

Organising for change: can trade unions make a difference?

Annie Phizacklea, Department of Sociology, Warwick University

For well over thirty years we have seen a relentless shift of production to lower wage countries. It may have started with clothes, shoes and toys and certain electronic goods, but now it is high value goods such as biotechnology, as well. China is now regarded as the manufacturing hub of the world with 90% of the world's kettles and 70% of the world's microwaves manufactured there (Guardian, Nov.19th 2003). Why?, because lower labour costs remain the single biggest factor in determining the relocation decision, for instance labour costs are between 5 and 20 times lower in China than they are in countries such as the UK.

Thus the decline in 'moveable' jobs in so-called post industrial societies appears unstoppable, even service jobs that appeared to be taking up some of the slack from manufacturing job losses, such as call centres, are now moving off-shore at a rapid rate.

But what about 'unmoveable' jobs?. There remain many service jobs that cannot be moved, someone has to care for children, clean streets, hospitals, hotels etc. But in addition, there remain manufacturing and agriculture sectors which fight competition from a global market through ever more casualised working practices. All of this has happened within a political climate in Europe where the emphasis has been on the de-regulation of labour markets.

The casualisation and flexibilisation of labour in Europe has taken on a new profile. We are now talking about a situation where countless numbers of irregular migrants who cannot enter 'Fortress Europe' in a regularised way, because of stringent immigration controls, accept these jobs as a way of life or are deceived or intimidated into doing so and then find there is no way out. The latter group are made up of very different categories of migrants, some are smuggled, some are trafficked, some are asylum seekers who are denied access to the labour market, some are overstayers (though as we shall drawing nice clean boundaries in legal terms between these groups is very different in reality). But there is increasing evidence to show that many

who have legal access to work as intra-European migrants are caught up in a system of sub-contracted labour which is highly organised and flouts employment protection.

Irregular migrant labour in Fortress Europe.

Since 1992 the freedom of movement provision of the single European Market in theory allows any citizen of an EU country freedom to travel to and settle in another member state for reasons of employment. In May 2004 eight Eastern European states joined the EU, (in official jargon referred to as EU8 countries) along with Cyprus and Malta. 12 out of the 15 existing EU states imposed restrictions on the entry of workers from the EU8 states fearing that such workers would undercut wages. Ireland and Sweden did not impose restrictions on access to their labour markets for EU8 countries. The UK has no ex-ante restrictions either but introduced a workers registration scheme for EU8 nationals (Commission of the European Communities (CEC), 2006: 4). Workers from these countries already in the UK, but without permission to work were allowed to continue working if they registered to do so. As Levinson points out;

‘this in effect has been an amnesty, as there would have been no point in seeking to detect and detain these people who on return to their country of origin would have been eligible to return to the UK to work. Moreover it is recognised that the work that they are doing is often in sectors such as agriculture and hospitality where there is a shortage of labour’ (Levinson, 2005: 31) A report from the European Commission has argued that despite fears to the contrary Eastern European workers have contributed to economic growth in Britain, Ireland and Sweden. In contrast, the report suggests that in those countries which imposed restrictions there have been higher levels of undeclared work (CEC, 2006).

But for those migrants originating beyond the boundaries of ‘fortress Europe’ immigration is strictly controlled, allowing affluent countries to pick and choose whom they allow to enter. In the name of ‘managed migration’ there is now a highly stratified system of immigration control operating in all affluent societies (Kofman, Raghuram and Merefield, 2005). The UK will fully implement such a points based system within the next 2 years. This stratification reflects differences in economic resources and human capital with corresponding differences in degrees of autonomy over mobility, entry and residency rights. At one end of the continuum are the

growing numbers of persons located within transnational networks where; 'Participants are often bilingual, move easily between different cultures, frequently maintain homes in two countries, and pursue economic, political and cultural interests that require their presence in both' (Portes, 1997:814). In the UK case these are people who will invest and, as we shall see from the case study in the final section of this article, the UK will go to great lengths to attract.

One notch below in the migration continuum are those whose scarce skills, (for instance health professionals and IT workers) ease entry and usually bestow rights of residency and family reunion within a specified time frame. Such schemes are often regarded as contributing to a 'brain drain' from poor to affluent societies and a debate between those who on the one hand see this as a reverse form of economic aid and those who would defend the human rights of those who simply seek a better life for themselves and their families through migration.

Less skilled workers may gain temporary work permits for sectors with real labour shortages, but these are few in number and bestow few rights.

In the UK there is an assumption that in the future workers from the EU8 countries will fill these labour shortages, effectively further tightening the 'fortress' to anyone outside the EU unless they are highly qualified, rich or both.

While the new 'managed migration' systems are presented as rational and fair, they are built on decades of stringent immigration controls in the affluent world. Both in the US and EU the number of irregular entries has increased and the treatment of asylum seekers has become very similar to less skilled labour migrants (even though international law stipulates that this should not be the case).

In these circumstances, many who simply want to bring a better life to themselves and their families at home or escape persecution are forced to rely on the 'services' of intermediaries, such as employment agencies, traffickers, smugglers, fixers and brokers to cross borders and gain employment. Ten years ago those working in the field of migration studies were agreed that the more institutionalised the migration system becomes with the involvement of these intermediaries, the more fraudulent and corrupt it becomes, with deception playing a greater role (Massey et.al 1993; Goss and Lindquist, 1995). There is now considerable evidence to show that many migrants relying on such intermediaries will end up with an irregular immigration status in the destination country, working in low paid, often dangerous jobs shunned

by nationals even in periods of high unemployment (Niotis, 2002:17). They may be deceived or intimidated into doing so and then find there is no escape route.

Many of these workers are already indebted to 'employment agencies' prior to their departure for their transportation, papers and 'guarantees' of work.

Two studies in the UK throw light on the extent of this phenomenon, Lawrence's investigation of agriculture (2004) and Anderson and Rogaly's report on construction, contract cleaning, care and agriculture (2005). The latter point out that given the level of violence and intimidation that many of the workers are subjected to they are rarely in a position to claim the few employment rights that they are entitled to (Anderson and Rogaly, 2005). They go on to suggest that this is not a particularly British problem, but one which is acknowledged throughout the EU and other affluent industrialised countries where there is an increased demand for migrant labour to do certain kinds of jobs in

sectors where labour constitutes a high proportion of operating costs.

There is little agreement as to the numbers of irregular migrants in Europe. In 2005 official estimates for the UK ranged from 310,000 to 570,000, excluding asylum seekers whose applications are being processed or who are appealing against a refusal (Guardian, 01.07.05). In the view of one expert: 'estimates are frequently rehearsed and recycled and take on a momentum of their own' (Salt, 2002: 27). Many countries, particularly those in Southern Europe have acknowledged the problems of irregular migrant labour for many years. One of the main ways in which they have chosen to deal with the consequences is to have frequent regularisation programmes, providing at least a temporary immigration, residency and employment status for migrants. While hundreds of thousands of migrants have been regularised (the 3 month programme in Spain which ended in May 2005 regularised the position of 700,000 workers) the 'jury remains out' on their overall effectiveness (SOPEMI, 2003:70; Levinson, 2005). It is not surprising therefore that as the regularisation programme came to an end in Spain in May, the Spanish government announced an immediate crackdown on employers who have benefited from the use of irregulars.

While the human rights of irregular migrants are explicitly recognised under the 1990 UN Convention on the Protection of the Rights of Migrant Workers and Members of their Families, the Convention has not entered into force and only one European country has ratified it (Cholewinski, 2002: 55

In contrast the 1975 ILO Convention (no.143) calls for the imposition of sanctions on those who employ, organise or 'knowingly assist' irregular migration rather than sanctioning the migrants involved (Ibid:57). We have known for sometime that those who organise or 'knowingly assist' irregular migration have been making a good deal of money out of their operations.

This situation poses many new challenges for organised labour, how has it adjusted?. The foreward to the TUC Report quoted from above, is written by Brendan Barber the current General Secretary of the British TUC. He writes: 'Far from being restricted to the extreme fringes of the economy, forced labour can be found at the base of key industries, and goes far beyond the agricultural and sex work with which it is normally associated. The authors suggest that the conditions for forced labour are created by employer demand for ultra-flexible labour. This is made worse both by the low level of protection that exists in British law for some categories of workers- agency workers in particular- and difficulties in enforcing those rights that do exist'. He goes on to suggest that 'Tolerating forced labour is not an option for the trade union movement. We accept our responsibility to organise migrant workers and in doing so, enable to defend themselves' (Brendan Barber, foreward to the TUC Report on Forced Labour and Migration in the UK, Anderson and Rogaly, 2005: 2).

Barber's sentiments reflect the new challenges for organised labour in the old heartlands of industrialisation.

The challenge for organised labour in a globalised world.

Writing in 2000, Peter Waterman asserts that; 'It is widely recognised within and around the labour movement that labour (as wage work, as class identity, in the trade union form, as a partner in industrial relations, as a radical-democratic social movement, as part of civil society) is in profound crisis (Waterman, 2000: 2). Confronted with falling membership rolls, with legislation that has sought to weaken trade union power and the neo-liberal mantra of creating and maintaining 'flexible' labour markets, there is little doubt that Waterman is right. This is never more so than in the UK, where union membership density fell from 55% in 1979 to 29.3% in 2003 and collective bargaining coverage fell from 83% in 1981 to 35.8% in 2003 (Pollert, 2004: 3-4).

As the 'job for life' becomes a relic of the past and labour markets have become increasingly heterogeneous, trade unions have to adapt to new challenges. One of the biggest challenges for trade unions in the UK is how to respond to the 'new' migrations. This of course, is not a new story at all.

The reception towards Irish migrant workers in the nineteenth century was mixed, employers welcoming another source of cheap labour, while their British working class counterparts regarded them as a threat for the same reason. But this was a time when the British labour movement was in its infancy and the response of British workers tended to be negative and often violent, it largely took the form of attacks on Irish workers and their houses (Phizacklea and Miles, 1987: 114). But later that century the trade union response to a new migration, that of Jewish refugees fleeing persecution, took on a political form, support for the Aliens Act of 1904. The Act set out to prevent the arrival of further 'alien' refugees.

Post Second world war migration from what were called Britain's 'New Commonwealth' countries was met with hostility by leading sections of the organised labour movement. Despite the fact that these migrants had the right to live and work in the UK without restriction and that they were entering a country with labour shortages, as early as 1954 the General Council of the Trade Union Congress was defining them as a 'problem' whose further entry needed to be controlled. Why?. Robert Miles and myself have posited that this reaction basically reflected a pervasive climate of racism in the UK, which apart from some notable exceptions, was reflected within trade union ranks (Phizacklea and Miles, 1987:116).

Evidence of widespread discrimination in the UK towards black workers did eventually lead the Labour government in the late 60's to propose that the existing anti-discrimination legislation be extended to cover employment. The General Council was opposed to this, their view remained that the problem was not one of discrimination, but that the migrants, now turned settlers, refused to 'integrate'. Nevertheless at the 1969 Congress there was sufficient oppositional support from the floor to this position that the General Council had to employ procedural means to overcome it.

This was the first serious challenge to the General Council position, but by 1973 it had to concede to rank and file pressure when a motion from the floor of Congress was carried requesting that the next Labour government repeal the racist immigration legislation introduced in 1971. Rank and file pressure was not the only reason why

there was a limited appraisal of TUC policy. Neo fascists were rearing their heads in Britain in the form of the National Front party alongside a number of industrial disputes which demonstrated Asian and Caribbean workers resistance to exploitation in the workplace and trade union racism, neither forces could be ignored.

Throughout the 1980's a number of unions pledged themselves to increasing representation of black workers in their ranks. Evidence showed that while the migrants from Asia and the Caribbean of the 1950s and 1960s were more likely to be members of unions, they remained underrepresented as elected officials. Black sections were organised within trade unions and the election of Bill Morris as the first black General Secretary of a British trade union, the Transport and General Workers Union in 1991 was an important indicator of changed attitudes. Until his retirement in 2003, Morris remained a tireless campaigner for equality in the workplace and society generally and vigorously opposed the erosion of asylum seekers rights.

Thus while the 1980s and 1990s marked a consolidation of trade unions changed attitude and practice towards migrant and ethnic minority workers they were also the time when the UK experienced the 'mass shake out' of manufacturing workers, with ethnic minority workers being frontline victims of redundancy and unemployment. Measures to curb trade union power were quickly enacted by the Conservative government elected in 1979. The 'profound crisis' state that Peter Waterman speaks of had begun to bite within organised labour.

In an analysis of organised labours opposition to the 1996 Asylum and Immigration Act, Avci and McDonald seek to explain why trade unions should adopt such a 'paradoxical position' in the context of rising unemployment and falling membership rolls (Avci and McDonald, 2000). They suggest that; 'In a situation of comparative strength within a domestic polity, unions may not be so opposed to controls (as we saw in the 1970s). However, in a period of relative weakness, challenges to their legitimacy, membership and recruitment (particularly in growing sectors of the economy and among untapped resources), take on increased significance. Legislation which threatens to hinder this is therefore likely to be resisted strongly both for ideological and self-interested reasons' (Ibid; 206).

Undoubtedly, it is in the self interest of trade unions to help organise and protect migrant workers in sectors which are poorly organised (historically) and within a context of falling membership rolls. But there are a number of factors which these authors fail to appreciate. Firstly, as we have seen the reappraisal of organised

labour's attitude to migrant workers in the UK was well evident by 1973. Second, migrant labour in the UK since 1945 has not threatened 'native' workers jobs, it has and continues to act as replacement labour for the jobs that they shun. Thirdly and following on from the last point, that even in periods of high unemployment (witness the SOPEMI example from Greece) a two tier labour market has developed, with certain jobs being consigned in popular consciousness as 'jobs that migrants do'. Finally, the authors do not give sufficient weight to a trend towards social movement unionism reflected in the way unions have moved beyond the factory gates, recognising that there is no clear divide between workplace and community and the myriad of factors which influence workers bargaining position, not least in terms of their immigration status.

Thus Waterman's criteria for a new labour internationalism includes a generalised solidarity ethic embracing national, gender, racial and religious discrimination and a recognition that solidarity is not a one way process, but involves workers from the South as well as the North (Waterman, 1998 and 2000).

What does it mean in practice?. To conclude on a positive note, this final section provides a case study which goes some way to illustrate how trade unions are adapting to the new challenges, particularly in respect of marginalised, migrant workers.

Changing our ways

This case study relates to the campaign to regularise the visa status of migrant domestic workers, who through no fault of their own, became overstayers in the UK and if apprehended, faced deportation.

Up until 1979, work permit quotas were set aside for resident domestic workers. The work permit system was not without its problems. For instance, some women who had been allocated resident domestic work permits and who had not declared, because they had not been asked, that they had dependent children under the age of sixteen in their homeland, were declared illegal entrants and 'removed' from the country when asked if their children could come and join them (Migrants' Action Group, 1981). The Filipina women who had taken up the largest share of entries in this category were welcomed as 'willing workers'. Then a regulation which was not intended as a method of immigration control was used to reinterpret the law and applied retrospectively in order to get rid some of them (Phizacklea, 1984:101).

While the work permit system always ties workers to certain types of employment, and in this case hidden risks of being deemed 'illegal', it is a preferable state to entering or becoming an 'irregular'.

Work permits for resident domestic work were abolished in 1979.

In 1980 the Tory government in the UK announced that it was introducing a concession which allowed foreign employers and expatriates to bring their domestic workers with them. What is interesting here is that the change was specifically defended by the need to maintain Britain's attractiveness to outside investment in a globalising world. In other words, rich transnationals should be allowed to maintain their comfortable living standards through the provision of domestic services by poor transnationals.

The concession tied the workers irrevocably to their named employer. Not surprisingly the system was widely abused with one agency alone handling over 4,000 cases of imprisonment, physical and sexual abuse as well as widespread non-payment or underpayment of wages. Coercive working practices were widespread. Workers only means of redress was to simply run away from the abusive employer which immediately altered the conditions under which they were admitted under the concession. Due to no fault of their own they became overstayers and joined the ranks of the undocumented labour force.

In 1979 the Commission for Filipino Migrant workers was set up to support workers in the UK. By end of 1984 they began to see the emerging pattern of abuses catalogued above amongst migrant domestic workers (Anderson, 2001). Filipino domestic workers were already meeting regularly and from 1985 were joined by domestics from many other nationalities, they gave each other practical and psychological support (ibid; 674). The meetings became formalised in the organisation, Waling-Waling which became the United Workers Association, meeting on Sundays in a 'safe space' adjacent to the Kalayaan offices in West London, practical issues such as advice from immigration lawyers to providing social space became the basis of a truly transnational organisation. I want to suggest that the shared experience of being an undocumented migrant domestic worker led to a form of 'class' identity which transcended differences of educational level, nationality, religion and language. Filipinas may be viewed as the 'preferred' nationality for domestic work, but this did not prevent, in the UK instance at least, their identification with other undocumented domestic workers irrespective of their

nationality or religion. As we shall see from the case study material, this shared experience constituted the basis of a successful campaign to regularise their visa status, a campaign that overrode diversity and difference in the migrant domestic labour force. In this instance the class dimension that mattered was their status as workers who came into the UK to work for rich transnationals. Given the shared problems of migrant domestic workers irrespective of nationality, religion or language it became increasingly clear that immigration rules that governed the entry of domestic workers who entered the country with employers needed to be changed.

The UWA forged alliances with a number of groups including the Transport and General Workers Union, sympathetic MP's, churches etc., to form a campaigning group called Kalayaan.

While the trade union was only one player in the alliance, its role constitutes an interesting example of the changing face of trade unionism. The undocumented domestic workers joined the union at a reduced rate; their union card was in many cases their only formal identification (in most cases employers held on to the workers passports), they were allocated a named full time official who was fully conversant with their situation and through attendance at the Sunday meetings of the workers, the union became more than just a membership card for the workers

As we have seen up until the late 1970's the leading ranks of the Trade Union movement in the UK were at best unsympathetic to the plight of migrant workers, at worst there were numerous allegations of union racism. And yet a decade later we have a trade union demonstrating that it could take up the cause of marginalised undocumented workers and use its political muscle to champion their cause. There has been a long tradition of trade union sponsored MPs and a long tradition of using fringe meetings at Labour Party conferences to introduce issues of concern that might otherwise not be raised in the public arena.

By 1997 the Labour Party had pledged in its manifesto that it would abolish the concession and regularise the position of all of those workers who through no fault of their own had become overstayers.

In 1998 the New Labour government implemented the manifesto commitment, illustrating how the seemingly powerless can mobilise resources and carve out spaces of control. Having said that the whole process of regularisation was lengthy and expensive, many Embassies' insisted that the workers go to the police station to report their passports as missing before they would begin the process of issuing new

passports. A visit to the police station is not something any undocumented worker relishes!. Employer references had to be obtained etc., after 18 months some workers were still waiting to hear the outcome of their application for regularisation. Nevertheless throughout the lengthy process of regularisation the Transport and General Workers Union ensured that its premises were made available to the workers to discuss the future and to forge alliances on an international basis.

Conclusion

In the context of continued massive global inequalities in living standards, we have witnessed increased international migration. But this has come at a time when affluent countries are in a position to pick and choose who it is that they'll allow in to their heavily policed affluent enclaves. Increasingly, many who simply want to bring a better life to themselves and their families fall back on the services or are recruited by those involved in the business of migration. Twenty years ago migration very often followed well trodden routes forged in many cases through previous colonial ties and established chains of migration. The picture is very different now, due to the institutionalisation of migration, the intermediaries involved in the organisation of migration, including employment agencies, traffickers, smugglers, fixers and brokers, have turned migration into big business. Yet as Goss and Lindquist suggest, the more institutionalised the system becomes, the more fraudulent and corrupt it becomes with deception playing a far greater role (Goss and Lindquist, 1995: 340). Ten years on the system as we have seen in this chapter has become ever more refined.

But this is only one side of the story, the relentless pursuit of flexibility in labour markets in affluent countries leads to a situation where unscrupulous agencies, some of whom are involved in the facilitation of crossing borders, make very large profits as suppliers of this 'flexible' labour power. While this labour is vital to the functioning of many key industries, it is situated at the bottom of sub-contracting chains, often subject to coercive labour practices by the 'agents' involved and rarely in a position to claim the few employment rights that they have.

Protective legislation has been slow to develop and as we have seen many countries are reluctant to sign up to international Conventions that provide protection to migrant workers irrespective of their immigration status.

All of this poses new challenges for organised labour in a globalised world. It does in fact provide a test for the notion of social movement unionism in the old heartlands of organised labour.

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