to homogenise nationalism in a whole geographic area, the following citation highlights the hierarchy, which is inherent in the idea of economic development:

“While nationalistic sentiment in developing Asian nations has lessened due to the process of globalisation taking place in Asian developed countries, people still have an exclusivist attitude toward underdeveloped areas. This is similar to the kind of Orientalism that existed in the Western Hemisphere. Usually, the concept of Orientalism / Occidentalism is used to describe the relationship between white people in ‘developed western countries’ and darker-skinned people in ‘underdeveloped Asian/African countries.’”(Said, 1979) However, this relationship also appears in Asia, especially between people in comparatively developed and underdeveloped countries.” (Park/Md Nasrudin/Pitch 2005: 24-25).

Generally speaking, South Koreans see themselves as an ethnically homogenous society and see migrants as endangering this homogeneity (Interview with Roth on the 31.07.07, Gray 2007: 304-305). Therefore, migrants should never be allowed to settle permanently. As Castles argues, “ideas of ethnic community formations, growing cultural diversity and the emergence of multicultural societies”, were also unthinkable for the European countries

recruiting guest workers in the 60s (Castles 2003: 5). But policy makers in Korea believe that they will succeed, where the Western industrialised countries have failed, and preserve the “racial” homogeneity of their country (Gray 2007: 304).

However, the belief to be homogeneous prevalent in Korea is mixed with a kind of social Darwinism (or Orientalism), leading to a hierarchy between migrants. “White” English speaking people are welcomed, treated differently and are much more likely to be hired than “coloured” people, also if they are from South East Asian countries (Park/Md Nasrudin/Pitch 2005: 25, Seol/Han 2004: 48-49). Even ethnic Korean migrants who were first depicted as lost brothers and sisters, as people sharing the same blood as South Koreans, were soon not so welcomed. Rather, they had to endure the same treatment as other migrants, even being beaten at work. At the end of the scale, undocumented migrant workers are seen as alien criminals, enemies (Lim 2003: 436, Lim 1999: 7).

Therefore, we can identify at least three forms of nationalisms in Korea; one based on the sentiment of a shared descent (*ius sanguini*), one derived from the experiences of deprivation during Japanese colonisation (1910-1945) and from the US occupation (1945-1950), and one based on the idea of economic national development. These three forms can exist side by side, but also one form can be more prevalent during a certain period, or certain groups can reject one form (e.g. economic superiority), while adopting one or the two other forms. These nationalisms can lead to manifold expressions of racisms as exemplified above, whereas a most common one is, as everywhere, that migrants will take the jobs of the natives (Interview with Roth on the 31.07.07, interview with Liem on the 17.08.07)

As mentioned earlier, the concept of the nation in general and the forms of nationalism in a country are important to understand state policies. In Korea, another consideration, namely the assumed possibility of reunification with North Korea (of course also linked with nationalism) leads to a restrictive migration policy as well. Government and business have pointed out in diverse statements the cheap labour pool of North Koreans after reunification in order to restrict migration policy and the rights of the migrant workers (Moon 2000: 159-160).

In addition to these discourses on migrants and migration, discourse on workers in general can help to understand the subordinated position of migrants and their exploitation. The traditional Korean concept of industrial relation is very hierarchical and, as in many countries, manual labour has the lowest rank in the hierarchy. Workers are considered as servants and as contemptible (Seol/Han 2004: 49, Gray 2007: 299).

Nevertheless, a part of civil society has struggled together with migrants for the human and workers rights of the migrants. The NGOs (at least 150) supporting migrants have based their discourses on global discourses like the international human rights, labour rights standards and democracy (Lee/Park 2005: 154-156, Lim 1999 and 2003, Moon 2000: 153, Gray 2007: 299).

On one hand, Korea became member of the International Labour Organisation (ILO) in 1991 and of the Organisation for Economic Cooperation and Development (OECD) in 1996, making it possible to demand compliance with international norms. On the other hand, since the beginning of the 90s, the different Korean governments divulged widely a concept of globalisation to foster Korean competitiveness in the global market (Park 2007: 326, Gray 2007: 298). Along globalisation discourses, the Joint Committee of Migrant Workers in Korea (JCMK) has argued that giving more rights to the migrants “will ensure better ties with foreign nations and contribute to a smooth globalization process already in the making” (Moon 2000: 153). Similarly, but with a different aim, a state official stated at the beginning of the 90s that history has shown that heterogeneous cultures are more creative and resourceful. Therefore Korea should not foster “the myth of national homogeneity” if it wants to be internationally competitive (Moon 2000: 161). After the Asian crisis the JCMK and the Korean Confederation of Trade Unions (KCTU) have stated that it was the IMF and the globalisation forces that have caused troubles, and not the migrants. In a position on the IMF, the KCTU warned that “[...] the German nationalist reaction to foreign intervention following the currency crisis in (the) 1930s led to the growth of Nazism.” (Moon 2000: 168) and on the May Day of 1998 the message of the JCMK was:

“Like you and so many oppressed and exploited people throughout the world we are determined to forward the struggle against so-called globalization” (Moon 2000: 169)

Nonetheless, the migrants support movement and the migrant movement still face great challenges until migrant workers are accepted as human beings and not only as labour power. Korean nationalisms and the resulting racist discourses and practices are perpetuated by government policies which continue to take advantage of the labour force without “threatening” the desired ethnic homogeneity of the country.

3. Government Policies and Legal Framework

Migration policies in Korea are not only short term policies; they have also defined the sector of occupation of the migrants, made a difference between the labour rights (and of course, due to their temporary nature, between the civil rights) of the nationals and the migrants, and to a lesser extent gave different rights to different migrant status.

Currently, there are three types of migrant workers in Korea: “high skilled” migrants, legally admitted “low skilled” migrants and undocumented migrants. Compared to the so-called “low skilled” migrants, the Korean government grants more rights to “high skilled” migrant workers in the technology industry. Since 2000, high skilled migrants, can have, for example, multi-entry visas, if their employment contract is renewed, they are granted unlimited residence permit and they can change their workplace twice (if the employers agree) (Yoo 2005: 11-12). Already before this improvement, this category of migrants had more rights than the so-called trainees.

The first trainee scheme (Industrial Skill Trainee Programme for overseas-investing firms) was implemented in November 1991. It allowed migrant workers only in Korean companies investing overseas (Park 2002: 75). The residence permit for the trainees under this scheme was six months, but could be extended up to six additional months (Yoo 2005: 6). This programme didn’t make much sense, since labour shortage was much more acute in small and medium firms. Thus, the government introduced the “Industrial Trainee Programme for foreigners for small businesses” in 1993. Under the “Industrial Trainee Programme” migrants worked as trainees for small and medium-manufacturing firms with 300 or less employees for a period of one year with an extension possibility for another year. The programme was extended to coastal fisheries in 1996 and the construction sector in 1997 (Yoo 2005: 7).

A striking point of these programmes is that the workers had the status of trainees and were therefore not entitled to protection under Korean Labour Law. In 1997, after a new version of the trainee system had been passed (Working After Training Programme for Foreigners), some protections like the Industrial Accident Compensation Insurance and the National Health Insurance were also granted to the trainees. (Yoo 2005: 7, Lee Park 2005: 152). But these were only guidelines left to the discretion of the employers (Park 2002: 77) and they did not have the three basic labour rights, that is the right to unionise, to involve in collective bargaining and in collective actions (Seol 2000).

Labour shortage was still a problem, the number of undocumented workers did not decrease despite repeated crackdowns and the migrant support movement had grown. In preparation for another law, the government passed another act in 2000, the “Post-Training Employment Programme”. Under this programme, migrants had to work two years as trainee and one year as employee and in 2002 they could work one year as trainee and 2 years as employees (Lee 2007). Aware that many ethnic Korean migrants were working undocumented in the service industry - facing shortages, although to a lesser extent than the manufacturing industries – the government introduced the Employment Management Programme in 2001. Under this programme, only ethnic Koreans at least 40 years old (later at least 30)³⁷ were allowed to visit relatives and to find an employment in the service industry. There, residence permit was for 3 years (Yoo 2005: 8). At this point of time, the first legal differentiation between ethnic Korean and other migrant workers was made.

Finally, the government decided to pass the Act on Employment of Foreign Labourers (Employment Permit System) in 2004 and to abolish the Industrial Trainee Programme from January 2007. The idea of an employment system was not new, already in 1996 the government had tried to convert the trainee system in the employment system but business circles opposed this change strongly. The new bill was proposed under three government administrations and each time the Ministry of Commerce, of Industry and Energy, of Health and Welfare and of Justice opposed it, as well as the Korean Federation of Small and Medium business. The Employment Permit System was finally passed because at that time the opposition parties agreed with it.

³⁷ Reasons for allowing only older workers are not mentioned in the literature.

The continuous engagement of the NGOs coalition for migrants rights (Joint Committee for Migrants Workers) and its ability to draw on international norms was also responsible for the enactment of this legislation. As Lee and Park have shown, in Japan, where a similar trainee system exists, but no vibrant civil society supporting migrants, such a change did not occur (Lee/Park 2005: 150-158).

Nonetheless, in fact, under the Employment Permit System, “low-skilled” migrant workers are allowed to work for only one employer, they can work in Korea only up to three years, and in order to dissuade completely the workers to stay in Korea, their family members are not allowed to enter Korea (KCTU 2004, Park/Md Nasrudin/Pitch 2005:16:18, Lee 2007, Lee/Park 2005:145). Even with these legal limitations, migrants should not destabilise the national labour market, thus, according to this law, a migrant worker may be imported as employee only if the given employer is unable to find a Korean worker (Yoo 2005: 9). The trainee programme was based on bilateral agreements with 17 countries, setting a quota for each country. Since that has been criticised, under the Employment Permit System only 10 Asian countries are eligible to send workers. The quotas are evaluated along the rate of undocumented and the preferences of employers (Yoo 2005: 10) and since more migrant workers were needed, five more Asian countries have been added to the list in 2007 (Lee 2007).

The legal situation of ethnic Koreans - older than 30 years - is slightly different. They are treated as special migrants under the Employment Permit System: Among other regulations, they are allowed to come to the country with a visitor visa and they are allowed to work in sectors that are not open to other migrants, such as health or catering (Lee 2007). In so doing *ius sanguini* is further legitimated.

To sum up, the Employment System has many disadvantages that the trainee system already had, but it has some advantages for all legal migrants. As employees, the migrants enjoy higher wages and they are protected by labour law like nationals, as well as allowed to join a union. However, household workers are not covered by this legislation (Yoo 2005: 12) and older ethnic Koreans are legally separated from the other migrant workers.

As already mentioned, in preparation for the Employment Permit System, “voluntary” as well as forced deportations have occurred. Article 2 of the Addendum to the Act stipulated that it would be possible to legalise undocumented migrants before the Employment Permit System comes into operation (Yoo 2005: 2-3). This meant that undocumented could register and postpone their departure until spring 2003. After, a period of deportation would follow. (Gray 2006: 385) In accordance with this provision, a series of legalisation was undertaken before November 2003. (Yoo 2005: 2-3) On the other hand, undocumented migrant workers who had been in South Korea for more than four years, had to leave the country. That showed the migrants who had been a long time in Korea and made the bulk of the migrants’ movement that they are not tolerated (Gray 2006: 385). When deported, undocumented migrants have additional penalties: They have to pay high fines for each year they have stayed illegally and/or can be detained up to three years. These detention centres have been labelled as “the last hell in Korea” (Seol 2000).

Parallel to the precarity of their situation, undocumented workers can be granted minimum rights under labour law and the Ministry of Labour has formulated a guideline for complaints (Yoo 2005: 13). As usual due to their status undocumented workers can not really make use of this possibility. Nevertheless, when undocumented migrant workers have demanded compensation for accident at work, the court decided in their favour (Park 2002: 78, Moon 2000: 162). Similar to the situation in Germany, undocumented workers do not have the right to work, but their de facto work contract gives them some rights (Cyrus 2004).

It is still not clear if undocumented migrant workers in Korea have the right to organise. In February 2007, after a legal struggle with the KCTU on the registration of the Migrant Trade Union (MTU), the Seoul High Court decided that undocumented migrant workers have the same right as other workers to form a labour union. Nevertheless, in March 2007 the Ministry of Labour appealed the decision of the High Court to the Seoul Supreme Court (KCTU 2007). Up to now the MTU has been illegal.

Considering the fact that migrants are only allowed to stay in Korea up to three years and that undocumented workers have no problems to find work, we can say that undocumented migrant workers are wanted. One the one hand

they are economically wanted, on the other hand the state, as the supreme national instance defining what is legal, cannot justify their presence and at the same time fight them. This was best illustrated by a statement of an official from the ministry of justice:

“As far as we know, the United States also relaxes control on illegal Mexican workers during the harvesting season. Afterwards, it repatriates them on the report of the employers. That could be cited as a model case for maximizing the nation’s interest” (cited in Lim 2003: 433)

Since the end of the 80s migrant workers, as temporary migrants, have slowly been granted more rights. However, the main impediments for the documented migrant workers are the precarity of their status and their lack of freedom of movement. Undocumented have similar sorrows as everywhere and ethnic Koreans have slightly more rights, but generally the precarity of the situation of all migrants is intended. It allows a suitable management for labour market purposes and, as it has been argued, is aimed at ensuring the perceived ethnic homogeneity. This is the situation unions will have to accept, to support or to refuse.

4. Unions in Korea

History of the unions’ movement since the 70s

Unions in Korea are famous for their militancy. This militancy has been attributed to the repressive state that does not give the possibility to labour to express itself and to economic inequalities. (Song 1999: 8) Nevertheless, in many repressive states labour has not shown similar militancy. Although economic success in the 70s reduced absolute poverty, labour remained militant. Another explanation is the homogeneity of the work force in huge factories and the workers’ communities concentrated around the industrial complexes, strengthening solidarity based on shared experience. (Song 1999: 8, Park 2007: 322). Concerning our research question, we have to examine the content of this militancy, in order to understand the union type. Since union types are the result of historical processes, we will first make a quick review of the labour movement in Korea since the 70s. Korea has several union confederations; since the MTU is an affiliate of the KCTU, we will then concentrate on this confederation on its principles, its strategies in general and its goals. Finally, we will turn toward its ideological orientation.

The roots of the organised worker movement after the Korean war is to be found in the 70s in the export oriented light industries (textile, footwear and leather products), where especially women were active and organised militant struggles (Pak 1998: 59, Neary 2002, Park 2007: 321). The militancy and the working conditions in the 70s are best exemplified by the self-immolation of a worker shouting “we are not machines” (KCTU – self presentation, Neary 2002). The country was under a military authoritarian regime (Yushin regime) and during this period repression against organised labour was extreme. The Federation of Korean Trade Union (FKTU), set up in 1960, was subordinated to the government, who together with the companies appointed its officials and allowed only enterprise unions. (Song 1999: 3, Kim, Park 2007: 320) This form of unionism, which is still prevalent in Korea, is a legacy of this period. Parallel to the state controlled unions, workers organised study circles, illegally set up democratic unions and organised wildcat strikes. In the 80s, several thousands students with revolutionary socialistic ideologies went to work to the factories with the aim to organise the workers (Pak 1998: 63). Some of these “student workers” founded the KCTU and are working there today (Park 2007: 325). During the so-called Great Workers Struggle³⁸ of 1987, which led to “democracy”, the worker movement made alliances with students, political opposition groups and religious groups. New militant union federations were organised (but not recognised). The political activities and strikes of 1987 gave strength to groups of workers who developed revolutionary socialist ideals. The aim of this unionism was to achieve “labour liberation”. However, the understanding of this liberation varied from “economic affluence” to the domination of the working class over the state and the bourgeoisie. Accordingly, their strategies varied. (Song 1999: 10-12) Nevertheless, it can be stated that the new unionism that emerged during the 80s had a radical view of the future Korean society and took more and more a revolutionary character (Gray 2004: 3). It is worth mentioning, that one of the key principles of the democracy movement was nationalism; the nationalism that was developed in the independence movement under Japanese colonialism and which linked for the

³⁸ In 1987 four to five million people demonstrated during several months for democracy under harsh repression, and battles with the police forces took place. In the three months after the declaration on political liberalisation of the head of the government party, workers were involved in 2,800 strikes demanding “economic democracy” (wage increases and improvement of working conditions) (Pak 1998: 51-66, Park 2007: 325).

first time the critique of oppressive regimes and the division between North and South Korea (Pak 1998: 61). At the beginning of the 90s the new federations were given the possibility to join the FKTU or to remain independent, white collar workers were for the first time in Korean history allowed to form unions, and the Korea Trade Union Congress (KTUC) was founded. This new unionism was called “democratic unionism”; it pursued the amendment of labour codes and the abolition of authoritarian repression. In 1995, the KCTU was founded, bringing together several of these federations. Soon, the new confederation grew faster than the discredited old confederation. (Song 1999: 5, 11 and 13). Nevertheless, the FKTU unions did not stay the same as before, due to pressure from the members who threatened to join the KTUC, they began to act as “real” unions at the begin of the 90s (Park 2007: 326). Between 1993 and 1996 Korea was undergoing a period of reform toward more democratic power. During this period, some leaders from the labour movement were co-opted by the government, but unions were still excluded from policy making (Song 1999: 12). The desire of some part of labour, including a part of the KCTU, to participate in state decisions can be seen as a legacy of a long history of exclusion.

Shortly after its foundation the KCTU launched its first general strike (lasting two months). The government had tried to involve the confederation in a tripartite committee on labour market flexibility in the labour law. The position of the employers and the government was so far from the labour position that - seeing no possible agreement - they passed the clause secretly (KCTU- Self presentation, Park 2007: 327-328). The unions immediately went on strike, but lost it because the second biggest steel producer of the country went bankrupt during the strike. The KCTU ended the strike, under the pressure of a nationalist backlash (Park 2007: 327-328).

In a country where unionists are regularly arrested and imprisoned³⁹, the improvement of the right to organise and labour laws benefiting the workers and their organising are important demands of the KCTU. Nevertheless, in the middle of the 90s, changes in the employment conditions could have led to a change in labour consciousness: Due to neo-liberal globalisation, management introduced

³⁹ Laws like the criminal act on interference with business clause and the law on assembly and demonstration are used to arrest unionists (Amnesty International 2006).

flexibilisation schemes and a shift from labour intensive to capital intensive industries led to retrenchment for many workers. After mass retrenchments, management relied increasingly on temporary employment relations⁴⁰. This trend was increased after the Asian crisis⁴¹ and fixed in law through a newly established tri-partite commission (Song 1999:18, Kim at al. 2000: 141-142, Neary 2002). These issues are said to be the reasons for the loss of attractiveness of the “democratic unionism” for local unions. (Song 1999: 18) Parallel to these developments, wages and working conditions improved for labour and industries employing “low skilled” workers witnessed labour shortage (Kim at al. 2000: 135-140, Song 1999: 20, Park 2002: 72). This again has been identified as a reason for a drop in militancy and a shift toward “economic unionism” (Song 1999: 20).

4.2. KCTU – Principles, Strategies and Aims

“The Korean Confederation of Trade Unions proclaims itself as the legitimate successor of the hundred years of struggle by the Korean workers. The KCTU is the culmination and the continuation of the struggle of the democratic trade union movement forged by the resistance against brutal repression. The founding principles which have maintained this struggle and movement are democracy, national sovereignty, and solidarity.” (KCTU –self-presentation)

As illustrated with this quotation from the self-presentation of the KCTU, the confederation sees itself as a force for democracy in an historic continuum. In another part of its self-presentation, the KCTU calls itself a social and movement for democracy. The mention of the fundamental principle of national sovereignty can be explained by the workers struggles during the Japanese colonial occupation and the US occupation due to the split between North and South Korea. The reunification of the two Koreas is part of the principles of the confederation.⁴² The term solidarity is understood as national and international solidarity with democratic forces in order to tackle the problem of workers.

The strategy of the KCTU is to combine mass activism (demonstrations, strikes) and intervention in political bodies. The later has been achieved among

⁴⁰ Temporary workers in Korea are called irregular workers.

⁴¹ Since spring 1999 there have been more temporary workers than permanent ones (Neary 2002).

⁴² This is a difficult political topic in Korea, where people can be arrested for “friendly” positions toward North Korea.

other ways in the set up of the Democratic Labour Party by the KCTU and a leftist social movement coalition in 2000 (Park 2007: 336).

One of its aims is to reform the system of industrial relations: KCTU unions have already set up industry unions like the Korean Metal Workers Unions (2006) (KCTU March 2007) and the KCTU wants to continue in this direction in order to unify struggles and to distribute finances between small and big unions, as well to attract short term employees (KCTU – self presentation). Industrial unionism has also been mentioned as more suitable to the organisation of migrant workers (Kim 1999: 38, KCTU- self presentation).

Worker participation at the management level is also an aim of the KCTU. In order to achieve this aim, the KCTU does not discount the possibility to participate in various tri-partite bodies. The issue of tri-partism has split the KCTU in the last years, a discussion we will review in the next paragraph.

In its self presentation the KCTU mentions as parts of its agenda: gender equality and maternity protection, reduction of wage differences and reduction of working hours⁴³. The confederation is also concerned with “employment related issues” like stable employment, reinstatements, prevention of lay-offs, as well as demands for a government programme for skills training, job placement and unemployment benefits. Increasing health and safety at work is an other issue. Enhancing migrant workers’ rights is explicitly mentioned among the aims of the KCTU. The English version of the self-presentation of the KCTU has obviously not been updated this year (2007), since the KCTU states that it is working with NGOs to abolish the trainee system. However, the KCTU states it wants to organise migrant workers in geographical and enterprise unions in order to increase their rights, their welfare and to develop solidarity between migrant and national workers.

Beyond labour issues, the KCTU wants to strive with other progressive social forces for the regulation of monopoly capital, the improvement of welfare benefits like social/health care, housing, education, public use of land, environmental and traffic issues.

⁴³ Working hours in Korea are higher than in most countries with data on this issue in the ILO Year Book 1997 (Kim, Dong-One et al. 2000: 137)

Finally, the KCTU recognises the need for international solidarity in order to “enhance the capacity of the international workers movement” and to defend human rights, democracy and peace (KCTU – self presentation).

4.3. Dispute on tri-partism and social movement unionism

In the last years a lively discussion on the ideological orientations and the strategies of the KCTU has deeply divided the KCTU (KCTU March 2005, E-Mail Exchange with Kim on the 23.08.07). The KCTU is born from the merger of the “democratic” unions, whose members had different views on “labour liberation” and the country has entered a period of formal democracy, offering more formal involvement for labour. Thus social dialogue is a contested issue, and the discussion whether to take part in it or not can be understood as dispute between the left and the centre. This discussion began after the Asian crisis (1997), when neo-liberalism due to IMF rules (among other things), entered Korea in force. At the same time, the government of the first candidate of the opposition party since the founding of the republic in 1948 was elected and introduced increased market liberalisation, as well as a tripartite system. Labour was recognised as a key element in production (Gills/Gills 2000: 44-47). Up to now, the KCTU does not permanently take part in tripartite negotiations. From 1998 onwards the KCTU and FKTU have been involved in the tripartite system but withdrew many times from the negotiations, especially the KCTU, which has also sometimes been excluded from negotiations (Gills/Gills 2000: 48-51, KCTU March and June-July 2005, KCTU 2006). Nevertheless, the KCTU leadership is sometimes not as radical as is membership. In 1998, it signed an unpopular labour bill. The rank and file protested heavily and the delegates of the KCTU unions dissolved the leadership at an emergency general assembly. The emergency committee elected instead of the leadership promised to carry out a general strike but the strike did not occur due to the pressure during the Asian crisis. Finally, the KCTU accepted the revised bill in exchange to some political freedom like trade union involvement in political activities (Park 2007:330).

In Korea there has never been a way to integrate labour in the decisions of the country. In so far, for certain members of the labour movement, labour participation is a sign of democracy and a means to surpass the limitations of enterprise unionism, as well as to resist neo-liberalism. Enterprise unionism is

said to limit the consciousness of the workers and to narrow the scope of the labour movement to a self interest group. Nevertheless, some writers from the labour movement do not promote a democratic corporatism similar to the one in the West; and labour participation does not seem contrary to revolutionary objectives (Gray 2004: 10-11). In this way, participation in tripartite bodies is seen as a tactic; and labour can always break negotiations and continue to struggle. Moreover, tri-partism is said to recognise the different interests of capital and labour (Gray 2004: 8-11). In 2005, when the KCTU was deeply divided on the issue of social dialogue, there were similar positions, seeing tri-partism as a tactical means, but also positions clearly anti-tripartite negotiations:

- The leadership and others thought that while struggles remain the main strategies, dialogue is tactical and can be used to raise social awareness for struggles. When organised forces are too weak for a general strike, negotiations are necessary.
- One faction argued that dialogue can bring benefits.
- One other faction argued that dialogue is part of neo-liberal strategy of the government. Therefore accepting negotiations is legitimising anti-worker policies and be a pawn of the government. The KCTU should learn from the mistakes of tri-partism in Korea and in Europe. In Europe social negotiations have been social corporatism
- A last group does not disagree on the tactical value of negotiations, but oppose them because the tripartite commission has not changed since the last time the KCTU withdrew. (KCTU March 2005)

Some of those who want to break with a purely militant unionism are concerned with the image of the labour movement in the public. They argue that unions have a role to play in the economy of the country and in promoting social development (land, housing problems, traffic, crimes, education ...) Since a civil society has emerged with democratisation, these issues have to be tackled together with other civic groups like the women's movement, the consumer movement, the environment movement. (Gray 2004: 13). These discussions clearly point out one of the crucial points of social movement unionism:

[...] Choi Jang-Jip argues that the boundaries of class are not set by objective relations of production, but are a product of political practice (Choi Jang-Jip 1992: 1992: 245). Similarly, Park Tae-Joo denies that it is the workers' position in production that defines their identity. Despite the union's primary concern with wages and employment conditions they must also show interest towards such areas as environmental and women's issues. Workers are also citizen and consumers." (Gray 2004: 13-14)

A unionism striving for reforms with other civic groups has been labelled by Korean writers from the labour movement as "social unionism" (Gray 2004: 14-16). More confusing, is the fact that the term social unionism, coming from an international discussion, as it has been translated in Korean is the same word as "social corporatism" (Gray 17).

Yet, some argue, among other classical arguments, that social unionism mirrors the petit-bourgeois wish for social peace between capital and labour; moreover they think that in order to assess the labour movement, one has to ask why workers are obstinately pursuing unpopular wage struggles (Gray 2004: 20). But in fact, it seems that the labour movement of the 90s has rather embraced capitalist ideology than labour liberation: class politics has been centred around issues like the union and elections, around national competitiveness, union organisation, stabilisation and the improvement of life (Gray 2004: 21).

So far, with the material at our disposition, it is difficult to make a final assessment of the recent ideological and practical orientation of the labour movement in the KCTU.

Even if in Korea the difference between social dialogue and social movement unionism is small this does not mean that it does not strive toward social movement unionism in our terms. As exemplified with the self-presentation of the KCTU, we agree with Gray "that on an ideological level the KCTU is an example of social unionism (or social movement unionism L.S.)" (Gray 2004: 16). At the practical level, the KCTU is also (still) a social movement union, since it is not permanently integrated in the tri-partite system.

However, the discussion on reform-driven social movement unionism has been seen as a means to counter neo-liberalism. It needs to be said that the discussion has taken a different direction from that in the West. There, social movement unionism has been seen also as a means to counter neo-liberalism, but furthermore as a move away from the bureaucratic corporatist unions, or

from the economistic unions which are caught in social dialogue politics and have lost much of their power (Gray 2004: 10 and 23). In Korea it is rather a move from militant unionism to more dialogue. Similarly, Moon and Kim as well as Gills and Gills state that the political elite in Korea, facing (neo-liberal) globalisation, have chosen a way toward social corporatism; while in the West, globalisation has brought essential changes in the welfare state and in the corporative labour management at company level (Kim/Moon 2000: 74, Gills/Gills 2000. 52-53).

5. Trade Unions and Migrant Workers – Migrant Workers and Trade Unions

5.1 Shifts toward more involvement and inclusive positions

Similar to the situation in other countries, unions in Korea did not always have the same position and practices toward migrants and migration. The following two chapters investigate how the KCTU and to a lesser extent the KFTU viewed migrants, and what they have done for or against migrants through time. Since 2005 one of the rare unions for undocumented workers in the world⁴⁴ has been set up in Korea, therefore it is to be expected that unions in Korea have developed a particular view on migration and particular relations with migrants. Is it the case? How could this happen? In this chapter, we will first review the trade unions' position toward migrants from the beginning of migration to Korea up to the Asian crisis. In the following we will analyse the migrants' struggles and their relations to their supporting NGOs leading to the set up of the first migrant workers union. Finally, we will describe the birth of the MTU and explain its aims and strategies. In a last chapter we will analyse the relations of the migrants' union with the KCTU it is affiliated to.

It seems that before the Asian economic crisis the two Korean trade union federations have considered migrant workers as a threat concerning wages, work place environment and the upgrading of technology in firms (Moon 2000: 167). When the government first announced the import of a migrant work force at the beginning of the 90s, labour organisations including the KCTU rejected immigration because it would threaten the job security of national workers (Seo

⁴⁴ A union for undocumented workers exists in Holland (Picum 2005: 36), and in Spain the SOC actively organises undocumented workers (see case study on Spain).

2006). Additionally, or as a result of the position of unions, trainees did not take part in strikes or demonstrations because they were afraid of being forced to leave the country. Undocumented workers could theoretically join a union when they had a contract. In 1995, for instance, 4.3% undocumented were participating in unions but they were not officially members (Park 2002: 89). However, there are always exceptions to the rules. The case of Bay industry, a small company whose union is affiliated to the powerful Korean Metal Workers Federation (KMWF), is such an exception. In the beginning (1992) the migrant workers were perceived as a threat for the union but as the migrants began to complain about their unfair working conditions (wages, overtime work) this led to changes from the union. The union felt more concerned by the fate of the migrants and in turn the migrants involved themselves in union activities. Then, the union demanded the same wages for migrants and for nationals. Finally, the migrants got 80 to 90% of the wages of the Korean workers. The union could also manage to obtain dormitory services and retirement allowances for the migrants. Finally, all the union activities involved the migrant workers (Kim 1999: 37).

Since 1994, i. e. after three years, the KCTU has slowly changed its position toward migrant workers. Migrants were already working in Korea and the KCTU argued for regulated migration and for equal working conditions for all. At the same time the KCTU has been involved in solidarity campaigns for the rights of the migrant workers, documented and undocumented. However, as will be illustrated later, even if this engagement has been undertaken under the name of the Federation it seems that it was not so much KCTU departments but rather engaged individuals who have been involved in the struggle. In 1995, the FKTU was still opposing immigration (Seo 2006), while further steps have been taken by the KCTU in favour of migrants. A day per week for counselling for migrant workers was resolved, as well as a migrant workers' clause in collective bargaining agreements (Kim 1999: 34-35). Nevertheless, an activist of the migrants' movement criticises that although during a trainee protest supported by the JCMK and the KCTU, the JCMK strongly asked the KCTU to make a plan to unionise migrant workers, they just formed a loose solidarity with the NGOs for migrants (Seo 2006). At the union level in 1995, 10 unions opened membership to migrants and two unions had adopted an agreement and

negotiated with the management on working conditions for migrants. After the Asian crisis numerous migrant workers did not get their wages for months. The KCTU opened a centre for reporting the non-payment of wages and unfair labour practices (Kim 1999: 34-35). However, it is not clear if this centre was aimed only at migrant workers.

It is worth to describe the content of the model migrant workers' clause in collective bargaining agreements of the KCTU for its unions, since it explains the position of the KCTU toward migrant workers. The first and the fourth paragraph was on employing migrants or transferring migrants from overseas subsidiary to Korea. In this case the management should do it in agreement with the union and migrants' employment should not lead to reduction in the previous workforce. With this first paragraph, if the union members perceive migrants as a threat to their employment, they will rather act against their employment. Secondly, the management should apply "employment rules" to migrant workers regardless of their legal status and not discriminate along nationality, race or form of employment. This paragraph seems quite progressive in so far that it aims at reducing ideological (nationality, race) and existing institutional discrimination (legal status, form of employment) Thirdly, the management should provide all documents concerning the trainees to the union and transform the trainee contract into a normal contract. The first part of the later point probably aims at having information in order to organise migrants; the second part, seems relatively unrealistic, since at that time trainees were legally not allowed to work as employees. Lastly, the union can counsel migrants on complaints and the management have to react to these complaints (Kim 1999: 35-36).

It is quite a paradox that after the Asian crisis migrants were seen differently, because usually in times of economic slowdown migrants are the scapegoats of the lack of employment opportunities. In the Korean case that is not to say that this has not been the perception of a big part of the general public, but for the unions it has contributed to see migrants as part of a more global scenario:

"[...] the crisis and the IMF response seem to have helped identify all laborers, Korean and foreign, as common victim of abusive business practices, government business collusions, and Western neoimperialism" (Moon 2000: 167)

The statement of Kim, Yu Jin from the KCTU for a conference of the Friedrich Ebert Foundation on migrant workers and the Asian economic crisis illustrates best this analysis. Migrant workers are victim of trans-national capital:

“Unemployment and migrant workers can – within the limited boundaries of a country – be perceived as a conflicting issue. However, in a closer understanding of the economic crisis and the roots of employment insecurity – and in the perspective of internationalism – they are merely one and the same problem.

The trans-national capital, in its generation of unlimited competition, coerces the lowering of labour cost. This gives rise to labour migration. But, in one country, capital uses unemployment and migrant workers as leverage for greater flexibility and competition amongst workers. Migrant workers are, therefore, not an external factor, which bring about job insecurity, but the common product and victim of capital” (Kim 1999: 38).

This shift on the view toward migrants and migration does not seem to have had an immediate impact on the KCTU policy. The KCTU was at this time pretty much under pressure due to the restructuring following the economic crisis. Except for the mentioned concern for unpaid wages, no decisive step toward the organising of migrants has been taken before 2001. Moreover, not the Asia crisis but much more the migrant workers’ struggles have contributed to the increasing awareness of unions for their situation, as we will explain in the next paragraph.

5.2 Migrant struggles and the Korean NGO movement

The official involvement of migrant workers’ in Korean unions began with the establishment of the Migrant Workers Branch of the Equality Trade Union (regional union organising in small and medium enterprises) in May 2001. There, migrant workers struggled with other national workers against crackdowns and deportations and for the improvement of migrants’ labour rights (KCTU 2004, Seo 2006). But already, since the beginning of labour migration in Korea, migrants have been struggling for their rights with the support of NGOs and of some engaged individuals in the KCTU. The relation with the NGOs has not always been an easy one but in these conflicts the migrants could affirm their identity as workers.

The first visible migrant workers protest took place in 1994 when a small group of undocumented migrants, approached a famous NGO, the Citizen

Coalition for Economic Justice. They conducted a 29 days sit-in at the headquarter of the NGO, protesting against the abusive employment conditions of undocumented migrants, and demanded the application of the industrial accident insurance (Lim 2003: 434). Astonishingly, the government responded positively to the later grievance and was supported by the Supreme Court granting undocumented workers severance pays for industrial accidents (see chapter on government policies/legal framework) (Gray 2007 305, Seol/Han 2004: 47). A year later, thirteen Nepalese trainees launched a protest at the Myongdong cathedral against non-payment of wages, physical and verbal violence and the confiscation of passports. During the protest, they used posters, saying “don’t beat me”, “we are not slaves” and they were appealing to their human rights. One of their public statements illustrates this strategy:

“We may be from a poor country and that’s why we are working here in Seoul like slaves. But we have our basic human rights as well.” (Lim 2003: 435).

This protest received a broad coverage by Korean media and internationally (Lim 2003: 436). Moreover, in choosing the Myongdong cathedral as place of protest the migrants put themselves in the tradition of the Korean democracy movement and Korean NGOs and migrant workers community organisations joined them. Interestingly, while supporting the trainee protest, the KCTU raised the issue of a migrant workers trade union, arguing such a union existed in Germany⁴⁵ (Seo 2006). Finally, the Joint Committee for Migrant Workers in Korea (JMCK) was formed due to this struggle (Gray 2006: 383).

The JMCK NGOs made an important work in counselling the migrants and in organising the anti-trainee protest, but it has been criticised that due to its religious constituency the JCMK adopted a patronising attitude toward the migrant workers. (Gray 2007: 308-309, interview with Liem on the 17.08.07, Seo 2006). The overwhelming majority (86%) of the NGOs involved in migrants support are religious organisations, in majority protestant which does not fit with the Buddhist, Muslim, Hindu, Catholic background of the migrants. Nearly 40%

⁴⁵ At that time there was no migrants’ union in Germany. Nevertheless, the reference to Germany comes most probably from a Korean activist, who has lived as a migrant in Germany for many years and has generated interest for the migrant struggle in Korea (E-mail exchange with Choi on the 17.07.07, Interview with Roth on the 31.07.07). As politically active migrant, he could draw links between the situation of migrants in different countries.

of these NGOs are evangelists and therefore see conversion as their main activity (Gray 2006: 385 and 2007: 308, Seo 2006). Beside their patronising attitudes, these organisations have also tried to temper the militancy of the migrant workers because they are themselves reluctant to take part in actions such as demonstrations or strikes. As the former president of the Equality Trade unions said:

“The religious activists tell us “don’t go to the demonstrations”! So we are asking until when are we always going to be asking for help for the Koreans. It’s the same everyday. We are never going to move beyond always asking people for help. A lot of us are saying that we need to put our own problems to the fore [...]” (Tapa cited in Gray 2007: 309).

Besides purveying counselling for the migrants, the JCMK advocated a Foreign Worker Protection Law where migrant workers would have all workers rights and would replace the trainee system (Gray 2007: 307). When it became clear that such a law could not be passed at the Korean National Assembly, the JCMK thought it would be better to support the coming Employment Permit System. An internal debate occurred in the JCMK on whether to accept the announced EPS. Some Korean activists criticised the JCMK for being only run by Koreans without trying to empower the migrant workers, and for some migrant workers the EPS was unacceptable, since they had demanded the legalisation of all migrants and the same workers rights as the Koreans (Seo 2006).

The activists who were against the EPS and for empowering the migrants left the JCMK and formed the Struggle Network for Migrant workers’ Rights and Freedom of Migration & Working (SNforMRF) in 2000. The SNforMRF began to develop solidarity between foreign and Korean workers. It visited unions asking for solidarity with migrants and organised meetings in industrial areas. Migrant workers began to join the activities of the SNforMRF. Thinking about the sustainability of movement, the network decided to found a union and the Migrant Branch was founded in the Equality Trade Union in 2001 (Seo 2006). In this union the migrants emphasised their identity as workers. In the words of an activist: “All members of the ETU-MB became KCTU members, declaring that they were proud workers and appealed to local workers for unity”. The Migrant Branch carried out a militant struggle organising demonstrations, rallies in front of factories, sit-ins and a hunger strike at a detention centre (Seo 2006). As a

union it also set a precedent for a successful intervention during a strike where migrant workers were protesting against the beating of one of their colleagues (Gray 2007: 311-312).

Meanwhile, the JCMK had decided to accept the EPS, believing that the government would not agree with all the demands of the JCMK at the same time and arguing that all in all the EPS was an improvement compared with the trainee system. During the period of voluntary reporting of 2002 in which undocumented workers could register and be “voluntarily” deported until the end of 2003, the JCMK indirectly assisted the government. In their support centres, the NGOs gave explanations of the new policy to the migrants, arguing that the majority of the migrants wanted to work in peace even only for one year. Of course, the ETU-MB was against the reporting. (Gray 2006: 384-385).

The activities of the Migrant Workers Branch of the ETU culminated in a sit-in protest held for 381 days at the Myongdong cathedral in 2003 during the crackdown waves preparing the implementation of the EPS. They were protested against the deportations and the Employment System. At that time the KCTU, at least in its statements supported the migrants’ demands for:

- The legalization of all migrant workers.
- The end of the forced deportations.
- The release of all detained migrant workers.
- The abolition of the Employment Permit System.
- The respect for the basic labour rights of migrant workers.
- The freedom to change workplaces for migrant workers.
- The condemnation of the Roh Moo Hyun government’s repression against migrant workers. (KCTU 2004).

Meanwhile, migrant workers were deported or left the country voluntarily. Participants in the protest were arrested. Migrant workers in deportation centres and in the sit-in began a hunger strike and after 21 days some of them were deported (KCTU 2007). Finally, the migrants involved in the sit-in were not successful and could not gain any concessions from the government. But some union leaders, individuals, students and organisations joined the struggle (the JCMK left the sit-in after one day) and during the protest new migrants’ groups

emerged (Seo 2006, interview with Roth on the 31.07.07). Moreover, the migrant workers really became the subjects of the migrant workers movement.

5.3 The Seoul-Gyeonggi-Incheon Migrants Trade Union

“Workers of All Countries, Unite!!” (MTU Presentation –brochure 2007)

As everywhere, the migrant workers struggles are not an important concern for unions. But in Korea the migrants themselves were able to affirm their identity as workers and to build decisive links with the KCTU. Then, contrary to what we believed at the beginning of our research, it was not the KCTU which has built the MTU, but the migrants who led the KCTU to recognise the MTU as one of its affiliates.

It was during the famous sit-in at the Myongdong cathedral that the migrant workers began to see the need for their own organisation (KCTU 2007, Seo 2006). They decided to form the Seoul-Gyeonggi-Incheon Migrants Trade Union, asked for affiliation to the KCTU, and submitted their application for union registration to the Seoul Labor Office in May 2005. Shortly after, the president of the MTU, Anwar Hossain, was arrested as he was returning home. Anwar Hossain was directly taken to the Chongju Immigrant Office and Detention Center. The immigration officers then began deportation proceedings without legal processes. In response, the MTU began an awareness campaign and a trial for the release of Anwar Hossain. Due to the ability of the union to get international attention, in April 2006, after a year of struggle, he was finally set free (KCTU 2007, interview with Roth on the 31.07.07).

In June 2005, shortly after Anwar’s arrest, the Seoul Labour Office announced its rejection of the union registration. The Labor Office claimed that MTU’s members are not allowed to form a union since most of them are undocumented. Following this, the MTU filed a suit against the Seoul Administrative Court. The court turned down the suit, claiming that undocumented migrant workers do not have the same status as other workers. The MTU appealed to the Seoul High Court and over a year later the High Court decided that undocumented migrants have the right to form a union. Nonetheless, in March 2007, the Ministry of Labour appealed the decision of the High Court to the Seoul Supreme Court (KCTU 2007). Up to now the union is not legally recognised, but it is functioning. However the question can be raised

whether it is functioning more as an NGO than as a union; we will come back to this issue in the course of this chapter.

The MTU is affiliated to the Seoul KCTU council and has five regional branches. The general secretary (and probably other leaders) is an undocumented worker who has been living in Korea for many years (Interview with Roth on the 31.07.07). The MTU was able to triple its membership in three years time, but it has only about 300 members; this is not enough to be part of the KCTU at national level (Seo 2006, Interview with Liem on the 05.08.07). All migrant workers can be members of the union, regardless of their legal status and their nationality (Seo 2006, Interview with Roth on the 31.07.07). Mainly Nepalese workers are members of the union, but also Bangladeshi, Vietnamese, Sri Lankan and some African and East European migrant workers. Currently, the MTU is working at organising migrants from other communities, which is difficult due to the language barriers, and it is discussing the issue of the organisation of women workers (Interview with Roth on the 31.07.07, interview with Liem on the 05.08.07). Although it is an independent union it aims at unionising migrants in each industrial federation. The Korean Metal Worker Federation (KMWF) demanded minimum wages for migrant workers during its negotiations with the management in 2005 (Seo 2005), and the MTU works in cooperation with the union of the Seongseo Industrial Complex belonging to the KMWF.

In its day-to-day work the MTU does a lot of counselling and campaigning (Interview with Roth on the 31.07.07). The general assembly is the highest body and together with the representatives' assembly it has more power than the president. They have 8 departments; beside general departments like the policy, the legal or the education department, they have a solidarity, a women and a culture department (MTU – Presentation brochure 2007).

So far it is fairly a union, the point is that due to the urgent need for political reforms for its members the MTU can currently deal only with political reforms. The primary aims of the MTU are the end of the deportations of undocumented workers and the legalisation for all; also to abolish the EPS, to achieve the three labour rights (right to unionise, right to strike, right of collective

bargaining) and to achieve a Work Permit System (WPS)⁴⁶. The WPS would grant the freedom to change the workplace, legalise all migrants currently working in Korea and extend the work visa to 5 years⁴⁷ (MTU – Presentation brochure 2007).

At the ideological level the MTU shows an obvious workers' internationalism. They see themselves primarily as workers oppressed by the capitalist system and the ruling class. The following citation of the MTU explaining why migrants should form a union points out this ideological orientation:

“Throughout history workers have only been able to form labour unions through persistent struggle against owners and governments, who seek to oppress and exploit us for the purpose of capitalistic profits. However, as makers of history we have the power to improve our working conditions and social standing when we unite. As individuals, workers cannot solve our problems on our own because these problems actually arise from the unequal structure of capitalist society. The ruling class has a lot of stake in maintaining this system and a lot of money and power with which to do so. Therefore, we must unite and solve our problem together. The labor union is our basic instrument of struggle.” (MTU – Presentation brochure 2007)

Without dismissing their real attachment to the struggles of the working class in general⁴⁸, this kind of statement can also be part of a broader strategy to gain support from the Korean left. In its self-presentation, the MTU explicitly draws links between the situation of migrants and the situation of Korean workers, explaining that the government policies make them cheap and exploitable labour; this situation, in turn, undermines wages and working conditions of Korean workers. That is why, with an equal labour policy for all, Koreans and migrants could struggle together for better working conditions (MTU – Presentation brochure 2007).

Finally, the MTU's stated understanding of a union is fairly close to social movement unionism: Unions are set up to achieve higher wages, better working

⁴⁶ In order to bring a change toward the two last points, the KCTU submitted a complaint for the MTU to the ILO Committee of Freedom of association, claiming that the EPS violates the ILO Convention No. 97 and No. 143 (KCTU/MTU 2007).

⁴⁷ The last demand is surprising in so far that it does not question the short term migration policy of the government. Additionally, migrants who have been in Korea for, say, ten years would in the end have to go back to the countries where they are nationals and this would weaken the MTU itself.

⁴⁸ It seems that some of the leaders of the MTU had a trade union background in their countries of birth. For example the secretary general, was trade unionist, well as his father (Interview with Roth on the 31.07.07).

conditions and other labour rights, but also, in the stance of the KCTU (see paragraph on the principles, strategies and aims of the KCTU): “with other social movements to achieve peoples’ rights, true democratisation and progressive social, economic and political reform” (MTU – Presentation brochure 2007).

Since it is a new union and the primary problems of its members are legalisation and deportation issues, the MTU has not been very active or successful in labour issues, and in so far it is more an NGO than a union. Nevertheless, the members of the MTU see themselves as workers and want to be part of the broader Korean workers’ movement (see also interview with Roth on the 31.07.07).

5.4 Relations between migrant unions and the KCTU

Given the circumstances, the life of the MTU is not easy: Members get regularly caught in crackdowns on migrants, due to their long working hours migrants have little time to engage themselves in the union, and the union has financial difficulties, since it functions only through donations from NGOs and the solidarity fund of the KCTU. But also the KCTU is not as supportive as it could be, although cooperation is improving.

In the first time after the foundation of the ETU-MB, the KCTU did not take an active interest in organising migrants. In order to change this attitude, the members of the ETU decided to join all the struggles of the KCTU (Seo 2006, interview with Roth). During one of these solidarity actions, one migrant was arrested and deported, while demonstrating at a rally of the KCTU on irregular employment in 2003. Gradual changes have been effected, on one hand through this issue and the contact with the migrant workers; on the other hand through the activities of members of the KCTU advocating for upholding the internationalist spirit of the KCTU or arguing for the necessity to organise minorities, such as women, disabled workers and migrant workers (Seo 2006). Nevertheless, whereas the MTU members are struggling together with the KCTU national members, if KCTU Korean members take part in the migrants’ struggles it is only on an individual basis.

There seems to be a good cooperation with the Seoul Regional Council of the KCTU, but the communication officer of the MTU regrets the lack of support from the KCTU in general, arguing that it is more supportive toward migrants’

struggles than toward the MTU. The MTU has demanded from the KCTU to be included in its special committee for minority unions such as the women's union but the demand was not successful. The MTU is also regretting that the KCTU is not appointing members to be in contact and develop strategies with the MTU and work actively to organise migrant workers. In addition, the MTU feels the need for the KCTU to do educational work about migrant workers among their unions to raise awareness and overcome the anti-migrant attitudes in some unions (Interview with Liem on the 17.08.07).

Members of the KCTU still support migrant workers together with NGOs, but the split of the JCMK has also had an influence on the NGO movement supporting migrants and on the KCTU alliances. When the Struggle Network for Migrant workers' Rights and Freedom of Migration & Working was founded, the KCTU had decided to oppose the EPS and to support the demand for legalisation for all documented workers. At the same time NGOs which left the JCMK, founded other NGOs (Seo 2006). Currently the MTU is working with the Alliance for Migrants' Equality and Human Rights, which the KCTU belongs to, on the issue of a large fire at a detention centre in Yeosu (Interview with Liem on the 17.08.07). The fire killed 10 migrants and wounded many others because the guards of the detention centre did not open the door of the cells when the fire occurred. Wounded detainees did not get sufficient treatments before being incarcerated anew; in the meantime they have been deported and had to pay for their deportation as it is usual (KCTU-MTU 2007). The communication officer of the MTU interprets the barbarism of this incident, and the visibility it has brought to situation of undocumented migrants as the reason for an increase of engagement from KCTU members; but again rather at an individual than an institutional level. At the beginning of August 2007, a new massive deportation crackdown has been launched which will go on until the end of the year (Interview with Liem on the 17.08.07). It remains to be seen how the KCTU and the MTU will cooperate on this issue and be able to mobilise against the double government strategy of regulations and deportations.

This leads us to the question what an independent union means for the national workers movement it belongs to, and whether an independent union for migrants is a good strategy for the migrant workers' movement. The first

question is related to the extent of the commitment of the union toward migrants. The second to the success potential of this strategy.

The migrant workers did not really choose out of endless possibilities to build their own unions. The circumstances told them that it would be the best strategy. It was rather their subject position in the NGO movement and the lack of the propositions from the KCTU that led to this solution. Penninx/Rosblad argue that, when unions view migrant workers as belonging to the same class as national workers, but want to create special policies for their integration into the organisational structure of the union, the minimal variant is to “[...] create facilities for immigrant workers to organise themselves as special groups within the union, but outside the existing core organisation” (Penninx/Rosblad 2000: 11). In our case it was not the KCTU who created the facilities for organising, but the migrants, with the support of committed Korean labour activists. The KCTU did not choose the optimal variant, that is to change its organisation for the integration of the migrants (see Penninx/Rosblad 2000: 11). In this way, we can understand the complaints of the MTU communication officer and of one activist that the KCTU does not have any concrete programme to organise migrants (see interview with Liem on the 17.08.07, Seo 2006). One could argue that in building industry wide unions the KCTU will also organise more migrants, but it is also questionable if industry unions are really a means to organise migrants. On one hand, industry unions can have broader aims than enterprise unions which are centred on the life in the enterprise. On the other hand enterprise unions mean a decentralised bargaining system and such unions rely usually on organising because they need mobilised members to secure agreements at the workplace (Picum 2005: 83). In any case, the lack of organising efforts of the KCTU toward migrants can not be explained with its reluctance to engage in illegal actions. This reluctance is widespread in Europe (see Picum 2000: 46) but the KCTU has proven in many cases that it is not afraid to undertake actions which are disregarded by the state and to take into account the following repression. It also can not be explained with concrete competition between migrant workers and nationals. Except in the construction industry, where migrants compete for “day wages” with nationals, migrant workers work in industries and in positions that Korean workers avoid (Seo 2006, Gray 2007: 312). In so far it can rather be explained with the relatively

new migration to Korea and the relative small number of migrants in Korea, with nationalist and racist attitudes and with the fact that it takes time to change an organisation.

Given the minority position of the migrant workers and the subsequent tendency to give them a subject position⁴⁹, having their own union gives migrant workers the possibility to act as subjects; on the other hand it might not be an effective method to reach their objectives. Having an independent union gives the migrant workers the possibility to give visibility to their own concerns and to empower themselves. This is the same kind of strategy that has been used by women in many parts of the world and in many unions, also in Korea. Nevertheless, in the long run some think that it can not be a successful strategy. As the president of Korean People Solidarity says:

“[...] it’s a different matter to say that they can organize 300,000 workers within Korea. I think organizing a separate union is not an effective method. They are going to become isolated and it will become the struggle of just a few workers... The most effective way for them to organize is together with Koreans. We must organize together” (Pak cited in Gray 2007: 311)

The MTU is aware of the challenge, as already mentioned, it is trying to organise migrant workers within the Korean Metal Worker Federation and they relate their struggle to the broader worker struggle. Since migrants are institutionally not equal with Korean workers and the different national discourses lead to perceive migrants as a threat and as inferior, a dual strategy might be the best. As Liem argues:

“In the long term I think it is necessary to return to organizing Korean and migrant workers together and as I said before some effort is being made in a few unions. However I think even as this happens migrants need an organization that can represent their specific interests and also make political demands (related to changing the migrant workers system in Korea).” (Interview with Liem on the 17.08.09)

Migrant workers struggles are not only struggles for economic improvement, in so far the sustainability of the MTU depends on its ability to build links with “progressive” social movements and also on how broad the aims of the KCTU are. In this case, the scope of the KCTU as a union rooted in the movement for democracy seems to be wide enough. Nevertheless, a

⁴⁹ This strong tendency exists not only in Korea and not only in the case of migrants. It is the case for all minorities and subordinated people (women, migrants, colonised people, working poors etc.) to be brought into a subject position.

democracy movement can stop at the borders of the nation state and limit democracy to the citizen of the state. The Korean left in general is rather nationalist (Gray 2007: 312) and the KCTU is born from a national struggle. Therefore, it depends also on how far the internationalism of the KCTU is internationalism in practice. Finally, it depends on the direction the KCTU will take. If it decides to be part of the tri-partite system there is always the danger to identify its aim with the aim of the nation and not with the working class as a whole.

V. Case Study – Spain

Following our theoretical background and other country cases, this chapter intends to discuss Spanish trade unions involvement with migrant workers in the agriculture sector. The reason why we choose this sector is that the agriculture sector is one of the leading sectors in terms of migrant workers employment and precarious jobs in Spain.

In accordance with our main frame we divided this chapter into four parts. Firstly, we will briefly outline the history of migration in Spain. In this part, on the one hand, we will underline the international migration flow in Spain as a new phenomenon by connecting it with economic and politic developments. On the other hand we will provide the current panorama of migrant workers in Spain. Secondly, we will trace the government policies and legal framework on migrant workers. Before moving to our main discussion on the trade union strategies we will point out national discourse as a part of public discourse regarding the perception of migrant workers within the Spanish society. Following this, lastly, we will discuss trade union strategies which, we believe, are shaped by the type of trade unionism within the broader social and institutional context. This part is structured under three subtitles. We will begin with a brief history of trade unions. Then we will introduce two confederations The Workers' Commissions (CC.OO) and The General Union of Workers (UGT), and analyze their strategies on migrant workers at national level. Lastly, we will shift from the national level to the regional level and focus on the one trade union, The Agricultural Workers' Trade Union (SOC) which has been very active in organising migrant workers in the agriculture sector in Andalusia.

1. Transformation from Emigration to Immigration Country

1.1 History of Migration

In Spain there has been significant change on the migratory tendencies during last 15 years. Spain had been for years a traditional country of emigration first to the Latin-American countries which implies its colonial bonds, later to industrialised countries of Western Europe after World War II (Cornelius 1994). At present, Spain has become a new pole of attraction which has led to significant changes at the political, social, economic and demographic level.

Apart from well-off retired citizens who began to arrive in 1960s from Northern Europe and small number of immigrants and refugees, only from mid-1980s the number of migrants increased both from Europe and “Third World Countries” with the hope for better work and life (Solé/Parella 2003: 121). Casey has called this process the “Third Worldisation (tercermundialización) of migration into Spain (cited in Calavita 1998: 539).

However, massive labour migration is by no means a new phenomenon for Spain since migrants have been an integral part of the country’s industrialisation process. The industrialisation of modern Spain began in the 1950s and escalated in the 1960s under Franco’s dictatorial regime. These decades saw massive internal migration which helped to fuel this growth and led to a flow of poorer and more rural populations from the southern regions of Andalusia and Extremadura into more prosperous cities such as Madrid and Barcelona (Calavita 1998: 534). This massive influx of cheap labour from rural regions of Spain into its industrial centers was pivotal to Spain’s economic development in the 1950s and 1960s.

Today Spain has been witnessing a new migration flow into its territory. What is new or different today is that firstly, the composition of migration has been altered dramatically. International migration takes the place of the internal migration. Secondly, the route of movement also has been changed. New comers are filled into certain sectors such as agriculture, construction or domestic services where production relations are different from technologically advanced primary sectors. Lastly, as Hogart and Mendoza argued migrants are now demanded to fill ‘holes’ in labour supply that native workers left, whereas in the 1960s they were asked to fill ‘absolute’ labour shortages (Hogart/Mendoza 2000: 3).

What was the reason for this high international migration flux into Spain in the second half of the 1980s? This is a result of a combination of different economic, politic, social, demographic, or gendered factors. Due to limitation of scope we won’t focus on these diversified but also interrelated reasons. However, we want to underline two important factors. After the end of Franco’s authoritarian regime in 1975, Spain had entered a ‘democratisation’ process in all areas: restructuring of the economy, renewal of the political system, transformation of labour relations and so on. With the restructuring of the

economic system Spain placed itself in the global economic system and saw an economic boom in 1980s which displayed labour shortages in certain sectors. This economic acceleration was strengthened with Spain's entry into the European Community in 1985. On the one hand, to meet the needs of the new economic development international migrants became important actors particularly in certain areas where native labour supply is rather low. On the other hand Spain's entry to European Union attracted migrants to have a better life. As a result, the number of foreigners residing legally in Spain rose from 241,971 in 1985 to 398,148 in 1989 –a 65 percent increase (Cornelius 1994: 332). The economic and political integration of Spain into the European Community played an important role in the shaping of modern Spanish migration regulation since Spain has become the southern gate of Fortress Europe which, in fact, is being used politically for “closing doors” (Agrela 2002: 3). These two factors, economic needs and political responsibilities, formed the migration policy that can be seen in the quota system of Spain. We will come back to this issue in the second part.

1.2 The Characteristics of Migration

Before moving to government policies on migration it is needed to introduce the composition of migrants in Spain in order to understand the general picture.

If we look at the numbers in Spain we can see the increasing numbers of migrants over years. Since 1993 the rate of net migration has increased from 1.4 to 17.6 in 2003 whereas this rate is 5.4 at EU 15 level (Niessen et al. 2005: 1-2). It could be said that Spain is now one of the leading (if not the main) countries of immigration in the European Union. However, as stated in the study of the CC.OO in 2003, it is very difficult to calculate the number of migrants because of their geographic mobility within the country and most migrants enter Spain without the necessary documents. Migrants tend to register as residents on municipal registers because this is a condition for access to the public health service and education. However, municipal councils tend to keep migrants who move away on their register since they receive funding according to the population registered in the census. Despite this difficulty in calculation it is estimated by the Spanish Ministry of Labour and Social Affairs and INE (National Statistics Institute) that 8.4% of the whole population which is around

44 million is registered at local level as foreign residents (Niessen et al. 2005: 1-2).

The composition of migrant workers shows the fact that 60% of the non-European migrants come from five countries of origin - Ecuador, Morocco, Colombia, Romania and Argentina. However, in recent years, there has been an increase of migration from Central and South America which is growing far more than migration from North Africa (Lope 2004). This shift is related to the Aznar's⁵⁰ government policy which aimed to substitute migrants from the Maghreb with "culturally closer" migrants from Latin America and Eastern Central Europe. As a result of this policy, especially in the agriculture sector tension arises between migrant workers as it was seen in the western Andalusian province of Huelva in early 2002, when Moroccan migrant workers noted upon their arrival that migrant workers from Poland and Romania were already employed in the strawberry harvest (Alscher 2005: 13).

There are also striking social, economic and demographic differences among these migrant workers. Skill and social class differences very notable between the North Africans who are mainly unskilled workers and East Europeans who are considered as skilled workers and professionals (Cornelius 1994: 336). This fragmented structure is important since it could lead to competition between different groups (documented vs. undocumented, Africans vs. East Europeans vs. Latin Americans).

It is also important to emphasise that there has been an increase in the number of migrant women, which are now equal to men. There are many women from Central and South America, particularly from Ecuador working in the domestic sector. It is safe to say that in Spain there is a highly gendered division of labour since female migrant workers are mainly employed in domestic sector whereas male migrant workers are concentrated in the agriculture and construction sector (Huntoon 1998). These male migrants are highly concentrated in certain provinces such as Almeria, Girona, Alicante, and Madrid, most of them are on the Mediterranean coast and have labour-intensive business such as construction (15.4%), hotels and catering (14.6%), agriculture (13.9%), domestic sector (10.3%) and retail (7.3%). These areas of employment account for 75% of the migrants' employment (Martín Artiles 2004).

⁵⁰ In 2000 José María Aznar's Popular Party (Partido Ppular) gained the elections.

This fact reminds us Watts's argument (1998) claiming that the ethicised segregation of the labour market is one of the reasons why trade unions did not encounter resistance by their membership against their migration and anti-discrimination policies. According to Watts, Spain can be taken as an example of national labour market with a high-level of unemployment combined with labour shortages in specific areas where native workers refuse the work (cited in Kahmann 2002: 20). As we underlined earlier, migrant workers are forced to accept those jobs which are rejected by Spanish workers, who are less willing to undertake unqualified manual jobs which are mainly risky, dirty and badly paid. The motive behind the decision of native workers stand on several reasons: the increase in educational levels of Spanish population with the consequent increase in job expectations and the advantages of the welfare states (Solé/Parella 2003: 124). Therefore, one can claim that since there is an ethicised labour market where foreign and native workers don't meet directly, native workers don't consider migrant workers as a threatening actor.

Moreover, Cornelius shares the same idea by claiming that due to labour market segmentation, instances of job competition between native and migrant workers has been relatively rare in Spain. According to him the only documented cases of such competition occurred in the agriculture sector in the late 1980s. In this case since native workers went on strike growers replaced them with Moroccan migrant workers (Cornelius 1994: 339). Although these two similar arguments could be relevant for the 1990s, especially for the last seven years the picture has changed dramatically as the racist incidents in El Ejido in 2000 showed us. In addition, Solé and Parella argue that many local workers fell competition due to the fact that many employers prefer migrant workers since this allow them to reduce their cost (Solé/Parella 2003: 124). This argument will be analyzed in our third part on national and public discourse.

On the other hand, these five sectors clearly demonstrate the fact of "ethno-stratification" of the job market, whereby migrant workers are employed in the lowest position (Solé et al. 1998: 124). This is not because of a lack of qualification but rather, among other reasons, due to the discriminatory practices of employers and the state itself.

In addition, it is important to underline the what kind of jobs are available to migrant workers. The governments and employers want to access to cheap,

flexible, disposable labour for certain sectors of the economy. Not surprisingly most of migrant workers are placed in the informal economy. It is widely recognised that the vitality of the country's very large and diversified informal economy depends on continued access to migrant labour (Cornelius 1994: 332, Solé et al. 1998). The Spanish labour market has been increasingly characterised by the creation of 'atypical employment' or precarious jobs. According to Eurostat's data for 2005, Spain shares the highest rate with around 35% for the proportion of workers having a contract with limited duration in the EU countries (2007: 138). With the exception of workers in year-round farming jobs, e.g. in the greenhouse on the Andalusian coast, these predominantly young farm workers are usually employed on a seasonal basis (Solé et al. 1998: 335). We will detail the issue of working conditions of migrant workers in agriculture sector in the fourth part together with trade unions.

2. Government Policies on Migration

As we discussed earlier, the position of trade union in the socio-economic decision making process is one of the main indicators of their engagement with government policies concerning migration issue. Different points are important to understand the influence of trade unions in consensus decision-making which are the structure of unions, their relationship with political parties in government, the attitude of government towards unions and legal arrangements (Penninx/Roosblad 2000). Taking into consideration this argument, in this part we will focus on the government policies on the issue of migration. By doing so, we intend to give an overview of how legal framework has been dealing with this issue historically and to connect the legal framework with trade unions involvement with the government.

From Calavita's point of view (1998), the state acts according to contradictory interests: on the one hand, it must serve the demands of economy that needs a flexible and cheap labour force; and on the other hand, it must seek to reduce the possible conflict that might arise between native and migrant workers due to competition over labour resources. This argument shared by Castles that the objectives of migration policies are irreconcilable since the state must ensure the supply of cheap labour for certain sectors of the economy, control migratory flows, maintain public order and fight against outbreaks of

racism (1993: 23-24). Therefore on the one hand many states have imposed strict barriers on the legal entry of migrant workers which cause increasing undocumented migration forms, on the other hand, these states, paradoxically; open the door to the clandestine migration flow, especially working in low-paid jobs which are not filled by the national labour market (Taran, 2002: 26). As it will be analysed in this part, this conceptualisation of contradictory interest of the state is also relevant for the Spanish case. In Spain when the governments implement restrictive policies on migration, at the same time they try to regulate migration flows with quota system to maintain economic development.

In Spain, some important moments can be distinguished in terms of migration policy at national level. These moments are either related to European based concerns or based on political changes. The first moment is the implementation of the Immigration Law in 1985. Prior to 1985, Spain had no explicit immigration policy or any comprehensive legislation since international migration was not priority issue in Spain. However, the accession to European Community in 1985 became starting point for Spain to understand the importance of having a proper legislation for international migration (Calavita 1998). In 1985, the Spanish Workers' Socialist Party (PSOE-Partido Socialista del Obrero Español) introduced the Organic Law on the Rights and Liberties of Foreigners in Spain (Ley Organica sobre Derechos y Libertades de los Extranjeros en Espana) known as the Immigration Law (Ley de Extranjería) which had two aims: respond to new immigration flow and adapt Spanish legislation to EU immigration policy. With the Immigration Law a legal differentiation between legal and undocumented migrant workers and the exclusion of later were established for the sake of national interest, security, public order and liberties of Spanish people (Calavita 1998: 544).

With this legislation, on the one hand, for the first time a "regularization" program was established through which migrants could apply for legal status, on the other hand, due to new requirements for residence and work permit the majority of migrant who were already settled in Spain became undocumented. As a result, undocumented migrants were forced to remain in hidden places and invisible jobs in the informal economy (Solé et al. 1998). After the implementation of the legalisation process, the Spanish government introduced several regularization programmes and now it is one the main legal instruments

to control the migration flow and fight the increasing presence of undocumented migration⁵¹. In this context a broad alliance of trade unions (CC.OO and UGT), churches, NGOs and migrant associations started campaigns for better and fair regularization programmes and pressured the governments to formulate a positive migration policy (Alscher 2005). Therefore, in the course of time regularization programmes became an important instrument also for trade unions to influence the decision making process in migration policy.

In the following years, the Spanish government created several migration-related institutions. In 1993 the government introduced a new instrument to regulate migration flows through the annual fixing of migrant worker quotas for migrant workers at national level. Introducing quota system is the second moment of migration policy. The quotas are based on prior technical estimation on the existence of rigidities in the labour market whereby job vacancies are not filled despite the high level of unemployment (Solé/Parella 2003). This limitation of entry implies allocation of the jobs in three sectors where there were reported to be insufficient native workers: agriculture, construction and domestic service. Every year, the Ministers established annual quotas for foreign workers which are called “the contingents” in those sectors where there were insufficient local workers. The work permits are given in those domains of work that nobody wants –for economic, social reasons and labour conditions-. All these jobs are the most arduous and low-paid jobs, where institutional protection mechanisms are not applied (Agrela 2002, Alscher 2005).

This quota system has an important role from different aspects. Firstly, the quotas channel migration flows to certain sectors where the Spanish market unable to properly satisfy employers’ needs. Therefore with quota system, as Castles point outs, the government tries to ensure the supply of cheap labour for certain sectors to maintain economic development (1993: 23-24). Secondly, in the course of time trade unions adopted their policies in order to influence this system therefore try to engage with the decision-making process at national level. This system is, however, highly criticized by trade unions. They have

⁵¹ With the aim of fighting against undocumented migration five periods have been established: the first after the passing of the Immigration Law in 1985; the second on the passing of a non-legislative motion on the ‘situation of foreign nationals in Spain’ in 1991; the third came with entry into force of the new rules on immigration in 1996; the fourth after the passing of the reform of the Immigration Law in 2000; and the fifth passed in 2005 after the election of Zapatero’s government (Solé/Parella 2003: 128; Niessen et al. 2006).

blamed the governments and the employers for the failure of quota policy. According to trade unions like the CC.OO and the UGT, scope of the quota must be broader and cover undocumented migrant workers, migration policy must be transparent and employers must avoid from recruiting workers through informal and illegal channels (Martín 2002).

The third moment is the application of the Schengen Agreement in 1995 which creates the Schengen area for the free movement of European persons and shaped migration policy in Spain in line with the European concerns. With this process the public security perspective and restrictive approach became more dominant in the migration policy. With the notion of “fortress Europe” Spain became the southern gate of the European Union which puts pressure on Spain to adopt its policies with the aim of “fight against clandestine migration”: common border patrols, harmonisation of deportation proceedings and more funding for the strict control of the exterior borders (Alscher 2005). With this new approach, the migration issue became a matter of security issue and common interest such as fight against drug trade or terrorism and so on.

Another moment which had a fundamental influence on migration policy of Spain is the election of Aznar’s conservative government in 1999⁵². During his electoral campaign Aznar strongly used the argument of security and safety of Spanish citizens whereby migration became an “electoralization” matter. This means that today the migration issue is one of the three most important subjects included in the national political agenda together with unemployment and terrorism (Agrela 2002: 5).

Aznar’s right-wing government introduced a new approach on migration issue as a threat and implemented more restrictive version of the Immigration Law. With the new Law and new conservative discourse the idea of “closing doors” became dominant for both the rights of migrants and border controls. The government, on the one hand, reduced the fundamental rights for migrant and increased the obstacles for the family reunification; on the other hand strengthened the border controls building the STIVE⁵³ system nearby the borders (Alscher 2005: 12). Further, when Spain was holding the presidency of

⁵² In the general election of 1999 José Maria Aznar’s Partido Popular (Popular Party) gained a victory after having a socialist government for 14 years.

⁵³ Integrated System of Exterior Vigilance (Sistema integrado de vigilancia exterior – STIVE) is a very expensive and complex radar system to control the southern border.

the EU, Aznar and Tony Blair proposed for the EU Conference in Sevilla to use the ships and war airplanes to protect the borders in order to control migration. Coinciding with global discourse on “war on terror” after 9/11 and increasing Islamofobia migration became a matter of war in Spain (Martín Muñoz 2002).

The last moment is the election of Jose Luis Rodriguez Zapatero’s Socialist Government in 2004. The Socialist Government issued a new regulation on migration with aim of directing migration towards legal channels. It establishes an “extraordinary” process of legalisation of registered migrant workers with work contracts, who will obtain residence permit for a limited period, after which the conditions of entry will toughened. According to Albarracín, since this reform is based on consultations with trade unions (mainly CC.OO and UGT), employers, NGOs and other organisations it has obtained wide support (Albarracín 2005).

2.1 Legal Challenges for Migrants

Concerning the national legislation, it is important to underline the fact that while the Constitution rests with the federal government, the actual operation of the system is decentralised in the regions, provinces, and municipal localities. The regional governments in effect have their own set of immigration policies. “Although these are technically administrative blueprints for the execution of federal policies, but in part because the latter is so ambiguous, the regions enjoy “an ample margin of discretion” (cited in Calavita 1998: 546). Therefore, this decentralisation plays an important role in the uncertainty and ambiguity that plagues immigrants who are attempting to secure legal residence, work permits, and social services, and thereby contributes to their marginalisation (Calavita 1998: 546).

The temporary nature of resident status is a central component of Spain’s policies toward foreigners. Spain grants nationality primarily according to the principle of *jus sanguinis* and not *jus soli*. This means that one has to have Spanish “blood”, otherwise it is very difficult to obtain the full rights of Spanish citizenships. This is important since the border between legality and illegality in terms of status of migrants is very thin and floating (Calavita 1998: 548).

All these regularisation programmes are specifically and exclusively for migrant *workers* (and under some limited conditions, their families) and are contingent on either having a legitimate work contract or having had one in the

recent past (Calavita 1998: 549). The problem with this is that for most undocumented migrant workers it is so difficult to meet these standards due the fact that they are mainly employed in the informal economy. Many employers are unwilling to formalize work contacts or even clearly prefer to employ undocumented migrant workers to enjoy their vulnerable legal status. Moreover, those who manage to get regularized find it difficult to retain their legal status (Calavita 1998: 549). Some migrants do not qualify for renewal because the work contracts on which their regularization had been based have ended; in other cases, the original contact commitments were never fulfilled by employers. Since migrant workers work in precarious and unstable job in informal economy and also employers refuse to pay social security or satisfy other formalities, it is common for migrant workers who are newly legalised to work without contract and, therefore, it is impossible for them to renew their regularization at the end of the year (Calavita 1998: 550).

The work permit system operates in conjunction with, and parallel to, the regularization programmes. Foreign residents who have been legalized must secure a preliminary work contract with an employer, with which then can apply for a work permit. Five types of work permits are provided (Cachón, 1999: 180): Type A is for seasonal or temporary works of no longer than nine months; an not renewable; Type B is for a one-year work in a specific profession and geographical area and can be renewed for one year; Type C lasts five year and is valid for any occupation and region; Type D is for the self-employed, lasts one year and geographically limited; and finally Type E for the self-employed, lasts five years without any geographical and occupational limitations. As Santos (1993) has put it “[t]he results [of these multiple types of permits] is a system that keeps the alien in a constant state of uncertainty about the immediate future and necessitates engaging in frequent and trying bureaucratic proceedings” (cited in Calavita 1998: 551). Further, all these work permits are temporary, with the vast majority (Type A and B) lasting one year or less. As with regularization, securing a work permit –and renewing it when it expires- is contingent on maintaining a legitimate work contract which puts insurmountable barriers for most migrant workers (Calavita 1998: 551). In order to secure legal status, migrants must (1) secure a work contract commitment from an employer; (2) take this pre-contract to the provincial Labour Department

to apply for a work permit; (3) take this provisional work permit and other documents to the Department of Interior and the police for a residence permit; (4) finally secure a work/residence permit which authorised them to live and work in Spain (again, usually expiring after one year) (Cachón 1999).

This complex circuit shows that the labour contract, the work permit and the residence permit are in effect mutually dependent on each other which is called by one observer “the vicious circle in which clandestine immigrants are trapped” (cited in Calavita 1998: 552). Given the difficulties of securing permits, it is not surprising that most migrants work without them, in an irregular situation. Moreover, Spanish laws require that to file a labour complaint, a worker must have a work permit which, in turn, frees employer of undocumented migrant workers from abiding by prevailing labour standards (Calavita 1998: 555). This complex legislation process led the trade unions, particularly CC.OO and UGT, to primarily focus on providing legal support for those who cannot afford it.

3. Perception of Migrant Workers and Public Discourse

National identity and public discourse are important factors that may influence the policy of trade unions towards migration and migrants. As it was discussed in the beginning, trade unions are inextricably linked with the society of which they are a part and are the product of national histories (Penninx/Roosblad 2000: 14). However, the strength of national discourse itself could change from country to country or even within one country in a given time. National identity and public discourse affect trade unions’ policies through two ways. Firstly, due to the national formation of trade unions they, generally, give higher priority to the interests of the national workers (Castles/Kosack 1973: 127). At this point the strength of their internationalist orientation plays an important role. Secondly, the perception of migrants within the host country by native workers is an essential factor for shaping the public discourse and vice versa. Therefore the strong hostility towards migrants could have a negative influence on the trade unions’ activities. Departing from this argument, this part will be dealt with general perception of Spanish citizens as well as workers towards migrants.

Spanish citizens’ perception of migrants is becoming negative due to different factors. Over the past few years, continuous changes to migration-

related laws have been increasingly discriminatory and have promoted a negative image of migrants. As we stated before, the “electoralisation” of the immigration issue and its persistent thematisation in the public discourse has had a direct and negative effect on the mass-media as well as on the public opinion regarding migrants. When an incident happens, if the person who has caused it is a migrant, the media always report that person’s nationality, thereby stigmatising their whole community. This has created a negative feeling towards migrants among Spanish people. For example, daily news or newspapers pay special attention to the image of *pateras*⁵⁴ or the capture of undocumented migrants almost every day (Agrela 2002: 6). The latest surveys have shown that the majority of Spaniards consider the arrival of migrants a necessity but that more than 50% of them consider immigration a problem. The people who suffer from this the most are the *sin papeles* (undocumented migrants) who have now reached the amount of 600,000 (ENAR 2006).

Due to this unfavourable imagination of migrants on the mass media which connects migration and “illegal” entry to country, the public opinion perceive migrants as illegal and criminal which, in turn, means sources of insecurity. Recently, this discriminatory attitude towards migrants is mainly associated with Islamic fundamentalism and high propensity to commit crimes (Martín Muñoz 2002, Cornelius 1004). However, not all the migrants are rejected at the same level by Spanish people. There is a hierarchy of acceptance or preference regarding the integration of various nationalities into Spanish society. While Latin Americans and East Europeans are at the top level, North African migrants are seen as the most backward and threatening since their skin of colour, their culture and their religion (most of them are Muslim) is different. Therefore for Spanish people Catholics versus Muslims or Latin Americans or South Africans versus North Africans are much more favourable and less threatening since they have common culture and religion (Agrela 2002: 7; Cornelius 1994).

At this point, a violent attack towards migrant workers in El Ejido (Almeria) in 2000 constitutes a clear example for our discussion. In February 2000, after the murder of a Spanish woman by Maghrebi farm worker in El Ejido, this small

⁵⁴ ‘Patera’ is the name for small motorised boats which carry migrants from Morocco who arrive clandestinely in southern of Spain’s coasts.

Andalusian town became a scene of the most violent outbreak of racism in the recent history of Spain. Crowds of local inhabitants attacked the Moroccan migrants, demolished cafes, burned their cars, looted Moroccan shops, destroyed make-shift housings (*chabolas*) and the mosque. During this incident around 60 workers were injured and it was halted by military presence (Higginbottom 2000: 18-19). This violence which has been described as a four-day “pogrom-like action” by the Spanish people shows the fragile relation between Spanish people and migrants is (Kahmann 2002: 21).

In sum, the perception of migrants in the public discourse has two important aspects. Firstly, migration is seen as a problem of insecurity. As it is the same in many developed countries, the actors of society strongly connect the growth of migrants and the increasing insecurity which means more thefts, murders, rape and so on. This mainstream perception, on the one hand, strengthens the need for strong border controls, on the other hand, reproduces new imaginations of migrants as different, dangerous and criminal peoples. Secondly, migration is also described as a cultural problem. Since migrants have different and so called inferior and backward culture which cannot be changed over time and cannot be integrated to the Spanish culture, migrants are seen as a danger for the Spanish culture and identity. As Cornelius pointed out, hostility toward migrants is greater among lower-class Spaniards presumably because they are more likely to consider migrants as potential competitors (Cornelius 1994: 358). Xenophobic attitude is also high among residents of the big cities where crime, overcrowding and other problems are more likely to be blamed on migrants. This is one aspect of the national discourse. The second aspect is related to the perception of native workers and the responses of trade unions.

As some argues (Solé/Parella 2003) those attitudes of prejudice reflect the image and the perception of migrants not only as a socio-cultural threat but also as an economic threat. According to *Collectivo IOÉ* (2001), unqualified Spanish workers especially in sectors such as construction, hotel and catering and domestic service consider that migrants are competing with native workers for the same working places (Solé/Parella 2003: 134). In fact, there are no empirical studies in Spain which demonstrate that migrants lead to dumping in wages and working conditions. In addition there is a common understanding between native workers that rejects the idea of providing of some legal and

social rights to migrants such as receiving unemployment benefit or transfer payments for families, membership of political organisation or right to vote (Solé/Parella 2003: 135). From native workers' perspective, migrants bring pressure to decrease wages and make working conditions worse which is the same accusation of Austrian trade unions (see Penninx/Roosblad 2000). As a result native workers reject migrants and agree to political measures to close frontiers.

However for the Spain case the other side of the coin has a different implication. In Spain there is also a widespread belief that Spain's economy in which informal economy play an important role could not function without migrant workers. For Solé what the public accepts without complain is having cheap labour to perform tasks that are shunned by the average Spanish people (cited in Cornelius 1994: 359). As noted before, migrant workers are mainly performing the jobs that native workers don't wish to do so.

4. Trade Union Responses toward Migrant Workers

In this chapter which constitutes our main concern we intend to discuss trade union strategies and activities concerning migrant workers in the agriculture sector. As stated earlier, the main question behind this study is how different factors (trade union types, migration policy, public discourse and so on) shape trade unions' engagement with migrant workers, particularly in precarious jobs. Therefore the first three parts will also be considered in our analyses. However, in addition to these factors, some more important indicators should be taken into consideration when analyzing trade union strategies. These are briefly trade union history, labour market and the conditions of migrant workers in agriculture sector. After dealing with these factors we will firstly discuss the activities of two main confederations in Spain namely the CC.OO and the UGT⁵⁵ which together organise about 80 percent of all unionised workers (cited in Hamann/Martínez Lucio 2003: 62). Then we will focus on the strategies of the SOC⁵⁶ which is organised in agriculture sector.

⁵⁵ CC.OO - Confederación Sindical de Comisioneros Obreros (The Workers' Commissions)

UGT – Union General de Trabajadores (General Workers' Union)

⁵⁶ SOC – Sindicato de Obreros del Campo (Agricultural Workers' Trade Union)

4.1 History of Spanish Labour Movement

By looking at the overall history of Spanish labour movement four breaking points can be referred. The first is the supremacy of radical labour movement until the authoritarian regime. The second, is the introducing of authoritarian regime which disrupted increasing labour radicalisation and politicisation of trade unions. The third is the rise of new labour movement during Franco regime which paved the way for democratic transition. Last but not least is the democratic transition and entering to European Community. Therefore, we argue, that the broader political context and historical legacies have important influence on trade unions' strategies.

The Spanish labour movement has a long and ideologically divided history inherited a revolutionary legacy whose most important landmarks are the general strike of 1917, the proletarian uprising of 1934 and the antifascist reaction of 1936. Historically, mobilization was closely connected to political action. Prior to Franco's dictatorship the Spanish labour movement was divided in two ideologically distinct wings: the anarcho-syndicalist Confederación Nacional del Trabajo (CNT) and the socialist Unión General de Trabajadores (UGT) which was closely allied with the Socialist Party (PSOE)⁵⁷. With the military uprising of July 1936 the political role of workers' movement increased and labour organisations took control of many factories and established revolutionary committees (Fishman 1990: 14). However, as a result of its defeat in the Spanish Civil War, the prolonged Franco's dictatorship disrupted the continuity of this tradition (Vega García, 2000: 111). With the introduction of an authoritarian regime a new era began in which all trade unions were banned and strikes were outlawed. The regime established its official unions.

During this period a new union movement, The Comisiones Obreras (CC.OO) emerged spontaneously. In the course of the 1960s Comisiones increasingly became close to Communist labour militants. The movement scored considerable success in elections to plant-level committees within the official regime unions and managed to mobilize a high level of political strikes despite their illegality (Fishman 1990: 15). Moreover, in the mean time the ideological difference between two major confederations became apparent and

⁵⁷ PSOE – Partido Socialista Obrero Español

confrontational. This confrontational relation had lasted until the 1990s when both confederations' relation with the political parties ended up.

After the death of Franco in 1975, the democratic transition of the country combined with economic demands became the main concerns for all the actors within the Spanish society. On the one hand, new alternative unions and labour movement emerged after the pro-Franco dictatorship. The SOC is an example of those militant unions established in 1976. On the other hand, the state as well as trade unions (mainly CC.OO. and UGT) took part in the modernisation process. During the democratic transition and lasting until mid-1980s, the government, unions and employers were involved in a series of bipartite and tripartite national social pacts in which wage control was accepted by the unions in return for government or employer reforms in areas like trade union law and job creation (Martínez Lucio 1992: 504). These social pacts led the academic discussion on new-corporatism. Pérez-Díaz (1983) see "concertation as evidence of the creation of a Spanish neo-corporatism, albeit of a weaker kind than that of northern or central Europe; a neo-corporatism based on the *de facto* if not explicit commitment of the social actors to jointly negotiated social and economic policies" (cited in Martínez Lucio 1992: 507). This argument backs by Molina who considers Spain as having a partnership-based governance of a weak neo-corporatist system (Molina 2006). Further, beginning from this period, the state has provided considerable resources to trade unions such as *patrimonio sindical* (resources attributable to the assets of the union movement before the Franco regime) (Martínez Lucio 1992: 502).

When the PSEO government under Felipe González implemented an economic adjustment programme which resulted in increased unemployment, tensions with trade unions increased and no social pacts were signed after 1986 (Hamann 2001). After that, relations with the government became confrontational, and the government was challenged with general strikes (Hamann/Martínez Lucio 2003). During this period, since the Socialist Government pursued neo-liberal policies to which trade unions were strongly opposed, this resulted in the dissolution of the relationships which had been formed within the socialist 'family' between the UGT and political activists (Rigby/Marco Aledo 2001: 293). In addition, in 1990s the CC.OO's close

relation with the PCE⁵⁸ was weakened due to differences in goals and strategies. Once trade unions gained considerable autonomy from political parties, both confederations formed alliances with other social movements fighting the adjustment policies. Moreover alliances in the 1990s have included organisations of migrants, for example, on the discussion surrounding the Immigration Law (Hamann/Martínez Lucio 2003: 64-65).

With the election of Aznar's conservative Popular Party (PP) the relation between the government and trade unions oriented to different directions which partly reminds the social pacts. Trade unions were included in the negotiations for labour market reforms and integrated into the national institutions constructed on tripartite basis such as the Economic and Social Council (CES). In contrast to the global pacts signed up to 1986, the recent wave of agreements has been referred as "strategic concertation" or "flexible corporatism" (Hamann/Martínez Lucio 2003: 63). Moreover trade unions have assumed some of the regulatory and administrative (but not policy-making) functions which are previously reserved exclusively to the state, such as administration of the National Employment Institute. However, critics have pointed out that trade unions' presence in these institutions does not necessarily reflect the growing capacity to influence policies. For example CES cannot take binding decisions (Hamann/Martínez Lucio 2003: 63). Through this process influencing regulatory functions of the government and lobbying became one of the important strategies for both CC.OO and UGT.

In the late 1990s both confederations started to give a high priority on the discourse of 'professionalisation' and 'institutionalisation' in addition to their historically rank-and-file approach. Instead of conflict based relations, trade unions engaged with much more social dialogue based labour relations which indicates their new identity. One of the aspects of this professionalisation is the change of their relationship with political parties. As the union system has become clearly differentiated from the political institutions both confederation came closer and organised common activities as a general strategy. On the other hand, this process enabled them to engage dialogue and continued negotiation with the governments (Hamann/Martínez Lucio 2003). Moreover, state institutional support –through representation in tripartite bodies, state-

⁵⁸ PCE - The Communist Party

defined representatives and financial support- shaped their modernisation process. Today, both the CC.OO and the UGT benefit from financial support from the government. However, some argues that, institutionalisation have weakened the unions' autonomous capacity to organise and mobilize workers; their recognition, legitimacy and influence derive more from the state than from their own members (Martínez Lucio 1992, Penninx/Roosblad 2000).

In line with the democratic transition of the political and industrial system, particularly in the case of the CC.OO and the UGT, trade unions and their organisational policy gradually transformed. Although they have a long history inherited in revolutionary and radical grass roots movements, in the course of time, the notion of mobilization of the rank-and-file has changed and transformed to more partnership-based and neo-corporatist relations. They have developed a strong interest in political involvement both at the national and EU level. This new approach has also shaped their strategies on industrial relation in general and on migration in particular, points we will dealt with in the following parts. However, at this point, it should be noted that some trade unions such as the SOC in Andalusia or the ELA-STV in the Basque Country still emphasise their mobilization approach and insists on not to either take part in tripartite institutions or benefit from the state funds. As argued by Pérez-Díaz (1993) "the more unions become integrated in the regulatory functions of the state, the more difficult it will be to remain a vital part of civil society" (cited in Hamann/Martínez Lucio 2003: 76).

4.2 Labour Market in Spain

Migration flow goes in the same direction with reorganisations in the labour market. Migrant workers as well as native workers are subjected to these changes but in fact migrant workers are in more disadvantage position.

Unions' recruitment efforts constrained by the very nature of Spanish industry. Spain has a high degree of employees concentrated in small and medium-sized industries, which employ nearly 90 percent of the workforce and have historically been difficult to organise. Moreover, unemployment rates are consistently the highest in the EU and one-third of the workforce is on temporary contracts. This fragmentation of the labour market directly affects unions since temporary workers are less likely to join a union. Further, the informal economy remains central to key sectors such as footwear, tourism and

agriculture. Reaching these sectors and cluster of employees through organising campaigns has proved difficult (Hamann/Martínez Lucio 2003: 71).

There are fundamental structural changes taking place in the same direction which we find in other countries: the continuous decrease of the rural population (from 22 percent in 1976 going down to 9 percent in 1993) and the movement of the economy towards the tertiary sector, both in sectorial terms (the services sector went from 41 percent to 60 percent in the same period) and in occupational terms. Another striking feature is the creation of precarious jobs: temporary jobs, part-time jobs and so on. It is safe to say that the Spanish market is characterised, mainly, by the development of 'temporary posts' (Cachón 1999: 178).

The effects of these changes on the labour market structure have been extremely important. The decrease in rural employment, the increase of the economically active population and of women workers, the spread of temporary contracts, the tertiarisation of the economy, the informal economy, the rise in unemployment rate and particularly that of long-term employment, the end of emigration and the beginning of immigration, are all elements that have contributed to the creation of a labour market that is totally different from the one present in Spain three decades ago (Cachón 1999: 179).

In parallel with the informalisation process in Spain, the degree of precarious workers who are mainly migrants has been increasing. In Spain, precarious workers are particularly vulnerable, given their weak negotiating position in the labour market: their work permits are for brief periods (A, B, and D); their contracts of employment –when they have one- are also for short periods, and this does not depend on the fact that their work permits might be valid for only one year. Workers in this group often change job, they are frequently unemployed and frequently switch from regular to irregular situations (Solé et al. 2003, Calavita 1998).

They are poorly qualified workers who work in sectors that have higher degree of instability (catering, farming, construction etc.) and in jobs which are badly paid. Spanish workers are not easily found in this particular labour market. Because there is a great difference between the "precariousness" that affects Spanish workers and the "precariousness and discrimination" suffered by migrants (Cachón 1999: 186). The wages of migrant workers vary widely,

depending on the region and sector. Despite this variation, migrant workers' wages are consistently less than native Spanish workers are in any sector (Cornelius 1994: 339). These obstacles are experienced by migrant workers in any sector. However, in addition to these, especially migrant workers in agriculture sector in Spain are suffered from the bad housing conditions and scattered dwellings. These dwellings which are generally provided by the employer next to the greenhouses reinforce migrant workers exclusion from urban centres, infrastructure and networking opportunities, if the especially migrant workers have an undocumented status (Higginbottom 2000, Hogart/Mendoza 2000). All these obstacles reproduce and solidify the exclusion of migrant workers within the society.

4.3 Organising Migrant Workers

4.3.1 Activities of the CC.OO and the UGT

In this section, taking into account different factors that we have already touched upon, we will briefly discuss the activities of the CC.OO and the UGT together to give a general picture of how trade unions responds to migration issue.

As stated before, immigration to Spain is rather a new phenomenon starting in 1970s with the arrival of Latin Americans. In the beginning, trade unions adopted position of active solidarity with these migrants/refugees in the light of their sympathy with those who were fleeing from the dictatorship of Latin American countries. Nevertheless, the real challenge for Spanish trade unions came with the arrival of new migration portrait who are much more numerous, and culturally heterogeneous and different in terms of their religion, national origin, physical features and economic motivations (Solé/Parella 2003: 132). After beginning of this new process, the trade unions realised the importance of the reality and responded immediately. Therefore, from a very early date they adopted supportive attitudes which are contrast with the position taken other European trade unions in the post-war years (Solé/Parella 1999).

In fact, the CC.OO has paid considerable attention to the migration issue since its founding congress in 1977, when the CC.OO set up the *Secretaría de Emigración* (Emmigration Office) within the highest executive body of the organisation. At its Congress, with the change of direction in migration flow, the

CC.OO decided to change the department's name to the *Secretaría de Emigración y Inmigración* (Emigration and Immigration Office), which was again changed in 1991 to its current form, the *Secretaría Confederal de Migraciones* (Confederal Migrations Office). Three years later, in 1990, at its 35th Congress, the UGT set up the *Secretaría Confederal de Acción Social* (Confederal Office for Social Action) to take responsibility of union policies on migration (Fulton 2003: 39). By establishing these offices within their organisational structure both Confederations show a sign of willingness to incorporate migrant workers into their organisational structure.

In addition to new offices within the organisational structure, the CC.OO and the UGT adopted a special treatment approach by setting up special bodies to deal with the specific problems of migrant workers when the first Maghrebi and sub-Saharan African migrants arrived in the 1980s. Now, both confederations have a network of special centres for migrants, namely the CITEs (Centros de Información para Trabajadores Extranjeros – Information Centres for Foreign Workers) in 1986 and the UGT's the *Centros-Guía -Guía de Inmigrantes y Refugiados* (Advisory Centres for Immigrants and Refugees) in 1991 (Wrench 1997: 27).

Starting from the mid-1980s the action endorsed by the CC.OO and the UGT in terms of migration policy moves along similar lines: support for policies of equal treatment for migrant and native workers, motivated by principles of solidarity and fighting inequality, discrimination, racism and social dumping (Wrench 1997: 27). The emphasis on the equality concept is apparent in migration policy as pointed by Saliba, President of CITE-CC.OO:

“Our assistance specifically focused on facilitating the same opportunities and possibilities for immigrants as for other citizens. All of the other these that deal with labour rights, affiliation, and trade union activities are dealt with by the trade union as they would be for all workers, without any distinction or segregation” (in LeVoy et al. 2004: 115).

At this point, it is worthy of mention that the political component of unionism in Spain had an influence on their actions, as much in the CC.OO (which defined itself from the outset as a socio-political movement, initially with significant communist influence) as in the UGT (which has a socialist orientation). Therefore, both confederations emphasise on solidarity as guiding

for their work with migrants who find themselves in a socially and economically disadvantage position (Cachón/Valles 2003: 474).

As we mentioned, two confederations have created special centres of assistance for migrants. The first CITE emerged in 1986 in Catalonia where a large number of African workers had settled. In the late 1980s, the Confederal Executive Committee decided to extend the CITEs to all Autonomous Communities. Thus there are nearly 200 CITEs and information points throughout Spain. Although the CITEs are run by CC.OO, they do have an autonomous legal status. The UGT's network of *Centros-Guía* -Advisory Centres for Immigrants and Refugees was first set up in 1991. Meanwhile, the UGT has established 11 centres, situated in the Autonomous Communities with the largest migration population. Where there is no Centro, the union's welfare departments offer special help and advice. An important detail is that both institutions are financed by a mixture of trade union and local, regional and state government funds (Kahmann 2002: 23). The CITEs and Centros-Guía provide assistance for migrants along similar lines which are:

- Advice and support on administrative and labour law issues: This includes matters which affects migrant workers individually such as negotiations with legal authorities on residence, regularization process, family reunion, obtaining Spanish nationality or work permits and visas. Additionally, they deal with other labour issues like social security, complaints about discrimination or non payments, access to labour market and so on. As we already indicated that all the bureaucratic procedures and legal arrangements related to migration issues are so complex and needed to be dealt with legal assistance, otherwise migrants will be in trouble very easily. Therefore, in Spain, trade unions give high priority to provide legal assistance to migrant workers. This is also considered as strategy for organising migrant workers.
- Providing ongoing information by means of joint awareness raising campaigns against racist and xenophobic attitudes in the local communities and unions, media announcements and leaflets or guides on issues such as health and safety, gender violence, legal advice and so on. the CC.OO has its own publications on migration as well as

publications aimed at migrants, for example, concerning regularization process.

- Training for migrant workers: This includes Spanish language courses, professional training and job-finding courses as well as awareness raising of various groups of Spanish workers, particularly those who have contact with migrants such as police members and court employees (Kahmann 2002: 23-24).

However, as Solé and Parella underlined, the creation of special services for migrant workers could have a double dimension or interpretation: on the one hand, it implies the recognition of the specific situation of migrant workers; on the other hand, it tends to maintain the migrant population segregated within the union organisations which makes it difficult to recruit migrant membership (Solé/Parella 2003: 133). Moreover neither the CITEs nor the Centros-Guías designed as an instrument for organising migrant workers, but rather they act as an information centre. Regarding to this point, Watts (2000: 9) calls Spanish model as a service model which is consistent with Hamann and Martínez Lucio's argument that claims that Spanish trade unions are losing their movement character (2003: 63).

In addition to creating special services, the CC.OO and the UGT developed policies based on a discourse of active solidarity and equal rights regarding the question of undocumented workers which one of the important issues for the CC.OO. This is not, as Saliba underlines, only due to humanitarianism or solidarity, but also to the social and labour responsibilities of trade unions (LeVoy et al. 2004: 115). Therefore the CC.OO has a policy to encourage undocumented migrant workers to become a member. Moreover, on the issue of undocumented migrant workers the CC.OO and the UGT have been promoting the regularisation of migrant workers. Both regularisation campaigns and enforced labour controls and sanctions are seen as the best way to combat irregular migration, rather than strict borders control (Cachón/Valles 2003).

Through regularisation policy both confederations aim to influence decision-making process which in turn let them to be involved with the government. This regularization through collaboration with administration policy is also seen applicable for both confederations to come to consensus with

employers' associations to legalise undocumented migrants in the informal economy (LeVoy et al. 2004: 116). In addition, related to this issue, both confederations do not oppose the quota system as such, but they want to participate in its negotiation, extend the sectors included, but sometimes oppose the excessive reduction of the year-to-year quotas (Kahmann 2002: 24). Further, both confederations have been calling for equal rights in terms of access to jobs and recruitment procedures. They also try to push authorities to grant migrant workers irrespective of their legal status access to basic social services such as education, health provision and certain social benefits. Today, in many regions an education and health provision is granted for migrant workers even they are undocumented.

As we pointed out earlier, these major confederations have adopted new strategies of intensive formal and informal lobbying and integrating into the national institutions, which they have been combined with efforts of mass mobilisation. With the rising idea of social partnership, they started to pay more attention to negotiations with governments and influencing the policy-making process through national institutions constructed on tripartite basis, rather than focusing solely on organising activities. This policy strategy paves the way for integrating into national socio-economic decision making as a social partner which is, in turn, reflected in their policies towards migrant workers.

As mentioned before, the Spanish authorities have been encouraging labour migration from Central and Eastern Europe instead of migration from North African countries. In 2002 the Aznar's government signed agreements with Poland and Romania. The employers are also reluctant to employ Moroccans or other African migrant workers due to the fact that they would be more likely to demand their rights. According to Bell, in order to organise the selection, recruitment and travel these workers the Spanish government, Freshuelva, COAG⁵⁹ and the confederations established a commission which opened offices in Poland and Romania. Moreover, the contacts are drawn up by COAG, Freshuelva and two confederations (CC.OO. and UGT). The trade unions explain their involvement by the need to regulate employment in the strawberry sector and thereby protect the rights of workers (Bell, 2004).

⁵⁹ COAG is a federation of farmers unions throughout Spain.

However this example damages their reputation, before we move to following section, it is important to emphasis on the internationalist argument of Spanish trade unions. Trade unions are against the main false argument which claims that labour unions should favour of restrictive immigration policies that keep out cheap, flexible immigrant workers, who undercut the wages and working conditions. As it was stated at the opening speech of UGT meeting on Migrant Social Security:

“Before a phenomenon like migration [...] the distinction between citizen and non-citizen is false. Discrimination against workers from Third World countries adds yet a larger barrier to geographic borders, which are already closed enough. Our promise of international solidarity to all workers means that we cannot be apart” (cited in Watts, 2000: 1).

Again CC.OO' Immigration Annual states that:

“The problem is not the immigrant worker, but the capitalist system that converts human beings into interchangeable and disposable pieces. We cannot unload frustrations against weak, but must fight for the security of all. For this we need the participation of everyone, including immigrant workers” (cited in Watts, 2000: 3).

As stated by Watts, changes in the global economy since the early 1980s have shaped trade union leaders migration preferences. Immigration is seen as an inevitable consequence of globalisation.

“CC.OO takes a rational position that immigration will continue despite Spain's efforts to stop it” (cited in Watts, 2000: 4).

To sum up, it is safe to state that contrary to some European countries such as Austria, Spanish trade unions always support open and inclusive migration policies against governments' restrictive policies. However, in the course of time, their policies have been integrated to more negotiation based relations rather than conflict based. In addition, their prior themes are based on mainly legal and administrative supports, rather than mobilising migrant workers.

4.3.2 Activities of the SOC in Andalusia

After the discussion of the policies of two confederations on migration, in this section we will focus on migrant workers in the agriculture sector and on the activities of the SOC which organises farm workers in Andalusia.

The SOC is a trade union of farm workers rooted in anarchist traditions and founded in 1976, just after the death of Franco, based on experience gained in illegal work committees during Franco regime. The SOC was the first

union legalised in Andalusia after pro-Franco dictatorship (SOC w.y.a). Andalusia is known as a deep-rooted anarchist tradition and “land and freedom” movement, but during the dictatorship period these roots were weakened. Nevertheless, during the transition it was revived, as the traditional situation concerning unequal land distribution through expropriation of the large landed estates persisted in the rural area. This movement by using the methods of occupation of rural estates, demonstrations demanding agrarian reforms and hunger strikes created a new labour movement which was symbolised in the SOC (Vega García 2000: 121).

Although the roots of the SOC stands on the anarcho-syndicalist tradition, Vega Garcia explains these new labour movements including the SOC as a ‘radical unionism’ rather than to call them as syndicalist or anarcho-syndicalist. The similar interpretation made by Spitou Mendy, one of migrant trade unionist in the SOC, is that the SOC is based on “an alternative, class based, militant unionism” to defend rights of workers, precarious workers, migrant workers and jobless/unemployed people (email exchange on the 06.08.2007). In its statute the SOC also clearly indicates that it will support immigrant workers as well as emigrants inside or outside of their territorial scope (SOC w.y. b). However, we consider the SOC as a syndicalist trade union since it takes a similar position as this unions type.

The SOC has traditionally been active in the parts of Andalusia in which agriculture is dominated by enormous latifundias with vast stretches of olives, fruit trees and other crops which require a large number of seasonal workers (Bell 2005). The SOC at the Andalusia level focuses on the issue of land redistribution and has been occupied the land of large land owners, in order to build cooperatives and give farm workers the possibility to work for themselves rather than capitalistic structures. As Mendy mentioned, the SOC has cooperatives in Seville (email interview on the 27.08.2007). The SOC programme can be summarised with the simple demand “land and freedom” (Tierra y Libertad 2007). However, according to Ward, the SOC-Almeria does not necessarily lay on a similar focus on land reforms (Ward 2006: 29).

In Europe, the case of Almeria in Andalusia provides probably one of the most extreme examples for the structural disadvantage which farm workers face. The district of Almeria became Spain's most important vegetable exporter as

well as Europe's main vegetable supplier, most of the exports going to Germany, France, the Netherlands, the UK and Italy. Almeria is also famous with its greenhouses. The competition is strong as the 35.00 hectares now cultivated under plastic are owned by mostly small land owners. Production costs are kept low by keeping the most controllable way: low wages (Bell in Le Voy et al. 2004). Wages for farm workers in Almeria region amount around 18 to 25 Euros a day, well below the region's legal minimum wage of 32,45. For a long time undocumented Moroccans and Senegalese workers filled in these physically strained positions. Following racist attacks in El Ejido in 2000, these workers launched a strike and started organising themselves. Now, employers seem to favour workers from eastern Europe, who accept even lower wages than there were commonly paid five years ago (cited in Ward 2006: 26).

The SOC began its activities in the province of Almeria with the aim of strengthening the struggle of migrant workers working in the greenhouses in 2000, later than CC.OO and UGT. However, as Mendy pointed out, the number of membership of migrant workers is noteworthy, especially in the Almeria region, which is about 90 percent (email interview on the 27.08.2007). However, it should be noted that this membership is a kind of short term membership due to their mobility at geographical level (email interview with Mendy on the 27.08.2007). Following the riots, the workers had organised a general strike which paralysed production for several days. The SOC engaged with the struggle of Moroccan workers to support them. In the end, they managed to force employers and the local administration to sign an agreement. This was, however, never respected (Bell 2005). What is important here, is that the commitment of migrant workers for their rights influenced the SOC's policy concerning migrant workers. As it is the case in the South Korea migrant workers pushed the SOC to engage with them more closely.

The SOC also helps workers with their problems linked to working conditions, violations of labour laws, requests for residence and work permits, poor accommodation, illness caused by pesticides. Equally, they provide Spanish language courses and courses on unionism (email exchange with Mendy on the 06.08.2007). The SOC has denounced many recent cases of physical attacks against Moroccan workers in El Ejido and has helped the victims to lodge complaints in the courts (Bell 2005). Together with providing

legal and social assistance, importantly the SOC pursues direct organising activities within the migrant workers by going their home and working places; speaking with them about their rights and what the SOC can do for them. Although they are only five trade unionist who are migrants as well (two Moroccans, one Spanish, one Argentinean-with Spanish nationality- and one Senegalese) in Almeria region, they give high priority on mobilizing and organising activities (email exchange with Mendy on the 06.08.2007). Therefore, the SOC is considered the only union genuinely active in organising migrant workers and to expose the fundamental injustice inherent in this form of hyper-intensive agriculture. Nevertheless, it receives almost no grant support from government, unlike the two confederations. Moreover, it is not easy task to organise migrant workers in agriculture sector. As mentioned before, there is a growing competition between different migrant communities in the labour market. As the case in many countries, those who are undocumented fear of deportation. They live dispersed throughout the zone in huts between the green houses or on wasteland, many kilometres away from the towns. They have no places where they can meet or socialise (Bell 2005).

Therefore, in 2004 the SOC Almeria decided to dedicate itself to build social centres in the living area of migrant farm workers in order to strengthen its presence directly in the greenhouse zone. It is for this reason it has decided to open three union centres at Campohermoso, Roquetas de Mar and El Ejido with the aim of enabling migrant workers to meet and exchange experiences (Bell 2005). The main target of establishing these social centres is to facilitate self-organisations of migrant farm workers and encourage them to organise (Forum Civic 2007).

On the other hand, the scale of the problem is enormous, with an estimated workforce of nearly 80,000 immigrants mainly from North and sub-Saharan Africa, Latin America and Eastern Europe, half of which are undocumented, according to the European Civic Forum (2007). Workers are forced to live in unbelievably bad housing, in huts made out of bits of wood and plastic, and in buildings that are nearly falling down. The situation is particularly serious in the agricultural town of El Ejido, which was the scene of racist riots in February 2000 (Higginbottom 2000). After three days of violent riots against the mainly sub-Saharan African and Moroccan workers, many of the workers'

dwellings were destroyed. A week later, the immigrant workers, the employers' associations and the unions signed an agreement listing eleven points to improve the situation, one being a program to construct proper housing. As Gabriel M'Binki Ataya from the SOC points out that:

“housing remains a very serious problem and there haven't been any efforts made by any of the levels of government to even begin thinking about finding a solution. It's very difficult because there is silence; no one wants to talk about immigration in Almeria and especially not about undocumented workers. It takes an incredible amount of effort to raise awareness amongst the population here” (PICUM 2005: 16-17).

With the assistance of certain Spanish organisations such as CGT (Confederacion General del Trabajo de Espana – a syndicalist union), ODITE (organisation defending migrant workers) and the SOC, migrant workers in Huelva started to try and improve their situation by calling residence and work permits. Following to lengthy occupation of a church in Huelva they finally succeeded in obtaining permit which, however, was specifically restricted to the agricultural sector in the province of Huelva. They were not allowed to work elsewhere or in a different economic sector (Bell 2004). In most cases, the employers keep the contacts and do not give a copy to the workers. In 2003 the SOC's representative in Huelva was asked to visit eight farms by workers who needed assistance because they were worried about the fact that when they went out to the local town of Huelva they had no papers to show if they were controlled.

In the strawberry zone in Huelva trade unions and other organisations established a social network to fight for the rights of migrant workers. The Day labourer Committee (Mesa del Temporero) coordinate all the work in Huelva and is formed by CGT-A (General Workers Confederation in Andalusia), SU., the SOC, ARDH-A (Human Rights Association-Andalusia), I.U (Communist Party), working migrant women collective Alminar and other individuals. Together with this committee, the SOC carries out its activities which are considered as daily activities. They visit every day one of the zones to assist them, inform them about union activities and their rights, and to gather their complaints. They also distribute medicines, clothes and food, and at the same time they try to make migrant workers and their problems more visible by using mass media (De los Santos Castillo/Serrano 2004). However, meeting with migrant workers is not easy task as Gabriel M'Binki Ataya from the SOC said:

“We’ve had a lot of problems with larger companies because they don’t respect us. We have tried to meet the workers during their 20-minute breaks to pass on information and explain the purpose of our union. But the employers don’t consider our union to be a very representative union, so they close the door in our faces and immediately call the police, saying that it’s private property and we don’t have access. So we’re forced to leave” (PICUM 2005: 45).

Since 2002 the SOC has been active in the region, particularly with the workers from Romania. However, it has not been able to establish such close relations with Polish labourers. In 2002 a group of Romanian workers organised a strike with the help of the SOC at an enterprise which is a member of the COAG. During 2001 undocumented migrants launched a massive campaign throughout Spain demanding their regularisation. This resulted in well over 100.000 migrants receiving a legal status. Among these communities particularly active in this campaign were the Moroccans, Mauritians, Senegalese and Ecuadorians (Bell 2004).

In sum the SOC has been very active not just for providing legal assistance, but more importantly for organising migrant workers. Because they call themselves a grass-root organisation - aiming at building a new society by mobilizing workers which is more just, more free, more human and where the exploitation and poverty will be abolished (email exchange with Mendy on the 06.08.2007). Even though migrant workers have priority in its organising activities, the SOC has an internationalist view that all workers are the same of importance regardless of their occupation or status who are oppressed by the capitalist system. Following to this argument, the SOC does not specify the demands for migrant workers except the documents concerning residence and work permit although the SOC gives a priority to organise migrant workers (email interview with Mendy on the 27.08.2007).

VI. Discussion of the Findings

1. The History of Migration

At the beginning of our chapter on the theoretical framework of our study we made the assumption that the history of migration has an impact on the involvement of unions with migrant workers. The purpose of exploring the history of migration in our case studies was to find out how the development of migration history as a whole, and in particular how some features influenced the trade union responses to migrants and migration. We assumed that permanent migration and a long migration history would make unions more likely to engage with migrant workers. Economic considerations concerning the sectors which are open for migrants could also have an effect, since migrants are often considered as a threat for the employment of nationals. Is the sector where migrant workers are predominantly occupied, organised? Is there then a relation to trade unions' engagement? Also, either a high or low proportion of migrants could be important: if the numbers are high we anticipated a more likely engagement of the unions because it would have an effect in their action field. Finally, we thought that also the origin of the migrants could be important for unions' responses. First, since every country discourse defines which migrants are welcomed or not. How would the trade union take part in these discussions? Secondly, the experience of migrant workers in their home countries with trade unions could be a factor gaining higher or smaller interest of the trade unions (Milkman 2000a). Lastly, the experience as an emigration country or sector could be relevant, since links between the situation of immigrants and emigrants could be drawn.

Our three country cases had a very different migration history. Germany has a long history of migration which started already before the First World War. Germany's post Second World War history of migration is first characterised, by the demand for (cheap) labour. When the prosperous economic situation could not be maintained, labour recruitment was stopped and the migrant population was intended to return to their home countries. Still, migrant population increased mainly due to family reunification. The intended temporariness of migration has been sustained up to the recent past when a slight paradigm shift

occurred and Germany began to see itself officially as an immigration country. Second, in the recent past Germany expresses a substantial interest in high skilled workers besides maintaining the demand for cheap labour.

Although massive labour migration to Spain is by no means a new phenomenon, the notion of being an immigration country is rather a new concept for Spain. The main reason behind the acceleration of international migration is related to the economic development of Spain. After the end of the Franco Regime, Spain witnessed a process of restructuring of its economy to be able to place itself in the global economic system. Following to this restructuring process, labour migration became necessary to meet the needs of new economic development particularly in certain areas where native labour supply is rather low.

South Korea is a new immigration country (end of the 80s) with a relative small migrant population brought into the country to fill sectors, especially the manufacturing sector, facing labour shortages. Since the beginning of the “low skilled” labour migration, a high share of the migrant population is undocumented and faces large scale deportation operations.

The issue of **permanent versus temporary** labour schemes shows the following findings. The short-term provisions for residence of migrant workers did not hinder CC.OO, UGT, SOC to engage highly in migrant’s matters, in contrast, their human rights approach has surely been a part of the cause for their engagement. After KCTU’s shift in opinion about migration at the beginning of the 90s, it began slowly to involve in labour rights issues for migrants. It needed only few years to get aware of the situation. Although IG BAU faces permanent employment of migrant workers, this did not contribute to the higher support and engagement with migrant workers compared to the other cases.

The length of the history of migration (is the country an old or recent migration country?) and the (supportive) engagement with migrant workers are not significantly related. All the Spanish unions in our sample allowed themselves no delay but almost immediately supported migrants’ struggles actively, both for the case of documented and undocumented workers. The Korean KCTU showed some difference. As IG BAU, the KCTU first rejected labour migration. In IG BAU’s case it took much longer to develop at least some kind of supportive approach or positive perception of migrant workers than in

KCTU's case. The MTU and the EMWU were founded independently from how long migrant workers come to the respective countries. The EMWU was founded about ten years after EU-workers could be posted in Germany. The MTU was founded about 25 years later migrant workers were imported to Korea. If it shows anything at all, then that it needed more time to create special treatment for migrants in these two countries than in Spain with the creation of the migration departments.

In each of our country cases migration is an **economic issue**: all labour migration schemes were launched as response to labour demands, either absolute labour demand (no labour available – Germany in the 1950s), or relative labour shortage (which is due to reluctance of national workers to work in specific sectors – Spain in agriculture, construction and domestic sector, but also Germany and Korea in a later period). In Germany IG BAU responded to the guest workers scheme in a rejecting way for the concern of workplace safety for nationals. Also the increasing demand for cheaper labour in the construction sector by deregulating labour laws and exploiting migrant vulnerability is not accepted. In Spain the two confederations reacted in a supportive way for migrant workers since they were not perceived as competitors in the labour market. The SOC requests for migrants' rights independently from economic factors. The South Korean case indicates that, at least at the beginning of the migration, the KCTU rejected migration plans but changed its standpoint certainly due to the fact that migrants had to take working positions which Koreans avoid. So far, it can be stated that the perception on how the labour market will be affected by migrants influences in most cases how unions engage with labour migration and in the struggle of migrants' rights. Still, it is further dependent on the type. For instance pointing out that Germany classified itself not as immigration country and considering IG BAU's corporatism this influences the union's position for a significant degree.

The **sectors** of occupation of migrant workers are insofar important since some sectors are traditionally well unionised and others are not. Migrant workers in the positive case could fall under the mandate of the unions and enhance unions' engagement with migration or migrant's issues. Migrant workers in the German construction sectors are organised in the same manner as national construction workers, but there is no awareness that they often have

an unequal position both in society and in the union. Still, the perception, that migrants' occupation is changing something in the arena of IG BAU's influence has led to a high engagement in migration matters at political level (although to a restrictive approach). In the contrary, the small and medium manufacturing sector in Korea sector is very poorly unionised. This can explain the difficulties the KCTU unions could have, if they were willing to organise migrants in this sector. For the Spanish case we encounter similar challenges that particularly the KCTU faces in South Korea. The agriculture sector, in which the majority of the workers are migrants is poorly unionised, although there are several trade unions organising this sector. In addition to the SOC, CC.OO and UGT organise workers in the agriculture sector through their federation called Federación Agroalimentaria.

Concerning the factor of the **proportion of migrant** workers we can not see a clear pattern. Although IG BAU is facing a high number of migrant workers within the sector this does not influence them to be more or especially active about organising migrants within their union. However, the high number of migrant posted workers has led to the foundation and its engagement with migrant labour. But since IG BAU actually tries to reduce the migrant labour influx it implicitly prevents itself from the whole migration issue. The case of Spain shows another picture, here the number of migrant workers is comparable to Germany, while the number of informal employment is much higher, and still the two main confederations are very active in organising both formal and informal migrant workers. For the Korean KCTU even the small number of migrant workers (less than 2% compared to the population) caused their beginning opposition, and the later paradigm shift towards support of both documented and undocumented migrant workers was not related to a change in numbers, but clearly an outcome of struggles of the migrant movement.

In every country the **origin of migrants** is linked to the opinion which migrants are "the required migrants". This leads to a hierarchy of the positions in the labour market (stratification). All three cases have experienced such a development. This issue is of course, connected to the concept of the nation and national discourses on migration. However, the German case hints at the former relatively bad experience of East European workers with unions in their host countries, which has contributed to the perception and reluctance to

actively unionise them. Concerning the Spanish case, with the arrival of first Latin American migrants/refugees trade unions (especially CC.OO and UGT) adopted position of active solidarity in the light of their sympathy with them who were fleeing from the dictatorship regimes of Latin American countries.

In South Korea we could find no evidence between the Asian origin of most of the migrants and the involvement of unions. Nepalese migrants are more involved in unions than other migrants but we could not find any reasons for their engagement. Sure is, the KCTU does not demand special treatments for migrants of Korean origins and it demands with the MTU the same rights for all migrants regardless of their origins. Of course there is a need for further research in this direction with appropriate in depth interviews. The past of migrants as unionists could further be explored, not to explain unions sympathy toward this migrants, as Penninx/Roosblad did (2000: 15) but to analyse if these migrants push there own organising or the existing unions as it might have been the case in Korea.

There are some hints that the past (Spain/Korea) and present (Germany in the construction sector) of the country as an emigration country/sector can have influence on the unions involvement. Again, we could not explore in depth this issue, but three examples highlight it. In Spain, the former emigration department of the CC.OO was transformed in an emigration and immigration department, in Korea an earlier emigrant was involved in the struggles of the migrant workers and in Germany, some German emigrant workers are members of the EMWU. Nevertheless, none of the union statements we encountered, mentioned the country past and present as a reason for their involvement with migrants.

To sum up, from all factor analysed under the label “history of migration”, only the economic reasons of government and employers for labour migration and the grad of organisation of the sector are related to trade union responses toward migration and migrant workers. Nevertheless, concerning the primacy of economic considerations, we have a deviant case, namely the SOC, which lead us to say that even in this case the union type is more important in determining the stances of unions toward migrants.

None of the other categories we have analysed are marked by significant relations: The permanence versus the temporality of migration, the length of the

migration to the country, the proportion of the migrant population are by no means significant for trade union involvement. The origin of the migrants and the experience as emigrants are to be further researched. In so far, the “history of migration” is not a significant factor influencing unions’ policies and practices toward migrant workers.

2. National and Public Discourses

In the beginning, we asked what is the role of national identity and public discourse concerning the trade union involvement toward migrant workers? The importance of this point grows out from the fact that trade unions and their response to certain issues are dependent on the national discourse and the society. On the one hand, the national territory and the citizenship are the main departure points on which trade unions stand. That is why trade unions give higher priority to the interest of national workers who are the citizens defined by the state. At this point, the perception of the nation itself and the wealth of the nation appear as an important factor. However, on the other hand, immigration inevitably shapes the labour agenda at global level and puts an increasing pressure on the trade unions. Therefore, the response of the trade unions to global labour mobilisation oscillates between the national priorities and international solidarity which can be changed from time to time in a given country as well as among the countries.

Both aspects can be clearly recognised in our case studies. Having regard to the German case, it is safe to state that the interest of native workers and the wealth of the German society, as well as the German state, take precedence over all others. It appears explicitly in the descent based belief of nationality and the national discourse which assume that it is the role of the nation state to take care of its own citizens and to grant them priority access to resources, rights and privileges. It is the main anchor behind the argument of those German people who share the idea that migrant workers come to Germany for the sole purpose to exploit their welfare state. This important point is shared with the Spanish people that reject the idea of providing some legal and social rights to migrants such as unemployment benefits or transfer payments for families, membership of political organisation or the right to vote. In the German and Spanish case, we encounter the presence of welfare states and its importance for the people. This is not fully the case for South Korea. However, the effect of this perception on trade unions has different appearances in Germany and in Spain. While the IG BAU rejects informal employment due to, for example, the issue of tax losses, Spanish trade unions back undocumented migrants to access public health and the education system.

Further, related to the mainstream perception of migrants in host countries, migrants are considered as threatening actors in terms of economic development in the three country cases. On the one hand, migrants are seen responsible for the erosion of wages, working conditions and the bargaining power of the trade unions. Additionally migrants are seen as threat and unfair competitors who are willing to work for fewer wages and lead to social dumping. The effects of this exclusive approach can clearly be seen in the IG BAU's stance toward migrant workers which favours protecting domestic labour market in order to prevent earlier won achievements for the native and settled migrant members and limited labour migration. A similar approach can be observed from the position of the KCTU in the 1990s when the government announced the import of migrants. With the same protectionist argument, the two main confederations in South Korea opposed labour migration at the beginning of the 1990s. However, it is important to underline that, after the Asian crises in the late 1990s, the KCTU had changed its protectionist approach and developed a more affirmative vision concerning labour migration. Contrary to the German case, Spanish trade unions follow different ways by supporting migrant workers even though the exclusive approach is widespread in both the government policies and public discourses.

On the other hand, as we discussed earlier, migrants are generally perceived as a socio-cultural threat. If the integrity or homogeneity of the country is of importance which is the case in South Korea, then migrants will be seen as frightening the homogeneity and social cohesion. Moreover, as it is in Spain and Germany, migrants are often blamed for increasing insecurity or the erosion of the national identity. Therefore, migrants should not easily or never be allowed to settle permanently. In Germany and in Spain, this perception influenced the CC.OO and the UGT and the IG BAU to launch anti-racism campaigns. It has no evident influence on the KCTU in Korea but the MTU demands the KCTU to educate its members on racism. The SOC, rejects implicitly the notion of socio-cultural threat but, as far as we know, does not take directly action against this notion. For IG BAU this discourse has a repercussion on the union members as it was shown in the study of Zeuner et al. (2007), for the other cases it is not certain to what extent the members are influenced.

Last but not least, the internationalist perspective towards migrants should also be taken into consideration which is the case particularly in South Korea and Spain. Economic globalisation, on the one hand, brings new challenges to labour movements; on the other hand global labour migration spreads all around the world which both requires strong international solidarity among trade unions and other social movements to cope with these challenges. However, the experiences show that this is not an easy task for the trade unions. IG BAU and EMWU do not have a clear internationalist perspective, even if they stress international connections. Yet the KCTU and the MTU from South Korea and the CC.OO and the SOC can be relevant examples to analyse how trade unions can approach migrants from an internationalist perspective. While the MTU and the SOC see migrant workers primarily as workers oppressed by the capitalist system, the KCTU and CC.OO share the same thoughts that migrant workers are victim of trans-national capital.

To sum up, the national public discourses have an influence on the trade union involvement with migrants but they do not always take part in these discourses; some unions support the discourses that the “wealth of the nation”, the “economic development of the country” and the “socio-cultural integrity/homogeneity of the society” is endangered by migrants, some don’t. In so far, the unions types should be more relevant to explain in which discourses unions take part. Zeuner et al. (2007: 35) explain that unionists are not a representative sample of the population, but people with distinct political aspirations, in our case that’s one of the reasons why unions, from time to time, develop counter discourses.

3. Government Policies in the Institutional and Legal Context

In this context we asked two questions. First we wanted to explore how have the given government policies influenced the trade unions in their engagement? Did they react on political level and formulate demands and counter strategies or did they take action or anything else?

Secondly, what is the position of trade unions in national decision-making and how does this position determine the engagement of trade union in migration policies? Our assumption was that the union presence in national decision-making or as partner in tripartite bodies would broaden the scope of influence of the union. Therefore, it would make the union more likely to engage in migrant policies, but sometimes not necessarily in favour of migrants. A union not very much involved in national decision-making would have more freedom to express its opinion about certain issues and oppose government policies (see Martínez Lucio 1992, Penninx/Roosblad 2000). This question is to our understanding very much dependent on the trade union type, its stance toward governments in general and its priority aims, as well as its importance in society.

The legal migration framework in Germany in the past tried to guarantee temporary migration but was not as “effective” as intended. The legal provisions served the demand for labour both in times of realised full employment (50-early 70s) and in times of increasing unemployment (mid 70s to today). With the new immigration law, the duration of migrants’ residence is not the core issue anymore. Instead, the crucial concern is to restrict migration to certain categories of migrants, besides the objective for integration.

So far, the Spanish governments, particularly the Aznar’s conservative government, have supported restricted migration policies and border controls in order to combat migration. On the other hand, Spanish governments always consider the demands of the Spanish economy that needs a flexible and cheap labour force since migrant workers have an important role for the economic development in certain sectors. Therefore, in Spain when the governments implement restrictive policies on migration, at the same time they try to regulate migration with a quota system in order to maintain economic development.

Government policies in Korea have the aim to ensure the temporariness of immigration and the exploitation of the migrant labour force, in allowing only

short term migration and giving migrants less labour rights than nationals and no civil rights. Through time, migrants were granted more labour rights but without renouncing to the primary aim, that is to ensure the short term of their presence.

In Spain, legal provisions concerning residence, regularisation, work permits, etc. are very complex and not transparent for migrants. To assist migrant workers in the legal procedures CC.OO and UGT set up special information and support centres (CITEs and Centros Guía). Since both confederations found that the legal frame for migrant workers is very narrow, they call for the extension of the quotas and equal access to jobs. CC.OO and UGT oppose the complex and hard to be achieved requirements for regularisation of undocumented workers by calling for improved regularisation. On the one hand, they challenge the government by demanding inclusion of undocumented workers in the quota, on the other hand, they demand enforced controls and sanctions against informality. Due to their shift to flexible corporatism they also take part in the governments endeavour to replace North African workers with migrants from eastern Europe by setting up information offices in Poland and Romania. Concerning their involvement in decision making they tried to influence the composition of the quota. In sum, CC.OO and UGT try to a high extent to provide legal support for migrants, but they take part in policy making only to a small extent. The union type in the case of CC.OO and UGT seems to be not so stable. So the legal framework together with their political orientation and moreover their criticism of existing policies policy led both confederations to sometimes oppose government policies with political demands.

Whilst the SOC's main action is organising, it opposes the state definition of undocumented and documented migration, regular and informal workers by organising all workers irrespective of nationality and legal status. The SOC supports migrant workers by setting up social centres in order to inform and give legal advices concerning the government policies. Besides direct action, in coalition with other trade unions and migrant NGOs, it demands residence and work permits for the undocumented workers at the political level. The SOC is not at all involved in state decision making; moreover it does not have the support of the state. In so far, our assumption is confirmed by our empirical

material: The SOC opposes state regulation and acts in favour of migrant workers, but does not have a sufficient sphere of influence. This can also be detected at the level of the relationship to employers. In that case the SOC was successful to reach an agreement with the employers for Moroccan workers, which was never put in practice. The SOC confirms our assumption that a syndicalist union would organise migrant workers since it opposes the state and the concept of the nation. In this case, since they do not want to be involved in “real politics”, their ideology leads their actions much more than the existing legal provisions.

KCTU's reaction of the legal framework (Employment Permit System) is comparable to the one of the Spanish confederations. In KCTU's case its engagement is less as we assumed - given the type of a social movement union. KCTU is not involved in national-decision making concerning migrants. Yet, the internal struggle about tripartite participation might have led to the fact that it is rather moderate in its demands. The KCTU raised its voice for supporting legalisation of undocumented workers and basic labour rights for migrant workers. It opposes deportation and detention of migrant workers. It thus includes a critique of the short-term work and residence permit, but we did not see support of unlimited residence permits. It shares these positions with the MTU, or rather this position shows its support for the MTU, whose members are predominantly undocumented migrants. Those migrants have been staying in Korea for many years, yet MTU supports a labour scheme which allows a limited residence permit of five years. On one hand, since the MTU is not officially recognised in Korea the demand for unlimited residence permits could give them the freedom to pursue a very self-conscious policy, also regarding this question. On the other hand, the abeyance of the success of this demand and the harshness of the government repression against undocumented workers could be the reasons, why the MTU is rather moderate in this regard. This point shows how pre-existing government policies can limit the demands of unions.

Anyhow, we found a general influence of the Employment Permit System in South Korea and its very strict handling of labour migrant policies, which led to a high number of undocumented workers. As the case study showed the hard

struggle of a part of the migrant workers movement has brought forth the foundation of the MTU.

As a very different case, IG BAU has a long tradition of tripartite consultation and has confirmed our assumption that it would use its power and acceptance/reputation to influence national policies. In accordance with its goal IG BAU takes a restrictive stance in labour market policies, like demanding restricted labour market access for new EU citizens in order to enhance national employment. Additionally, it worked hard to influence EU and national policies to guarantee that national labour laws would not be further undermined.

Since European legislations, besides other factors, mean a deregulation of the former national regulated labour market access, re-regulation is difficult. This led to the foundation of the EMWU. Of course, in this context we hint much more at the leverage of the employer practices. The EMWU does not take part closely in tripartite institutions, but we can suppose that it channels its policy demands through IG BAU, rather IG BAU is dominant in EMWU's reaction to government policies. Nevertheless, EMWU calls for a European wide minimum wage. We consider this to be in accordance with our assumption, that a business union would engage to some extent in political struggles in favour of their members.

In sum, the legal framework is determining the trade unions' responses, as it was shown in each of the union cases, but the direction of the engagement and policies is in some of the cases further dependent on the union type (SOC, IG BAU, EMWU).

Moreover, we refer to the theoretical considerations about institutional discrimination and the role of gate keepers. It is not hard to discover that in each country institutional discrimination against migrants plays a crucial role, although to different degrees. South Korea has certainly the highest extent of institutional discrimination against migrants, followed by Spain and Germany. The confederations which are, due to their power in society, in the position of a gate keeper, have all shown that they try to make use of their role. These are namely CC.OO, UGT, the KCTU and the IG BAU. The first three rather make use of their position in supporting the demands of migrant workers within the territory of the nation state, whereas IG BAU has an ambiguous scope of action. It supports long-term settled migrant workers like any other workers, but it

rejects the new access of migrants, because it argues that the position of their current members is threatened.

4. The Union Types

Is the unions' type related to unions' involvement toward migrant workers? How it is related to the involvement toward migrant workers? These were the questions we rose in trying to understand differences between union. When explaining the different unions' types we might encounter, we made assumptions on their relation with the union involvement with migrant workers. Some unions were thought to deal little with organising migrants in general but to be concerned with migrant issues in other ways. Business unions were thought to deal with the economic interests of their members in general, social dialogue and corporatist unions to deal with immigration policies, political unions not to focus on migrant issues at all and separatist unions on organising only migrants of their profession. Social movement and syndicalist unions were thought to actively organise migrants because they both focus on grassroots organising - social movement unions additionally on alliances with other groups - and do not see workers' movements confined into state borders.

In our case studies we encountered unions (confederations and single unions) fitting more or less with the ideal types we had developed. We could identify three corporatist unions, the IG BAU, the CC.OO and the UGT. The German IG BAU being longer a corporatist confederation than the Spanish ones, is closer to our ideal type of a corporatist union. Its corporatist activities were exemplified with its involvement in political regulatory mechanisms at national and EU level and in its concern for the welfare of the state. The CC.OO and the UGT were identified as a flexible corporatism (sometimes closer to the social dialogue type), involved with the government, but withdrawing from the state institutions at time, and trying to challenge the government with direct action.

The KCTU, trying to adapt itself to a new situation where independent unions are granted more involvement in state decisions and the economy was liberalised, was identified as a social movement union involved sometimes in tri-partism. Since it is not yet clear which direction it will finally take, for the present we decided to refer to the KCTU as a social movement union.

Then, we had three small unions, the MTU, the SOC and the EMWU. These three unions focussing on migrant concerns have been identified as having three distinct types.

The MTU as a social movement union focuses on political reforms and builds alliances with other groups (NGOs) and struggles (KCTU rallies and demonstrations).

The SOC as syndicalist union focuses on self organisation, on direct forms of organising and on radical forms of struggles.

The EMWU as a business union focuses on servicing and on political economical demands for their members, at least in theory. It does not challenge the political system, since it is a union mainly for privileged migrant workers.

How does the involvement of these unions with migrant workers look like? Do have these unions the expected involvement toward migrant workers?

The unions of corporatist type behaved like we anticipated but with a clear difference in orientation. They all focus little on organising migrants and have all a minimal form of special treatment (special departments, migration centres, outsourced union). Nevertheless, on the one hand the IG BAU lobbies for policies restricting labour migration to its sector and cooperates with the state institution against irregular employment; on the other hand, the Spanish confederations indeed want to be involved in quota setting, but are campaigning/lobbying for the legalisation of undocumented migrants and for their access to civil rights. Therefore they indirectly encourage migrants to organise into their ranks. At this point, the differences in orientation can rather be explained with the fact that the two Spanish confederations have recently shifted toward corporatism and had a past of “anti corporatism”. They also have to deal with different government policies, in Spain there are government programmes for legalisation, while in Germany legalisation never came on the political agenda of governments. The history of the labour movement has equally led to different political orientations. In Germany unions were totally destroyed during fascism and during the cold war communist/socialist ideas were dismissed, while in Spain the former radical unions were able to mobilise ranks and files during the Franco regime and emerged again after his death.

The KCTU, as a social movement union, did not behave as we expected. First it didn't make itself the effort to set up the MTU and generally it puts small efforts on organising migrants. Concerning alliances and their international involvement they acted as we anticipated. The KCTU supports the political demands of the migrant workers and supports them in their struggles at national

(official support of demands, law suits, and active individual support) and at international level (ILO complaints). Nevertheless, we have to stress that we implicitly assumed that social movement unions are the motor of the alliances with the migrant groups, whereas in our case the KCTU has reacted to the alliance demands of the migrant workers.

The MTU, as a small social movement union founded by migrant workers is not worth to outline that they focus on organising migrants. Moreover, it relies on coalition building, on the one hand due to their minority position, on the other hand due to its emphasis on worker internationalism.

The SOC fairly behaved as anticipated, better it goes beyond our expectations. They rely on direct organising, as well as on self-organisation of the migrant workers and in theory do not limit their support at the national territory. However, they address the special needs of the migrant workers, such as legal assistance and language courses.

The EMWU behaved also as expected, it does not rely on direct organising and is somewhat moderate (minimum standards) and quiet⁶⁰ in its demands (minimum wage). Nevertheless, we thought to find an independent union, a fact, which is seriously challenged by our findings. As a union, which has been founded by the IG BAU and is considered as “our union” (Interview with Knerler on the 03.09.07) its type is influenced by its “mother”; it is moderate due to the fact that IG BAU is demanding immigration restrictions and because it has founded a union for migrants having legally more rights than many.

To sum up, the union types influence clearly unions’ involvement with migrants. Of course our sample of unions could be challenged with other cases; nevertheless, none of our corporatist unions is involved in organising actively migrants into their ranks and our social movement confederation is involved in coalition with migrants. Even the small unions, which are solely (MTU), primarily (EMWU) or focus (SOC) for/on migrant workers differ in their strategies along their types.

However two questions have to be raised. The first concerning the involvement of social movement unions with migrants, the second on the orientation of the demands of unions in general. As we have shown, the KCTU

⁶⁰ In the German union movement it is widely known, that ver.di and NGG are demanding a national minimum wage. The demand of the EMWU is rather unknown

supports migrant struggles but does not clearly drive its unions to organise them actively. Of course this could have many reasons like the primacy of other struggles, the “newness” of migration to Korea and so on. But it raises also questions on whether social movement unions do really consider all workers as worth to organise. It can be that social movement unions are rather open to alliances than actively trying to build alliances with other groups. At least for the KCTU and the migrant workers in Korea this was the case. The SOC is another case. It was already organising migrants, but after the strike in El Ejido occurred – without the involvement of unions - they set up a union branch there. These examples show that some unions have the flexibility to respond to the struggles happening outside their ranks.

Concerning the second question, we have said that the different orientations of our (flexible) corporatist unions can be explained with their embeddings in the corporatist arrangements but also with other factors. Nevertheless, it would be interesting to test other factors than the ones we have used in order to explain the inclusiveness/exclusiveness of policies toward migrant workers. At the theoretical level, it is difficult to imagine that social movement and syndicalist unions are demanding restrictions, whereas others have an inclusive approach. It is also difficult to imagine a separatist union demanding, say, to stop deportations of undocumented workers. But, at the practical level, if that would be the case, we would have to find other factors to analyse the involvement of unions, like, among other things, the position of a particular leader or of an influential faction within the union.

VII. Conclusion

After a long journey through the theoretical issues which influence trade union engagement/involvement with migrant workers, case studies in three countries and discussion of the findings concerning our first assumptions, what can be concluded?

Is the engagement/involvement with precarious migrant workers mainly shaped by the type of trade unionism within the broader social and institutional context? Yes, it is, but it is not a surprising finding. If there are different types of unionism, one can expect to find different positions and different practices in dealing with similar issues. The question is much more, what are the variables of our hypothesis which influenced the unions of our study?

Our first finding is that of all from all features we had listed under the label “history of migration” almost none influence unions involvement toward (precarious) migrant workers. This is an important finding, since it means that unions can not justify their non involvement with structural factors.

Secondly, and this is surprising, we found that union responses to migration do not generally go in the same direction as national discourses on migration and migrants. It could be explained by the fact, that unions are used to develop counter discourses, at least when they are in the opposition. Nevertheless, we have to point out that we did not have the means to conduct a grounded discourse analysis.

The last two factors we have analysed, government policies and union types, had a broader influence on the engagement/involvement of our unions. The government policies on migration/migrants frame the demands of the unions and their action radius. Nevertheless, unions have (to different extents) the freedom to oppose, to accept or to demand the improvement of the existing policies. Therefore, we underlined the importance of the union type , i. e. the style of activities and the political discourses, in determining the position and the implication of unions toward/in governments policies toward migrants.

Finally, we could find much correlation between the so-called union type, their involvement towards migrant workers and their likeness to organise them. At the one end of the scale we had a corporatist union putting little efforts on organising, and at the other end a syndicalist union giving priority on organising.

We had “mixed types”, like flexible corporatist unions or a social movement union at the crossroad between social movement and social dialogue and we argued for further research in order to understand their position toward migration or their lack of organising efforts.

Our study has focussed attention on unions and why some are more willing to organise precarious migrants and other less. In order to get a full picture of the situation, the perspective of migrants should be considered as well. It is to be expected that precarious migrant workers are not willing to be organised by unions who show a half-hearted attitude toward them. In this case, they will either stay unorganised or they will join NGOs, or it can happen that they build their own union. In the literature on migrant workers and unions it has been pointed out that NGOs, compared to unions, are more willing to organise migrant workers, especially precarious migrants, because NGOs do not have a traditional concept of the working class, i. e. male, nationals, skilled workers (see among others Ford 2006, Hofmann 1999). However, we have seen that some unions are very much willing to organise migrants, as is particularly the case for the SOC in Spain. Also, as the case study on Korea shown, NGOs are not always seen by migrants as an appropriate means of organising. The point there, is not that NGOs as such do not have the appropriate means of organising, but that they often claim to represent the interests of their target group, without having any kind of democratic mandate (see Spivak 2003a). The discrepancy between their own empowerment and the empowerment of their “clients” can be illustrated with an anecdote of Spivak: She once asked an NGO activist, how a project on schoolchildren teaching computers to older folks was going. The activist answered: “it is going wonderfully well for the schoolchildren” (Spivak/Sharpe 2003: 614). This is not to say that unions are free from this kind of paternalistic practices as it is the case for EMWU. Especially when they have been institutionalised there is always a tension between the interests of their members and their representatives, but at least in theory, unions are the embodiment of the self-organisation of the workers. From this starting point, precarious migrant workers could feel attracted by unions which have a broad concept of the working class. In our study we dealt with unions especially for migrant workers, the IG BAU and the EMWU. These unions are also shaped by the type of unionisms in the social and institutional context of the unions they

are affiliated to. Therefore, they organise migrants along different lines and represent more or less the interests of disenfranchised migrant workers. The MTU in Korea, more than the EMWU, since it was founded by undocumented migrant workers. When building their own union, migrants are aware which union will, if not represent their interests, at least not contradict them. In Korea, precarious migrant workers approached the KCTU and not the corporatist FKTU. Does it mean that as long as some unions are not taking the interests of migrant workers seriously, these workers should, in alliance with existing workers organisations, build their own unions? We will leave this question unanswered.

Instead, we would like to come back to our title question. Why not organising? As we have seen, there are many factors - the most important one being the union type - why some unions focus on migrant organising and others do not; but not only organising matters in order to avoid the “competitive struggles [of] fragmented worker groups” (Hyman 1998b), since organising from a patronising perspective can lead to further fragmentations.

References

Country List Germany

Arps, Jan Ole (2004) „Mach meinen Kumpel nicht an!: Über Kritik und Praxis in der IG BAU“, *ak – analyse & kritik – zeitung für linke Debatte und Praxis*, <http://www.akweb.de/ak486/39.htm> (retrieved on 15.07.07)

Bieling, Hans Jürgen (1993) *Nationalstaat und Migration im "Postfordismus – Gewerkschaften vor der Zerreiprobe*, Forschungsgruppe Europäische Gemeinschaften (FEG): Marburg.

Cyrus, Norbert (2002a) „Changing rhetoric and narratives: German trade unions and Polish migrant workers“, in: Cyrus, Norbert; Spohn, Wilfried; Triandafyllidou, Anna, *Europeanisation, National Identities & Migration*, Abingdon: Taylor and Francis

Cyrus, Norbert (2002b): „Unterstützung statt Kontrollen: über alternative Strategien zum Umgang mit den Illegalisierten“, <http://www.labournet.de/diskussion/wipo/migration/cyrus.html>, (retrieved on 15.07.07).

Cyrus, Norbert (2004) „Representing Undocumented Migrant workers in industrial Tribunals: Stimulating NGO Experiences from Germany“, in: M. Le Voy, N. Verbruggen, J. Wets (Eds.), *Undocumented Migrant Workers in Europe*, Brussels: PICUM, 107-111.

Decker, Oliver; Brähler, Elmar (2006) *Vom Rand zur Mitte: Rechtsextreme Einstellungen in Deutschland und ihre Einflussfaktoren*, Berlin: Friedrich-Ebert-Foundation.

European Migrant Workers Unions EMWU (2005): „Articles of association“, <http://www.migrant-workers-union.org>, (retrieved on 21.07.07).

Flam, Helena (Ed), 2007: *Migranten in Deutschland: Statistiken – Fakten – Diskurse*, Konstanz: UVK Verlag.

Heinisch, Reinhard (2000): „Coping with Economic Integration: Corporatist Strategies in Germany and Austria in the 1990s“, *West European Politics*, 23(3): 67-96.

Hunger, Uwe (2001) „Globalisierung auf dem Bau“, *Leviathan*, 29(4): 70-82.

IG BAU (2004) „Hintergrundpapier zum Thema ‚Schwarzarbeit und illegale Beschäftigung‘“, http://www.wiesehuegel.de/download/DT_INFORMATIONEN/170204-BAU-GdP.pdf, (retrieved on 16.07.07).

IG BAU (2007a) „Dienstleistungsfreiheit: IG BAU fordert Verlängerung der Übergangsfristen“, <http://www.igbau.de/db/v2/inhalt.pl?e1=10&e2=94&persid=&> (retrieved on 14.08.07).

- IG BAU (2007b) „Illegale Ausländerbeschäftigung – ‚Strnad-Polen‘ erhalten endlich Lohn“, <http://www.igbau.de/db/v2/inhalt.pl?e1=10&e2=114&persid=&> (retrieved on 14.08.07).
- IG BAU (2007c) „EU Dienstleistungsrichtlinie – Bewertung des Endergebnisses“, <http://www.igbau.de> (retrieved on 14.08.07)
- IG BAU (2007d) „Aktuelle Kurzinformation Nr. 18/2007“, unpublished paper
- IG BAU (w.y. a) „Mindestlohn für die Landwirtschaft erforderlich“, <http://www.igbau.de/db/v2/inhalt.pl?e1=10&e2=57&persid=&> (retrieved on 14.08.07).
- IG BAU (w.y. b) „Saisonarbeit: Neuregelungen im Jahr 2006“, <http://www.igbau.de/db/v2/inhalt.pl?e1=10&e2=57&persid=&> (retrieved on 14.08.07).
- Kamalak, Hassan (et al.) (2006) *Arbeitsmigration in der Bundesrepublik Deutschland: Eine kritische Auseinandersetzung mit den Folgen sowie der gewerkschaftlichen Haltung*. dissertation.de: Berlin
- Katholisches Forum Illegalität (2005): „Manifest Illegale Zuwanderung – für eine differenzierte und lösungsorientierte Diskussion“, <http://www.forum-illegalitaet.de/Manifest.pdf>, (retrieved on 15.07.07).
- Kühne, Peter (2000) “The Federal Republic of Germany: Ambivalent Promotion of Immigrants’ Interests”, in: Penninx, R.; Roosblad, J. (eds.) *Trade unions, immigration and immigrants in Europe 1960-1993: A comparative study of the actions of trade unions in seven West European countries*, Oxford and New York: Berghan Books.
- Lillie, Nathan (et al.) (2006) “industrial relations, migration and neoliberal politics: the case of the European construction sector”, unpublished paper
- Lüthje, Boj; Scherrer, Christoph (2001) “Race, Multiculturalism, and Labour Organizing in the United States: Lessons for Europe”, *Capital & Class*, 73:141 – 171.
- Nickel, Susanne (2004) *Gewerkschaften und Migration. Aktuelle Entwicklungen und Strategien am Beispiel der Industriegewerkschaft Bauen-Agrar-Umwelt*, unpublished MA thesis, Johann Wolfgang Goethe-Universität, Frankfurt
- Pape, Karin (2005) “Informal Economy and Trade Unions in Germany”, <http://www.wiego.org/publications/Pape%20Karin%20Informal%20Economy%20and%20Trade%20Unions%20in%20Germany.pdf>, (retrieved on 20.07.07).
- PICUM (2005) “Ten ways to protect undocumented workers”, www.picum.org, (retrieved on 10.07.07).

- Rakowitz, Nadja (2002): „Die IG BAU und die illegalisierten Bauarbeiter“, www.labournet.de/diskussion/wipo/migration/igbau.html, (retrieved on 17.07.07).
- Reißhardt, Carolin (2006) „Fit für die Globalisierung?“, in: Butterwegge Christoph (Ed.), *Zuwanderung im Zeichen der Globalisierung: Migrations-, Integrations- und Minderheitenpolitik*, Wiesbaden: VS Verlag.
- Schmidt, Verena; Schwenken, Helen. (2006) „Irreguläre Migration und Gewerkschaften im internationalen Vergleich“, *WSI-Mitteilungen*, 59(1):41-46.
- Treichler, Andreas (1998): *Arbeitsmigration und Gewerkschaften: Das Problem der sozialen Ungleichheit im internationalen Maßstab und die Rolle der Gewerkschaften bei der Regulation transnationaler Migration, untersucht am Beispiel Deutschlands und der Arbeitsmigration aus der Türkei und Polen*. Münster: Lit.
- Wilpert, Czarina (1998) “Migration and informal work in the New Berlin: new forms of work or new sources of labour?” *Journal of Ethnic and Migration Studies*, 24(2): 269-294.
- Wompel, Mag (2005) „Rassismusfreie Zone? Gewerkschaften zwischen Antirassismuskampagnen und Standortsicherung“, in: *‘Widerstandsbewegungen. Antirassismus zwischen Alltag und Aktion‘*. Association A.
- Zeuner, Bodo; Gester, Jochen; Fichter, Michael; Kreis, Joachim; Stöss, Richard (2007) *Gewerkschaften und Rechtsextremismus*, Münster: Westfälisches Dampfboot.

Country list South Korea

Amnesty International (2006) Republic of Korea (South Korea): Briefing to the Human Rights Committee on Republic of Korea's Third Periodic Report on the implementation of the International Covenant on Civil and Political Rights,

Amnesty_International_briefing_on_South_Korea.doc (retrieved on 30.07.2007).

Gills, Barry K.; Gills Dongsook S. (2000) "Globalization and Strategic Choice in South Korea", in: Kim, Samuel S. (ed.), *Korea's Globalization*, Cambridge: University Press, 29-53.

Castles, Stephen (2003) "Migrant Settlement, Transnational Communities and State Strategies in the Asia Pacific Region", in: Iredale, Robyn; Howksley, Charles; Castles, Stephen (eds.) *Migration in the Asia Pacific. Population, Settlement and Citizenship Issues*, Cheltenham / Northampton: Edward Elgar Publishing, 3-26.

Davidson, Alastair; Weekley, Katleen (eds.) (1999) *Globalization and Citizenship in the Asia-Pacific*. New York: St. Martins' Press.

Debrah, Yaw, A. (2002) "Introduction: Migrant Workers in Asia Pacific", *Asia Pacific Business Review*, 8(4): 1-18.

Gray, Kevin (2004) "Crisis in the Korean Labor Movement: from Militance to social unionism", working paper for the PHD Thesis (2007) "Korean Workers and Neoliberal Globalization", London: Routledge. Allow to cite from the author. www.hawaii.edu/global/publications_media/Publications_Staff_Fac/KevinGrayPaper.pdf (retrieved on 24.07.2007).

Gray, Kevin (2007) "From Human to Workers' Rights: The Emergence of a Migrant Workers' Union Movement in Korea", *Global Society*, 21(2): 297 – 315.

Gray, Kevin (2006) "Migrant Labor and Civil Society Relations in South Korea", *Asian and Pacific Journal of Migration*, 15(3): 381-390.

Hofmann, Norbert von (ed.) (1999) „Preface“, in: Hofmann, Norbert von (ed.) *Migrant Workers and the Asian Economic Crisis: Towards a Trade Union Position*, Singapore: Friedrich-Ebert-Stiftung Office for Regional Activities in Southeast Asia, I-III.

KCTU – Korean Confederation of Trade Unions (March 2004) "Monthly News: Urgent Situation of Migrant Workers in Korea", http://www.nodong.org/bbs/view.php?id=eng_docu&page=3&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=headnum&desc=asc&no=21, (retrieved on 23.07.2007).

KCTU - Korean Confederation of Trade Unions (March 2005) "Monthly News: Debate on Social Negotiation continues. Difficulties face KCTU as division deepen on social dialogue", http://www.nodong.org/bbs/view.php?id=eng_docu&page=2&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=headnum&desc=asc&no=34

- KCTU – (June-July Part One 2005) “Monthly News Letter: KCTU decides to Withdraw from Various Committees Affiliated to the Ministry of Labour including the Labour Commission”,
http://www.nodong.org/bbs/view.php?id=eng_docu&page=2&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=headnum&desc=asc&no=37, (retrieved on 20.08.07)
- KCTU - Korean Confederation of Trade Unions (October 2006), “Summary Paper on the ‘Roadmap’ for the advancement of industrial relations”,
http://www.nodong.org/bbs/view.php?id=eng_docu&page=1&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=headnum&desc=asc&no=46, (retrieved on 20.08.07)
- KCTU – Korean Confederation of Trade Unions (March 2007), “Monthly Newsletter: MTU (Migrants Trade Union) –affiliated to KCTU- Statement on High Court Decision Regarding Labour Rights of Undocumented Migrant Workers”,
http://www.nodong.org/bbs/view.php?id=eng_docu&page=1&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=headnum&desc=asc&no=57, (retrieved on 23.07.2007).
- KCTU – Korean Confederation of Trade Unions (March 2007), “Monthly Newsletter: Insight into the Korean Workers’ Movement to “Build Industrial Unionism”: Refoundation of the Korean Metal Workers’ Union (KMWU) and the Election of New KMWU Leadership”,
http://www.nodong.org/bbs/view.php?id=eng_docu&page=1&sn1=&divpage=1&sn=off&ss=on&sc=on&select_arrange=headnum&desc=asc&no=57, (retrieved on 23.07.2007).
- KCTU – Korean Confederation of Trade Unions; MTU -Seoul-Gyeonggi-Icheon Migrants Trade Union (Mai 2007), Critique of the South Korean Policy on Migrant Workers: The industrial Trainee System and the Employment Permit System, unpublished paper for the ILO/SMU Regional Symposium on Managing Labour Migration in East Asia, Wee Kim Wee Centre of Singapore Management University.
- Kim, Dong-One; Bae, Johngeok; Lee, Changwon (2000) “Globalization and Labour Rights: The case of Korea”, *Asia Pacific Business Review*, 6(3&4): 15-33.
- Kim, Joon K. (2004) “Towards a Formulation of the Republic of Korea’s Foreign Worker Policy: Lessons from Japan and Germany”, *Asia Pacific Population Journal*, 19(2): 41-68.
- Kim, Yu Jin (1999) “The Potential for Co-operation: Overcoming the Barriers of National Boundaries: Experiences of the Korean Confederation of Trade Unions (KCTU)”, in: Hofmann, Norbert von (ed.) *Migrant Workers and the Asian Economic Crisis: Towards a Trade Union Position*, Singapore: Friedrich-Ebert-Stiftung Office for Regional Activities in Southeast Asia: 30-38.
- Kim, Yong Cheol; Moon, Chung-In (2000) “Globalization and Workers in South Korea”, in: Kim, Samuel S. (ed.), *Korea’s Globalization*, Cambridge: University Press, 54-75.

- Lee, Yong Wook; Park, Hyemee (2005) "The Politics of Foreign Labor Policy in Korea and Japan", *Journal of Contemporary Asia*, 35(2):143-165.
- Lee, Kye-Yong (2007) "Changes in Policies for Migrant Workers in Korea and Policy Recommendations", Monthly Labor Review of Korea Labor Institute, <http://www.kli.re.kr/>, (retrieved on 03.08.2007).
- Liem, Wol-San (2007) "Crackdown Against Migrant Workers Threat Human Rights", The Korea Times, http://www.koreatimes.co.kr/www/news/special/2007/08/139_8350.html (retrieved on 26.08.07)
- Lim, Timothy C. (2003) "Racing from the Bottom in South Korea? The Nexus between Civil Society and Transnational Migrants", *Asian Survey*, 42(3): 423-442.
- Lim, Timothy C. (2002) "The Changing Face of South Korea: The Emergence of Korea as a "Land of Immigration", *The Korea Society Quarterly*, http://instructional1.calstatela.edu/tclim/articles/06-V3N2_3-P2-Lim.pdf, (retrieved on 02.08.2007).
- Lim, Timothy C. (1999) "The Fight for Equal Rights: The Power of Foreign Workers in South Korea", *Alternatives: Social Transformation & Humane Governance*, <http://instructional1.calstatela.edu/tclim/articles/fight.pdf>, (retrieved on 02.08.2007).
- Moon, Katherine H. S. (2000) "Strangers in the Midst of Globalization: Migrant Workers and Korean Nationalism", in: Kim, Samuel S. (Ed.), *Koera's Globalization*, Cambridge: University Press, 147-169.
- MTU (Migrant Trade Union) – Presentation brochure (2007), unpublished document.
- Pak, Sejin (1998) "Two forces of Democratisation in Korea", *Journal of Contemporary Asia*, 28 (1): 45-73.
- Park, Won-Woo (2002) "The Unwilling Hosts: State, Society, and the Control of Guest Workers in South Korea", *Asia Pacific Business Review*, 8(4): 67-94.
- Park, Tae Gyun; Md Nasrudin, Md Akhir; Pitch, Pongsawat (2005): "Orientalization in the Orient: Illegal Asian Workers in Korea, Malaysia, and Thailand", http://apru.nus.edu.sg/activities/afp/collab_paper.htm (retrieved on 24.07.2007).
- Park, M. (2007) "South Korean Labour Movement at the Crossroads: A critique of "Social Movement" Unionism", *Critical Sociology*, 33(1-2): 311-344.
- Seo, Seonyoung (2006) "Migrants' Trade Union and Migrant NGOs in Korea – The experience of One activist", http://migrant.nodong.net/bbs/data/pds_docu/essay_SMC.doc, (retrieved on 18.08.07)

Seol, Dong-Hoon (2000) "Past and Present of Foreign Workers in Korea 1987-2000", Asia Solidarity Quarterly, 2: 6-31, http://dhseol.com.ne.kr/publish/jn2000_02.html, (retrieved on 24.07.2007).

Seol, Dong-Hoon; Han, Geon-Soo (2004): "Foreign Migrant Workers and Social Discrimination in Korea", Harward Asia Quarterly: 45-50, www.dhseol.org/publish/archive/dhseol_2004_haq_vol.8_no.1_pp.45-50.pdf (retrieved on 22.08.07)

Song, Ho Keun (1999) Labour Unions in the Republic of Korea: Challenge and Choice, Geneva: International Institute for Labour Studies.

Yoo, Kil-Sang (2005) "Foreign Workers in the Republic of Korea", Korea Labor Institute, http://209.85.129.104/search?q=cache:m_8cIldj1lgJ:www.jil.go.jp/foreign/countryreport/2005_1107/korea_e.pdf+%22foreign+workers+in+korea%22&hl=de&ct=clnk&cd=4&gl=de&lr=lang_de|lang_en|lang_fr&client=firefox-a, (retrieved on 24.07.2007).

Web page:

KCTU (Korean Confederation of Trade Unions) – Self presentation, www.kctu.org

Country List Spain

- Agrela, Belén (2002) "Spain as a Recent Country of Immigration: How Immigrants Became a Symbolic, Political and Cultural Problem in the "New Spain"", Working Paper 57, *The Center for Comparative Immigration Studies*, <http://www.ccis-ucsd.org/publications/wrkg57.PDF>, (retrieved on 02.09.2007).
- Albarracín, Daniel (2005) "New Rules on Labour Immigration", EIRO (European Industrial Relations Observatory) On-line, <http://www.eurofound.europa.eu/eiro/2004/12/feature/es0412104f.html>, (retrieved on 01.07.2007).
- Alscher, Stefan (2005) "Knocking at the Doors of "Fortress Europe": Migration and Border Control in Southern Spain and Eastern Poland", Working Paper 126, *The Center for Comparative Immigration Studies*, <http://www.ccis-ucsd.org/PUBLICATIONS/wrkg126.pdf>, (retrieved on 12.08.2007).
- Arango, Joaquín; Jachimowicz, Maia (2005) "Regularizing Immigrants in Spain: A New Approach", *Migration Information Source*, <http://www.migrationinformation.org/Feature/display.cfm?ID=331>, (retrieved on 23.06.2007).
- Artiles, Antonio Martin (2003) "Trade Unions Examine Immigration", *EIRO (European Industrial Relations Observatory) On-line*, <http://www.eurofound.europa.eu/eiro/2003/04/feature/es0304205f.html>, (retrieved on 01.07.2007).
- Behr, Dieter et al. (2007) Kampagnenbericht 2006: Bildungs- und Solidaritätsarbeit zur Unterstützung der LandarbeiterInnen-gewerkschaft SOC im "Plastikmeer von Almería"/Südspanien (Österreich, Deutschland und Italien-Südtirol), <http://www.civic-forum.org/index.php?lang=DE&site=MIGRATION&article=922>, (retrieved on 07.09.2007).
- Bell, Nicholas (2005) "Migration, Autonomy, Exploitation: Questions and Contradictions", *ThisTuesday*, <http://thistuesday.org/node/90>, (retrieved on 23.08.2007).
- Bell, Nicholas (2005a) "Migration, Autonomy, Exploitation: Questions and Contradictions 2", *ThisTuesday*, <http://thistuesday.org/node/91>, (retrieved on 23.08.2007).
- Bell, Nicholas (2004) "Migrant Laborforce in the Strawberry Industries", *ThisTuesday*, <http://thistuesday.org/node/83>, (retrieved on 23.08.2007).
- Bell, Nicholas (2004a) "The Exploitation of Migrants in European Agriculture", in: LeVoy, Michele; Verbruggen, Nele; Wets, Johan (eds.) *Undocumented Migrant Workers in Europe*, Brussels: PICUM.
- Bolyos, von Lisa; Behr, Dieter (2007) „Solidaritätskampagne "Plastik/Meer." - Fotoausstellung und Bildungsarbeit“, *Forum Civique*,

- <http://www.civic-forum.org/index.php?lang=DE&site=MIGRATION&article=921>, (retrieved on 07.09.2007).
- Cachón, Lorenzo (1999) "Immigrants in Spain: From Institutional Discrimination to Labour Market Segmentation", in: Wrench, John; Rea, Andrea; Ouali, Nouria (eds.) *Migrants, Ethnic Minorities and the Labour Market*, London: Macmillan Press.
- Cachón, Lorenzo; Valles Miguel, S. (2003) "Trade Unionism and Immigration: Reinterpreting Old and New Dilemmas", *Transfer*, 3:469-483.
- Calavita, Kitty (1998) "Immigration, Law, and Marginalization in a Global Economy: Notes from Spain", *Law & Society Review*, 32(3):529-566.
- Castles, S (1993) "Migration and minorities in Europe: Perspectives for the 90s. Eleven Hypothesis", in: Solomos, J.; Wrench, J. (eds) *Racism and Migration in Western Europe*, Oxford: Berg, 17.34.
- CC.OO (2005) *Do you know your rights? Informative Manual about the Working World*, Barcelona.
- Cornelius, Wayne, A. (1994) "Spain: The Uneasy Transition from Labor Exporter to Labor Importer" in *Controlling Immigration a Global Perspective*, Wayne A. Cornelius, Philip, L. Martin and James F. Hollifield (edt.), California: Stanford University Press.
- De los Santos Castillo, L. Maria; Serrano, Carlos (2004) "The Strawberry Growing in Huelva Region: Keys to Union Intervention", *ThisTuesday*, <http://thistuesday.org/node/85>, (retrieved on 23.08.2007).
- ENAR (2006) "Responding to Racism in Spain" European Network against Racism, www.enar-eu.org/en/publication/national_leaflets/Spain_EN.pdf, (retrieved on 08.07.2007).
- Eurostat (2007) "Europe in Figures: Eurostat Yearbook 2006-2007", http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-CD-06-001/EN/KS-CD-06-001-EN.PDF, (retrieved on 10.08.2007).
- Fishman, Robert, M. (1990) *Working Class Organisation and the Return to Democracy*, Ithaca: Cornell University Press.
- Froum Civique (2005) „Selbstorganisation der MigrantInnen im Plastikmeer von El Ejido“, <http://www.civic-forum.org/index.php?lang=DE&site=MIGRATION&article=614> (retrieved on 07.09.2007).
- Fulton, Lionel (2003) *Migrant and Ethnic Minority Workers: Challenging Trade Unions*, Brussels: ETUC.
- Geddes, Andrew (2003) *The Politics of Migration and Immigration in Europe*, London: Sage Publication.

- Hamann, K (2001) "Spanish Unions: Institutional Legacy and Responsiveness to Economic and Industrial Change", *Industrial and Labor Relations Review*, 51(3): 424-444.
- Hamann, Kerstin (2002) "The Resurgence of National-Level Bargaining: Union Strategies in Spain", *Industrial Relations Journal*, 32 (2):154-172.
- Hamann, Kerstin; Martinez Lucio, Miguel (2003) "Strategies of Union Revitalization in Spain: Negotiating Change and Fragmentation", *European Journal of Industrial Relations*, 9(1):61-78.
- Higginbottom, Andy (2000) "Super-Exploitation of Immigrant Labour in Europe: the Case of Intense Agriculture in Spain", Paper to *the CSE Conference Global Capital and Global Struggles; Strategies, Alliances, Alternatives* in London, <http://www.cseweb.org.uk/downloads/higginbottom.pdf>, (retrieved on 15.07.2007).
- Hogart, Keith; Mendoza, Cristobal (2000) "African Immigrant Workers in Spanish Agriculture", Working Paper 2, *The Center for Comparative Immigration Studies*, <http://www.ccis-ucsd.org/PUBLICATIONS/wrkg2.PDF>, (retrieved on 02.09.2007).
- Huntoon, Laura (1998) "Immigration to Spain: Implications for a Unified European Union Immigration Policy", *International Migration Review*, 32(2):423-450.
- Kahmann, Marcus (2002) *Trade Unions and Migrant Workers: Examples from the United States, South Africa and Spain*, Brussels: ETUI Publication.
- LeVoy, Michele; Verbruggen, Nele; Wets, Johan (eds.) (2004) *Undocumented Migrant Workers in Europe*, Brussels: PICUM.
- LeVoy, Michele; Verbruggen, Nele (2005) *Ten Ways to Protect Undocumented Migrant Workers*, PICUM, <http://www.picum.org/LABOR/PICUM%20Ten%20Ways%20to%20Protect%20Undocumented%20Migrant%20Workers.pdf>, (retrieved on 15.06.2007).
- Libertad, Y Tierra (2005) „Der Kampf für Sozial- und Arbeitsrechte am Beispiel der SOC“, <http://www.malmoe.org/artikel/widersprechen/979>, (retrieved on 13.08.2007).
- Lope, Andreu (2004) „CES Examines Immigration and the Labour Market“, *EIRO (European Industrial Relations Observatory) On-line*, <http://www.eurofound.europa.eu/eiro/2004/10/feature/es0410203f.html>, (retrieved on 01.07.2007).
- Magone, José, M. (2001) *Iberian Trade Unionism Democratization under the Impact of the European Union*, New Brunswick: Transaction Publishers.
- Martin Artilles, Antonio (2003) "Trade Union Examine Immigration", *EIRO (European Industrial Relations Observatory) On-line*, <http://www.eurofound.europa.eu/eiro/2003/04/feature/es0304205f.html>, (retrieved on 01.07.2007).

- Martín, Antonio (2002) "Government Toughens Policy on Labour Immigration", *EIRO (European Industrial Relations Observatory) On-line*, <http://www.eurofound.europa.eu/eiro/2002/09/feature/es0209204f.html>, (retrieved on 01.07.2007).
- Martínez Lucio, Miguel (1992) "Spain: Constructing Institutions and Actors in a Context of Change", in: Ferner, Anthony; Hyman, Richard (eds.) *Industrial Relations in the Europe*, Oxford: Blackwell.
- Martín Muñoz, Gema (2002) "Multiculturalismo e Islamofobia", Enviado por Juan Nicieza. I.E.S. Nº 5, 1 March 2002, <http://www.educastur.princast.es/cpr/aviles/asesorias/proyectos/Martinislamofobia%20.htm>, (retrieved on 10.08.2007)
- Niessen, J. (et al.) (2006) "Current Immigration Debates in Europe: A Publication of the European Migration Dialogue", Migration Policy Group, http://www.migpolgroup.com/multiattachments/3012/DocumentName/EMD_Spain_2005.pdf, (retrieved on 02.08.2007).
- Quit, Teresa Torns (2000) "First Strikes by Immigrants Follows Racist Riots in El Ejido", *EIRO (European Industrial Relations Observatory) On-line*, <http://www.eurofound.europa.eu/eiro/2000/04/feature/es0004184f.html>, (retrieved on 01.07.2007).
- Recio, Albert (2004) "Thematic Feature: Industrial Relations and Undeclared Work", *EIRO (European Industrial Relations Observatory) On-line*, <http://www.eurofound.europa.eu/eiro/2004/06/tfeature/es0406209t.html>, (retrieved on 01.07.2007).
- Rigby, Mike; Marco, Aledo; Luz, Mari (2001) "The Worst Record in Europe?: A Comparative Analysis of Industrial Conflict in Spain", *European Journal of Industrial Relations*, 7(3):287-305.
- Saliba, Ghassan (2004) „What a Union Can Do for Undocumented Workers”, in: LeVoy, Michele; Verbruggen, Nele; Wets, Johan (eds.) *Undocumented Migrant Workers in Europe*, Brussels: PICUM.
- Serra, Albert (et al.) (2005) "Current Immigration Debates in Europe: A Publication of the European Migration Dialogue, Spain", *Migration Policy Group*, http://www.migpolgroup.com/multiattachments/3012/DocumentName/EMD_Spain_2005.pdf, (retrieved on 17.08.2007).
- SOC (w.y.a) "Breve Historia de la Vida del Sindicato", <http://www.soc-andalucia.com/historia.htm>, (retrieved on 10.08.2007).
- SOC (w.y.b) "Estatus del Sindicato de Obreros Del Campo Y Del Media Rural de Andalucía", <http://www.soc-andalucia.com/estatutos.htm>, (retrieved on 10.08.2007).
- Solé Carlota; Parella, Sònia (1999) "The Social Partners and Economic Immigration into Spain", *EIRO (European Industrial Relations Observatory) On-line*, <http://www.eurofound.europa.eu/eiro/1999/04/feature/es9904214f.html>, (retrieved on 25.06.2007).

- Solé, Carlote; Parella, Sònia (2003) "The Labour Market and Racial Discrimination in Spain", *Journal of Ethnic and Migration Studies*, 29(1):121-140.
- Solé, Carlote (et al.) (1998) "Irregular Employment amongst Migrants in Spanish Cities", *Journal of Ethnic and Migration Studies*, 24(2): 333-346.
- Taran, Patrick A. (2002) "Migration and Labour Solidarity", *Global Perspective*, <http://www.ilo.org/public/english/dialogue/actrav/publ/129/5.pdf>, (retrieved on 17.06.2007).
- Vega Garcia, Ruben; Pérez, Carlos (2000) "Radical Unionism and the Workers' Struggle in Spain", *Latin American Perspectives*, 27(5):111-133.
- Ward, Jessica G. (2006) *Constructing Solidarity Coalitions: Supporting Immigrant Farm Workers in the United States and Europe*, Unpublished MA Thesis, Freie University, Berlin.
- Watts, Julie (2000) "The Unconventional Immigration Policy Preferences of Labor Unions in Spain, Italy, and France", Working Paper 5, *The Center for Comparative Immigration Studies*, <http://www.ccis-ucsd.org/publications/wrkg5.PDF>, (retrieved on 21.08.2007).

Theories

- Arango, Joaquin (2000) "Explaining Migration: a Critical View", *International Social Science Journal*, 52(3): 283-294.
- Bieling, H.J. (1993) Nationalstaat und Migration im "Postfordismus" – Gewerkschaften vor der Zerreiprobe, Forschungsgruppe Europische Gemeinschaften (FEG), Marburg, pp. 138 - 199
- Blum, A. A. (1959) "The Political Alternatives of Labor", *Labor Law Journal*, 10(9): 623-631.
- Castel, Robert (2000) "The Road to Disaffiliation: Insecure Work and Vulnerable Relationships", *International Journal of Urban and Regional Research*, 24(3):519-535.
- Castles, Stephen; Kosack, Godula (1985) *Immigrant Workers and Class Structure in Western Europe*, London:Oxford.
- Delgado, Hctor, L. (1993) *New Immigrants, Old Unions Organising Undocumented Workers in Los Angeles*, Philadelphia: Temple University Press.
- Drre, Klaus (2005) "Prekaritt – Eine arbeitspolitische Herausforderung", *WSI Mitteilungen*, 58 (5): 250-258
- Drre, Klaus (2006) "Prekariat – Ursachen und Folgen unsicherer Beschftigung", www.goethe.de/ges/soz/dos/arb/pre/de1870532.htm, (retrieved on 31.07.07)
- Fairbrother, Peter (2005) "Wanted a New Trade Unionism for Europe", *Eurotopia*, (1): 4-5, http://www.crimt.org/English/Bottom_GTRC_Diffusion_eng.html, (retrieved on 20.08.2007).
- Fichter, Michael (2008) "German Trade Unions and Right Extremism: Understanding Membership Attitudes", Accepted for Publication *European Journal of Industrial Relations*, 1:1-21.
- Ford, Michele (2006) "Migrant Labor NGOs and Trade Unions: A Partnership in Progress?", *Asian and Pacific Migration Journal*, 15 (3): 299-311.
- Frege, Carola M.; Kelly, John (2003) "Union Revitalization Strategies in Comparative Perspective", *European Journal of Industrial Relations*, 9(1): 7-24.
- Hammar, Tomas; Brochmann, Grete; Tamas, Kristof, (et al) (eds.) (1997) *International Migration, Immobility and Development*, Oxford: New York.

- Hayter, Teresa (2000) *Open Borders The Case Against Immigration Controls*, London: Pluto Press.
- Hodges, D.C. (1961) "The Rise and Fall of Militant Trade Unionism", *American Journal of Economics and Sociology*, 20(5): 483-496
- Hyman, Richard (1998a) 'Five Alternatives for West European Unionism'
<http://www.antenna.nl/~waterman/hyman.html>, (retrieved on 08.03.2007).
- Hyman, Richard (1998b) 'Imagined Solidarities: Can Trade Unions Resist globalization?'
<http://www.antenna.nl/~waterman/hyman2.html>, (retrieved on 08.03.2007).
- Koser, Khalid (2005): Irregular migration, state security and human security, a paper prepared for *Global Commission on International Migration*,
<http://test.gcim.org/attachements/TP5.pdf>, (retrieved on 18.06.2007).
- ICRMW (2003) *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*,
http://www.unhchr.ch/html/menu3/b/m_mwc_p1.htm, (retrieved on 18.06.2007).
- ILO (2006) *ILO Multilateral Framework on Labour Migration*, Geneva: ILO.
- Jayaraman, Sarumathi; Ness, Immanuel (2005) *The New Urban Immigrant Workforce: Innovative Models for Labor Organizing*, New York, London: M.E Sharpe.
- Karakayali, Serhat; Tsianos, Vassilis (2005) "Mapping the Order of New Migration. Undokumentierte Arbeit und die Autonomie der Migration", *Peripherie* 25 (97/98): 35-64.
- Lloyd, Cathie (2000) "Trade Unions and Immigrants in France: From Assimilation to Antiracist Networking" in Penninx, R.; Roosblad, J. (eds), *Trade unions, Immigration, and Immigrants in Europe : 1960 – 1993: a Comparative Study of the Attitudes and Actions of Trade Unions in Seven West European Countries*, New York and Oxford: Berghahn Books.
- Martin, Michael, T. (1999) "'Fortress Europe' and Third World Immigration in the post-Cold War Global Context", *Third World Quarterly*, 20(4):821-837.
- Milkman, Ruth (2000a) "Immigrant Organizing and the New Labor Movement in Los Angeles", *Critical Sociology*, 26 (1/2):59-81.
- Milkman, Ruth (2000b) *Organizing Immigrants: The Challenge for Unions in Contemporary California*, Ithaca and London: Cornell University Press.
- Moody, Kim (1997). "Towards an International Social-Movement Unionism", *New Left Review*, No. 225: 52-72.

- Neary, Michael (2002) "Labour moves: A Critique of the Concept of Social Movement Unionism",
<http://www.labournet.de/diskussion/gewerkschaft/smu/neary.html>,
 (retrieved on 14.03.2007).
- Penninx, R.; Roosblad, J. (eds.) (2000) *Trade unions, Immigration, and Immigrants in Europe : 1960 – 1993: a Comparative Study of the Attitudes and Actions of Trade Unions in Seven West European Countries*, New York and Oxford: Berghahn Books.
- Piper, Nicola (w.y.) "Social Development, Transnational Migration and the Political Organising of Foreign Workers",
<http://www.ohchr.org/english/bodies/cmw/docs/piper.doc>, (retrieved on 12.02.2007).
- Portes, A. (1994) "The informal Economy and its Paradoxes", in: Smelser, Swedberg (ed.), *The Handbook of Economic Sociology*, 427-449.
- Robinson, I (2000) "Neoliberal Restructuring US Unions: Toward Social Movement Unionism", *Critical Sociology*, 26 (1-2), pp.109-138.
- Sassen, S. (1998) *Globalization and its Discontent*, New York: The New Press.
- Sassen, Saskia (2001) "The Excess of Globalisation and the Feminisation of Survival", *Parallax*, 7 (1), pp. 100-110.
- Schweizer, J. (2004): "The Informal Behind the Formal: The Unofficial Workers Supporting Vietnamese-Owned Retail Businesses in Berlin", in: Manning, Stephan; Mayer, Margit (eds.), *Praktiken informeller Ökonomie. Explorative Studien aus Berlin und nordamerikanischen Städten*, working paper No. 2, John-F.-Kennedy-Institut Free University, Berlin: 54-70.
- Scipes, Kim (1992) "Understanding the New Labor Movements in the "Third World":
 The Emergence of Social Movement Unionism",
http://www.labournet.de/diskussion/gewerkschaft/smu/The_New_Unions_Crit_Soc.htm, (retrieved on 13.03.2007).
- Sheppard, Brian Oliver (2005) "The Anarcho-Syndicalist Answer to Corporate Globalisation",
<http://www.anarchosyndicalism.net/as.php>, (retrieved on 10.09.2007).
- Spivak, Gayatri Chakravorty; Kerner, Ina (2003a) "Definitiv aus einer anderen Perspektive. Interview mit der postkolonialen Theoretikerin Gayatri Chakravorty Spivak", *IZ3W - Informationszentrum 3. Welt*, Apr./May: 39-41.
- Spivak, Gayatri Chakravorty; Sharpe, Jenny (2003) „A conversation with Gayatri Chakravorty Spivak: Politics and the Imagination, *Signs – Journal of Women in Culture and Society*, 28(2): 609-624.

- Taran, Patrick; Geronimi, Eduardo (2003) "Globalization, Labour and Migration: Protection is Paramount",
<http://www.ilo.org/public/english/protection/migrant/download/pom/pom3e.pdf>, (retrieved on 04.06.2007).
- Van der Linden, Marcel (2004) "Der lange Abschied. Die Zukunft der Gewerkschaften ist transnational", *IZ3W - Informationszentrum 3. Welt*, Aug./Sept.: 42-43
- Voss, Kim; Sherman, Rachel (2003) "You Can't Just Do it Automatically: The Transition to Social Movement Unionism in the United States", in: Fairbrother, Peter; Yates, Charlotte, A.B. (eds), *Trade Unions in Renewal: A Comparative Study*, London:Continuum.
- Waterman, Peter (1998) "Needed: A New Language to Contribute to a New 'International Social-Movement Unionism'",
<http://www.antenna.nl/~waterman/needed2.html> (retrieved on 17.08.07).
- Webster, Eddie (1988) "The Rise of Social-Movement Unionism: The Two Faces of the Black Trade Union Movement in South Africa", in: Frankel, Philip; Pines, Noam; Swilling, Mark (eds.) *State, Resistance and Change in South Africa*, New York: Croom Helm, 174-96.
- Wrench, John (1997) "Trade Unions, Migrants and Ethnic Minorities in the European Union, National Differences and Common Dilemmas", Papers Migration No: 20, *Danish Centre for Migration and Ethnic Studies*, South Jutland University Press.
- Wrench, John (2004) "Trade Union Responses to Immigrants and Ethnic Inequality in Denmark and the UK: The Context of Consensus and Conflict", *European Journal of Industrial Relations*, 10(1):7-30.
- Wrench, John (1996) *Preventing Racism at the Workplace*, Ireland: European Foundation for the Improvement of Living and Working Conditions.

Methods

- Bayat, Asef (2001) "Studying Middle Eastern Societies Imperatives and Modalities of Thinking Comparatively",
<http://fp.arizona.edu/mesassoc/Bulletin/35-2/35-2Bayat.htm>, (retrieved on 10.08.2007).
- Lim, Timothy, C. (2006) "Doing Comparative Politics: An Introduction to approaches and Issues." Excerpt,
<http://www.rienner.com/lim.pdf>, (retrieved on 28.07.2007).
- Landman, Tod (2003) *Issues and Methods in Comparative Politics: An Introduction*, London/New York: Routledge.

- Meuser, M. and U. Nagel (1991) „ExpertInneninterviews - vielfach erprobt, wenig bedacht. Ein Beitrag zur qualitativen Methodendiskussion“, in Garz, D.; Kraimer, K. (eds.) *Qualitativ-empirische Sozialforschung: Konzepte, Methoden, Analysen*, Opladen: Westdeutscher Verlag, 441-471.
- Locke, Richard; Thelen, Katleen (1995) “Apples and Oranges Revisited: Contextualised Comparisons and the Study of Study of Comparative Labor Politics”, *Politics and Society*, 23(3): 337-367.
- Smelser, Neil, J. (2003) “On Comparative Analysis, Interdisciplinarity and Internationalisation in Sociology”, *International Sociology*, 18(4): 643-657.

Annex

1. Interview for the Case Study on Korea

Interview with Rebecca Roth, Journalist. (31.07.07)

Rebecca is a German journalist. She has written an article on the MTU in the ver.di journal "Publik" (June 2007). One of her parents is of Korean origin and she went this year to Seoul in order to interview members of the MTU (Migrant Trade Union). We had her contact from one of her Korean friends (Hae-Lin Choi), also interested in the MTU.

The interview took place with the three authors of the thesis and Rebecca Roth. It was held in English.

After a preliminary discussion on Rebecca's job, the global labour university, our thesis and the father of her friend Hae-Lin who seems to be involved in the migrants struggles, the interview began. Beforehand she gave us some contacts in the migrant movement: Masum, general secretary of the MTU, Wol-San Liem, communication officer of the MTU, Kim Jin-Ok working at the planning department of the KCTU and interest in the migrant struggles. (Later we heard that he is not working anymore for the KCTU)

Could you tell us the history of the MTU?

The MTU is a self organisation of migrant workers. The KCTU (Korean Confederation of Trade Unions) did not found them. They are quite small, they have around 800 members. First it was a coalition between many organisations, but I don't know exactly. The father of Hae-Lin generated interest to support migrants. Korean labour unions are not really solidary with the MTU. They don't finance them. They finance themselves through donations. The MTU has to do everything on its own.

Do you think it is good to be a separate union?

The problem are the small companies. In Korea there is a lot of small and medium sized companies, like in Japan. The workers in these firms are really dependent on their bosses. There are no unions there. Most of the migrants are

working in these firms. The Korean unions didn't accept the MTU. There are some supportive Korean unionist but there is competition between the different interests. The MTU is not really a union, it is about documents, about legalisation. The MTU is still illegal. It went to court and it won but then an other instance appealed against the court decision. Until now they are not legal. Their main goals are legal rights.

Why did they found a union, could they not have found an NGO?

Because of their self image. They consider themselves primarily as workers. There is a lot of migrants in Korea and also a lot of trafficked women; They are isolated, not organised.

Are they regarded as workers by the MTU?

Yes, I think they do, the difficulty is that these women are mostly leaving in the country side. A lot of MTU members are men. These women are isolated, they don't see anyone. They come with a kind of mafia, these are the reasons why it is difficult to have contact with them.

Which nationalities are the most represented in the MTU?

All kind of Asian migrants but also African and East European migrant workers. There is lot of Russian speaking migrant workers, they come with an artist visa. There is the problem of the competition between migrants. Ethnic Korean have a different position or rather they might think they have a different position. During the demonstrations against the trainee system, the government promised that if they come back to their countries, they could come back to Korea. They believed the government and they came back but they couldn't come back to Korea. Maybe some did illegally.

Can refugees work in Korea?

There are a lot of Burmese refugees, they can work and they are part of the union. They have a better position. The status separate the migrant workers. The MTU is about undocumented workers but they are open, even if you would come from Canada. I know teachers who became undocumented because they

were unsatisfied with their working conditions. You can become undocumented just if you change your company.

From this month on the government wants to intensify crack downs and to send all undocumented back. Economically it doesn't make any sense. The employers need the migrants. I think that I am a kind of neo-liberal, I think that if regulations don't make sense economically that doesn't work. The migrants have to take huge loans to come to Korea.

What is the perception of Korean workers toward migrants?

It's like in Germany, they think that they are taking their jobs. The reality is that Koreans don't want to make anymore the jobs the migrants are doing. There is unemployment in Korea, but if you take people of my generation with university education, if we are unemployed we would never think about working in factories.

What are the main activities of the MTU?

A lot of counselling and campaigning. Counselling is the most important. Additionally, every community has its own network, the Indonesians, the Mongolians...The migrants are highly educated. They have middle class backgrounds, political backgrounds. A friend as an internet portal, most of them have internet access. If something happens it is not unnoticed. They have mobile phones and video cameras. They are not like uneducated, they end up working in factories, they say "I am too clever to do that job". Sometimes they know how to improve the production process but if they say to the boss "look, we could do it that way", they can't because they are migrants, the boss won't hear at them...

Do you know if they had trade union backgrounds in their countries?

Some had trade union background in their countries. Masum (general secretary of the MTU), his father was trade unionist.

Do they want to have more contact with the KCTU?

They are hoping for. If any group of the KCTU is doing a demonstration the migrants will always go there. They went to all the demonstrations against the NAFTA between the US and Korea.

The other way round?

Only on an individual basis. Masum is always saying “ they are very supportive to us”. But I suppose it is kind of communication strategy.

Could we come back to the history of the foundation of the MTU?

Yes. It is a complex story. I think 2002, 2003, I have a very bad memory for numbers, a lot of crackdowns. There was an alliance of many groups, churches, NGOs, demonstrating against the trainee system. Migrant workers have more rights now, I think that they have more rights. At that time they didn't succeed but the migrants workers bargained together. At that time a lot of migrants groups emerged. The MTU was founded. The Korean groups were only for human rights but not for total legalisation. The problem was: what is going to happen to the people who overstayed? The KCTU didn't accept the MTU at that time. Not as normal unionists. Even if you are documented you are not allowed to be unionised or to be politically active. Even English teachers for instance.

(Remark from one of the interviewer – I am surprised, have read that they can be member)

The MTU has lawyers and I think documented are not allowed to join a unions but maybe I should verify.

Do you think it is rather good or rather bad to have an union on their own?

I think it is not good to be isolated. In fact I think it has both sides. I think it is good but it wasn't their choice. The KCTU didn't help them. The small and middle size companies are the problem. Oh, I met someone very interesting the president of the “fired unions association”, it's a funny name, in Korea you have a lot of unionists who were fired. To come back on the issue, I think it is good because someone really speaks on undocumented issues and because they

Speak for themselves but in terms of unions it is not so good. It would be better if Korean unionists would support and assess their economic needs. In this way they are only a small group. It is the same situation everywhere in the world, unions in Germany are also not doing a lot on undocumented. Unions, how they are organised, they are not really capable. Look at outsourcings, they also have difficulties. I know there is this Verband der Vnderarbeiter in Germany. Unions have to change.

It makes a huge difference for the MTU to have the KCTU in their background. At the legal level. MTU members, for instance Masum have also representative functions in the MTU and then people trust himself.

Korea has a huge history of immigration, in the past Korean went to countries like Dubai, political activists went to Western countries... The Korean public doesn't have in mind how many Korean went abroad. Still they are reluctant to open their migration policy. That's a kind of bizarre nationalism. Korea has a self image of better of, of industrialised country. That's how they treat people. Rich country people are better treated.

What I also wanted to tell you, Korea perceive itself as ethnic homogeneous, they don't want mixed children. But there are a lot of mixed children like me and now that the birth rates are declining, many women don't have children and they are importing women.

Importing women?

Yes, importing women mainly from Vietnam.

We have heard that if a Korean woman wants to marry a foreign man she can't register her marriage in Korea but for Korean men it's different.

Oh no I don't think, some of my friends have married Korean women and these are legal marriages. Once I asked a friend of mine if it is easier for the papers to be married and he didn't speak with me for one week. He was very angry, I know that he really loves his wife but maybe he thought, I think he did it only for the documents. It seems to be taboo because in Europe it is not something strange that one marries for documents everybody knows.

Thank you very much for all information, that was very interesting and we have learnt a lot. The MTU is a very famous union.

Yes, it is, I think that Anwar (president of the MTU who has been deported) came back because of international attention. The union is very famous. But it is so difficult for them, Masum for instance, tries never to go out alone, only with friends, for protection.

E-mail interview with the communication officer of the MTU, Wol-San Liem on the 05.08.07

Dear Luciole, Özge, Beate

Thank you for your email. I'm sorry it has taken me a little while to get back to you.

When I go to the office tomorrow I will send you a document that includes a brief history and timeline of the foundation of MTU. In fact I was not around when the union was founded so there are other people who could tell you in more detail.

In brief however, migrant workers' first union organizing was as a branch of the Equality Trade Union. Due to various issues that arose from working amongst a wide variety of Korean organizations and activists migrants determined they needed their own independent organization and formed MTU in 2005.

Please scroll down for answers to your other questions. If you need more specific information please write to me and I will answer in consultation with officers in MTU.

Would you please be so kind to tell us the story of the foundation of your union? Where did the initiative come from? Were other options proposed (being a department in the KCTU, founding an NGO ...)?

See answer above

Additionally we would be interested to know how the KCTU is cooperating with the MTU?

While formed independently MTU is part of the Seoul Regional Council of KCTU. We do not have enough members to be part of KCTU national. We work cooperatively with Seoul Regional council although there is not enough active support from KCTU overall for the migrants struggle. This has changed recently in the wake of a large fire at a detention center in Yeosu which killed 10 migrants and wounded many others. Since then a standing coalition for migrants rights - the Alliance for Migrants' Equality and Human Rights <http://www.migrantsact.org/intro.php>- of which KCTU is a part and KCTU has been showing more active interest in the migrants struggle.

Is there any federation cooperating with you (metal worker federation or others?)

Given the large percent of migrant workers in industries under the jurisdiction of the Metal Workers Union there is recognition of the need to work out a productive relationship and means of organizing this workers. Dialogue however is only in the beginning phases. Recently MTU has been in productive dialogue and cooperation with the Seongseo Industrial Complex Trade Union which is organizing migrants as its members. In addition there are many social movement organizations that actively support MTU and the migrant workers struggle.

Could you please also tell us about the structure of the MTU and the composition of its membership? About its strategies? Did they changed over time and compared with the period before the foundation of the union?

When I am in the office tomorrow I will send you a diagram of the structure of MTU.

Although MTU is for undocumented and documented workers from all nationalities the majority of its membership is currently from Nepal. There are also members from Bangladesh, Vietnam and Sri Lanka. The problem of different language has made it hard to organize in all communities although we

are working to overcome this issue. Right now MTU is focused very much on opposing a mass crackdown against undocumented workers which began at the beginning of this month and is supposed to carry out till the end of the year. It has always been our demand to end the crackdown and change the current system- Employment Permit System to a Work Permit System. We have come together with other organizations to call for full legalization of all undocumented migrants and also begun this year to discuss organizing women workers. I will send you MTU's English brochure tomorrow.

**E-mail interview with the communication officer of the MTU,
Wol-San Liem on the 17.08.07**

Dear Wol-San,

I would like to ask you some more questions in order to understand the situation of the MTU. Could you please be so nice to give us some more insights?

Given the fact that the first migrant workers organisation was in the equality branch of the KCTU, how do you estimate the benefits / difficulties of being a union on your own, instead of being in a department (branch?) as before?

There are of course many opinions about this but I believe that at this point in time an independent organization of migrant workers is needed although of course continued solidarity and cooperation with Korean workers is absolutely necessary.

There are many obstacles to overcome for MTU as an independent union- many centred on lack of language skills and other resources, but migrants must build power right now in order to work equally with Korean workers. I was not around when ETUMB was functioning and I do not know what issue arose inside that union in particular. But I do know that there has always been an issue with Korean people (often service/religion support center people) trying to act as the voice for the migrants struggle. An independent organization is

needed to empower migrant workers as actors in the movement. In the long term I think it is necessary to return to organizing Korean and migrant workers together and as I said before some effort is being made in a few unions. However I think even as this happens migrants need an organization that can represent their specific interests and also make political demands (related to changing the migrant workers system in Korea).

Could you tell us in what consist your cooperation with the KCTU? (what are you doing together?) In which cases they have been more supportive?

MTU as I think I said is a member of KCTU Seoul Regional Council and has a good working relationship with them. In terms of KCTU central it is only recently that there has been more support- more for the migrant struggle as a whole than for MTU in general (of course though there is overlap)- since the Yoesu fire KCTU has participated in the standing and no permanent coalition for migrants right (now named Alliance for Migrants' Equality and Human Rights). This international conference is also a first and very important, but is more individuals within KCTU rather than the whole organization that are actively supportive.

What do you think could the KCTU do more for the migrant workers struggle?

KCTU as a special committee for minority unions such as women. We have insisted that we should be included there but have not been. This would be a step in the right direction.

In addition KCTU should establish point people to dialogue and strategize with MTU and work actively to organize migrant workers. IT also needs to conduct education among member unions about migrant workers to raise awareness and overcome the anti-migrant attitudes in some unions.

Does the KCTU supports the call for legalisation for all migrant workers?

Yes. They also support the call for the Work Permit System

How would you assess the perception of the Korean civil society and of Korean workers in particular towards migrant workers?

I believe there is a general awareness among civil society that there migrant workers are an issue but many groups take a patronizing attitude - thus much work around migrants is heavily dominated by service centers. In the end- this can have the negative effect of doing the services the government should be providing and does not lend itself to building the leadership of migrant workers.

For Korean workers while it is definitely not true of all- there are some who think migrant workers steal jobs and therefore oppose migrants being allowed into Korea. Of course there is also individual comradery between Korean workers and migrants working in the same small factories at times. I think in general many workers do not know much about the situation or struggles of migrant workers.

What do you think could be the reasons for the current support for the migrant workers (after the fire in Yeosu)?

Hard to gauge but- the Yeosu fire was really terrible and brought a relatively lot of visibility within the movement. The forces now showing interest are not really new forces, they are movement forces that have known of the struggle for a long time. Many have worked together in the past- yeosu made a standing coalition possible and this is important. Now an intense joint crackdown against migrants has started and that also draws support but because of other struggles going on resources are not as high as they could be.

What are the main challenges or difficulties in organizing migrant workers?

fear of crackdown, temporary nature of work, language differences, long hours (no time for union activities), union members get caught in crackdowns all the time.

2. Interview Questions for the Case Study on Germany

Questions to IG BAU federal level

1. What are your tasks as head of the International Relations and European Construction Policies Department?
2. How has the discourse of the the IG BAU concerning labour migration within the last 15 years changed? What has changed?
3. What were IG BAU's considerations to built an own union rather than a department within IG BAU?
4. Could you please describe what the cooperation strategy between the IG BAU and the EMWU is?
5. In the 1990s the IG BAU and trade union within different European countries signed cooperation agreements. During the initial phase they focused on mutual support during industrial action. Did other fields of cooperation develop since then, if yes, which?
6. To my knowledge IG BAU also organises undocumented migrant workers. Since when is this the case? Do you have any distinct strategies to reach undocumented or precarious migrant workers?
7. How do you evaluate the success of the Berlin Declaration on the Provision of Seasonal Work (2002)?
8. IG BAU is aiming at combating undocumented employment (both domestic and migrant workers). Further on, IG BAU demands an extension of EU temporary provisions of freedom of services for EU Eastern accession states. Some authors argue, though, the more restricted the legal access the higher the entries of undocumented workers. In order to understand IG BAU's demands I would like to know what are the considerations for IG BAU's policy demands?
9. The Finish Construction Union has decided not to extend the temporary provision of freedom of movement for workers due to the reflection that more posted workers would enter the country in this way. Being aware of the fact that the situation of the Finish construction sector is another case then the German one, still I want to raise the question: Did IG BAU also think in this direction?

Questions to IG BAU Berlin

10. Can you tell us please, how many migrant members does IG BAU Berlin have? In your member statistics do you differentiate between precarious and/ or illegal occupation of migrant workers? If yes, how many of each joined the IG BAU?

11. If we think about migrant workers in precarious jobs, which groups of migrants concerning their legal status are employed for the most part?
12. What is the attitude of most German workers on their migrant colleagues?
13. Do you offer any kind of special services to migrant workers? If yes, which?
14. How does the unionisation of migrants in precarious jobs and undocumented migrants in informal jobs work?
15. How do you estimate the effect of the Posted Workers Act and the EU Posted Workers Directive?

Questions to the European Migrant Worker's Union

16. How many members does the EMWU currently have?
17. Are only construction workers members of the union, or also workers from other sectors?
18. What are the main activities of the EMWU?
19. What is the reason that in German the term association rather than trade union is used for the EMWU?
20. The statute of the EMWU states that the workers who are posted migrant workers and others who support the work of the union in any form members can become members. How is your stance to organise undocumented migrant workers?
21. Could you please let me know what are the advantages and disadvantages of being a migrant workers union of its own instead of being included in one "ordinary" trade union?
22. On the website of IG BAU it was said that in 2006 it was possible in Germany for the first time ever to obtain legal right from the labour court for informal workers who had been victims of wage fraud. Was it the first time that informal workers got legal support from your union? Do you also try to support undocumented workers in the same way?
23. What are the political demands of the EMWU concerning labour migration?
24. I assume many of the workers you support are precarious workers. From your experience are migrant precarious workers affected in the same way as domestic workers or do you find special features of the migrants' situation?
25. As observing the press releases concerning wage fraud you seem to be very successful. In which subject do you still want to improve the success of the EMWU?

3. Email Interview for the Case of Spain

Email exchange with Spitou Mendy on the 06.08.2007

Hello Özge,

we are building an alternatif, class based, militant unionsism in order to really defend our rights and interests as workers, precarious workers, migrant workers or inactives. We are a grass roots organisation in order to progress in the building of a society which is more just, more free, more human, where exploitation, poverty and the destruction of the nature would not be necessary.

Yes, we are one of the seldom union structure considering migrant workers as working people and that they deserve support in their endless obstacle courses.

It is in this way that we inform, train, orient on the legalisation process, give Spanish language courses and courses on unionism Our system is very easy: we go to the workers home and we speak with them on their rights and duties. It works.

We are only 5 unionist at the level of the region of Almeria: 2 Moroccans, one Spanish woman, one Argentinean (with Spanish nationality) and me, Senegalese

We go down to the green houses when an open conflict occurs between the workers (who actually call us) and the boss, who in this case can't bare our undesirable presence and we discuss with the workers. An other side of our support toward the workers, migrants, is to accompany them in juridical matters up to wages matter.

On French documents, I am not sure if some exist, in English as well.

I thank you in the name of the group and ensure you our total disponibility on the work we do here, in order to be helpful to you.

Email interview with Spitou Mendy 27.08.2007

Est-ce que vous avez un programme d'action pour organiser les travailleurs immigrés ?

What is your policy on organising migrant workers in agriculture sector?

We have a programme for the self organisation of the migrant workers in order to better tackle specific demands to their area of activity in our offices and in their housing.

Jusqu'à maintenant quelles ont été vos activités et vos campagnes concernant les travailleurs immigrés ?

So far what kind activities and campaigns have you been organized concerning migrant workers?

Until now our activities and campaigns are information campaigns on the collective agreements, law texts on migration, support during the legalization processes, demands of unpaid wages etc.

Pourriez-vous nous donner quelques informations au sujet de la structure de votre organisation?

Par exemple, quel sont les principaux domaines d'activités du SOC (pas seulement SOC Almeria) ?

Combien de travailleurs immigrés sont membres du SOC et quel est leur pourcentage total ? Quel est le rôle des travailleurs immigrés dans les procédures de décision ? Dans quelles régions est-ce que vous êtes actifs?

Could you give us some information about your organizational structure?

For example how many migrant workers are members of the SOC and what is their percentage in total membership? How many members do you currently have?

The SOC is a workers union and as such struggle for the material and moral interests of the workers regardless of their origin, nationality or race. Since its birth in 1976, the SOC attracted the attention of the public (or showed its originality) with its radicalism, expropriation of rich land owners: the land to

who is cultivating it , occupation of farms, road blockades etc. The SOC has cooperatives in Seville and is active in the political area with CUT, until the last municipal elections the SOC had a mayor and people in the city council of Osuna (Seville).

The number of the migrant workers members of the SOC is noteworthy, especially in Almeria, about 90 %. But this is a short term membership, that means that they take a membership only to solve problems and after it is over. They don't have any union or ideological culture. The illiteracy rate is quite important among the migrants. In the province where we work, a member, a vote. When we take decisions, this is a worker, a vote. Right now we are active in Andalusia but the trend will generalise with the set up of the SAT.

Quelles sont vos revendications pour les travailleurs immigrés?

Est-ce que le SOC a des conventions collectives avec les employeurs ? Si oui, quels sont les clauses concernant les travailleurs immigrés.

What are your demands for migrant workers? Do you have any collective bargaining? If so, what are your demands for migrant workers, particularly in your collective bargaining agreements?

Our demands are wage-, respect-, workers dignity demands regardless of the origin of the workers. There are not only migrant workers and we don't specify the demands except for the documents. The collective agreements are the same for all workers of a same occupational sector in the provinces. Only the big unions, Comisiones Obreras and UGT sign, the SOC do not.

Est-ce que le SOC coopère avec des associations d'immigrés et des ONGs? Si c'est le cas, est-ce que vous pourriez nous expliquer en quoi consiste votre coopération ? Est-ce que le SOC coopère avec d'autres syndicats ? Si oui, en quoi consiste ses relations inter-syndicales ?

Does SOC have any special cooperation with migrant associations and NGOs? If yes, could you explain the extent of this cooperation? Does the

SOC have any cooperation with other trade unions? If yes, could you tell about these relations?

The SOC cooperates with the migrants associations, which it contacts each time it is necessary. Nevertheless, these associations are some times lukewarm when it is about struggling with the SOC.

With other unions, yes. In the domain of struggles, one has always to try to be the biggest number to go demonstrating in the street. With USTEA, CGT and the Social Forum of Almeria and the migrants associations we united sometimes in order to demonstrate. This assume a previous work : exchange of ideas

Comment est-ce que vous appréhendez la perception des travailleurs espagnols en particulier et des Espagnols en général envers les travailleurs immigrés ?

Après l'incident de El Ejida en 2000 quelles ont été les différentes réactions des travailleurs espagnols et des espagnols en général?

Pendant et après l'incident, quelles ont été les réactions des syndicats autres que le SOC?

How would you asses the perception of Spanish workers in particular and Spanish people in general towards migrant workers? After the incident that happened in El Ejida what was the reaction of native workers and Spanish people? During and after this incident, what kind of attitude trade unions other than the SOC have taken?

The policies always have tried to mobilize the locals against the migrant workers. Things are flustered which in fact are not affecting us in practice. In the agricultural sector for instance, the facts show that these discourses are wrong: the nationals do not want the work that the migrant workers are doing. After El Ejido 2000, there is a distrust toward the workers from the Maghreb, nothing more. Even, some are saying that they prefer the workers from Sub-Saharan Africa.

The other trade unions don't publicise themselves with the migrant workers, especially not with illegals like the SOC do.

En 2000 les travailleurs immigrés sont entrés en grève après l'incident de El Ejida. Savez-vous qui a organisé la grève? Quel a été le rôle du SOC pendant cette grève?

In 2000 migrant workers went on strike just after the El Ejida incident. Do you know who did organise this strike, trade unions or migrant workers themselves? What was the role of SOC during migrant workers strike in 2000?

The strike movement I have heard about was supported and led by a group of people which will be active in the SOC, because it is from there, that the SOC has decided to build the section of Almeria with Gabriel Mbincky (Ataya), Abdelkader Chacha, and José.

Quelle est votre position par rapport à la politique actuelle du gouvernement sur ' immigration en général et sur la question des quotas en particulier ?

How do you evaluate the current government policy on migration in general, and the quota system in particular?

We have always raised our voices to say no to the bad migration policies. When I hear quotas, I hear employment from the countries of origin? If it is the case, we rejected it and denounced it in our press articles.

Quels sont les challenges principaux ou les difficultés que vous rencontrez quand vous voulez mobiliser les travailleurs immigrés? What are the main challenges or difficulties in organizing migrant workers?

This is not easy to organise for the simple reason that the undocumented lives in fear. But we were able to organize between 4 and 5000 shortly before the normalization of 2005 and for other occasions.