

Rising to the Occasion? Trade Union
Revitalisation and Migrant Workers in
Ireland

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2015

PhD

Rising to the Occasion?
Trade Unions, Revitalisation and Migrant
Workers in Ireland

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Presented for the qualification of Doctor of Philosophy (PhD)

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JULY 2015

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ABSTRACT

Rising to the Occasion? Irish Trade Unions and Labour Migration, 1995-2010

Mary Hyland

Ireland's rapid economic growth from the mid-1990's combined with the opening up of the Eastern European labour market, led to Ireland moving from being a country of net outward migration to becoming one of net inward migration at a speed that was unprecedented. This created a major challenge to the Irish trade union movement which was already operating in a context of the erosion of traditional forms of employment and employment relations and a declining membership.

This thesis will explain the impact of migration to Ireland on trade union policies, rhetoric, attitudes and organisational approaches. It foregrounds the influence of the trade union movement on the migration policy environment and investigates the trade union response to labour migration in terms of changing forms of employment relations as a result of outsourcing, the increasing presence of labour market intermediaries and the growth of the informal sector and irregular forms of employment. The thesis is situated in the context of the international debates around the economic, political and social modalities of trade union action. The Irish case will, in its turn, illuminate those debates and posit a new and emerging model of unionism based on a particular combination of modalities.

The primary contribution of this thesis is to the trade union revitalisation debate. A comparative diachronic methodology illuminates the role that the key tipping points of the two major industrial disputes at Gama and Irish Ferries played in that debate and in the subsequent reconfiguring of capital, labour and state relations. I posit, in conclusion, that the emerging Irish model of union organising is a distinct variant on the international organising model, based primarily on the organisation of migrant labour and internal union dynamics.

Acknowledgements

This thesis has been a long time in gestation and would never have come to fruition without the help and support of a number of people, chief among them being my two supervisors, Professor Ronnie Munck and Professor Michael Doherty (now of NUIM). They have been extraordinarily encouraging and supportive throughout and I could never have done it without them.

Thank you to the Irish Congress of Trade Unions for providing the scholarship that made the research possible and specifically to David Joyce who was always very helpful.

I want to thank Natalya Matease for her assistance and technical support and Belinda Moller, Liz Powell and Ciana Campbell for their support and for giving so generously of their time to read and comment on various chapters along the way.

Most particularly, I wish to thank all those who gave me interviews - for their time, their courtesy and their honesty. Those conversations were both the most illuminating and the most enjoyable aspect of the whole experience.

And, finally, thanks to my family for their love and support.

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List of Abbreviations

AFL/CIO	American Federation of Labour and Congress of Industrial Organisations
ATGWU	Amalgamated Transport and General Workers Union
BATU	Builders' and Allied Trade Union
BSLN	Baltic Sea Labour Network
CCOO	Spanish Trade Union Confederation
CENTROs	Spanish Information Centres for Foreign Workers,
CGIL	Italian General Confederation of Labour
CIF	Construction Industry Federation
CITEs	Trade Union Immigration Offices, Spain
CSO	Central Statistics Office
CSO QNHS	Central Statistics Office Quarterly National Household Survey
DETE	Department of Enterprise, Trade and Employment
DJELR	Department of Justice, Equality and Law Reform
DPP	Director of Public Prosecutions
DSFA	Department of Social and Family Affairs
ECJ	European Court of Justice
EEA	European Economic Area
EEC	European Economic Community
ESRI	Economic and Social Research Institute
ETUC	European Trade Union Confederation
ETUI	European Trade Union Institute
EU8	The eight Eastern European countries who joined European Union in 2004
EU15	The Member Countries of the European Union prior to 2004
EU/NMS	European Union New Member States
FÁS	Irish National Training and Employment Authority
FNV	Confederation of Dutch Trade Unions
FSU	Finnish Seamen's Union
GDP	Gross Domestic Product
GNIB	Garda National Immigration Bureau
GSEE	General Confederation of Greek Workers
IBEC	Irish Business and Employers' Confederation

ICTU	Irish Congress of Trade Unions
ILO	International Labour Organisation
INIS	Irish Naturalisation and Immigration Service
INMO	Irish Nurses and Midwives Organisation
IOM	International Organisation for Migration
IRTUC	Inter-Regional Trade Union Councils
ITF	International Transport Federation
JIC	Joint Industrial Council
JLC	Joint Labour Committee
LRC	Labour Relations Commission
Mandate	Union of Retail, Bar and Administrative Workers
MRCI	Migrant Rights Centre Ireland
NCCRI	National Consultative Committee on Racism and Interculturalism
NGO	Non-governmental Organisation
NERA	National Employment Rights Authority
NIB	National Implementation Body
OGB	Austrian Trade Union Federation
OECD	Organisation for Economic Co-operation and Development
OPATSI	Plasterers' Union of Ireland
PICUM	Platform for International Cooperation on Undocumented Migrants
PPS	Personal Public Service Number
PWD	posting of Workers' Directive
SEIU	Services Employees International Union
SOLIDAR	European Network of Social Justice NGOs
SIPTU	Services, Industrial and Professional Trade Union
TAW	Temporary Agency Worker
TEEU	Technical, Engineering and Electrical Union
UCATT	Union of Construction, Allied Trades and Technicians
UN	United Nations

SECTION 1: GLOBAL CONTEXT

CHAPTER ONE: TRADE UNIONS AND MIGRANT WORKERS

Labour migration presented itself as a movement that, to a very large extent, was not focused on organising workers anyway and the response to the issue of inward migration was characterised by the nature of the trade union movement as it had become...a number of institutions which provided services, more than institutions which organised workers, or saw themselves as instruments for social change.

This was the view expressed by Jack O'Connor, President of Ireland's largest trade union in interview in 2012 when speaking of the trade union response to labour migration and the arrival of migrant workers in large numbers into the Irish labour market. Migration presented a challenge to the labour movement operating, as it was at that time, primarily as a service provider and as part of a deeply embedded corporate structure. However, it was not just the labour movement that had to accommodate itself to these new workers; it was also a challenge to Irish society more generally.

The perception, and to a large extent the reality, of Ireland's history is that of a mono-cultural state dominated by an inward-looking culture and a protectionist economy which up to the latter stages of the 20th century, could not provide sufficient employment for its people who emigrated in large numbers throughout both the 19th and the 20th centuries. From the mid-1990s the Irish economy underwent a rapid and remarkable turn-around, moving Ireland from being a relatively poor peripheral European country to one with annual growth rates exceeding 8% of GDP, the highest in the OECD area, and a rapidly expanding labour market. This combined with the opening up of the Eastern European labour market in 2004, led to Ireland moving from being a country of net outward migration to becoming one of net inward migration at a speed that was unprecedented. In the decade 1991 – 2000 almost half a million new jobs were added to the Irish economy, an expansion of 43% in the total labour force (Mac Éinrí 2005, Barrett & Duffy 2007). In 2004 Ireland was one of only three existing members of the EU to allow full access to its labour market to EU citizens from the ten new member states.

Inevitably there were particular labour market issues arising out of this new situation which the Irish trade union movement had to confront; a movement which was already under threat from globalisation, the erosion of traditional forms of labour and the decline in union density and influence over the preceding years. There were concerns about the consequences of labour migration on the indigenous employment market. In particular,

there was a fear that the import of foreign labour would undermine both union bargaining power and employment standards, that migrant workers would provide a cheaper, and therefore more attractive, alternative to employing indigenous workers (Krings 2007). While unionisation was obviously the best way to ensure against this, it was not a simple option. Irish trade unions were operating in a context of growing informalisation of employment relations, migrants were over-represented in sectors of the economy in which union support was traditionally weak such as agriculture and hospitality and thus union access to migrants and indeed migrant access to unions was difficult.

1.1 Research Problem

In conducting this research I have developed a paradigm of trade union / labour migration relations based on the manner in which the Irish trade union movement responded to contemporary labour migration. The thesis seeks to trace and examine the relationship that developed between the Irish trade union movement and migrant workers or more particularly to trace and examine the trade union response to these new members of the labour force as they arrived in large numbers into what was a new environment for all. To paraphrase Barrett and Duffy (2007), Ireland makes a perfect laboratory for such a study as its experience of labour immigration began late, in the midst of an economic boom, when the Celtic Tiger was roaring, when there was almost full employment, national confidence was at its highest, trade unions were under threat and economic collapse was just around the corner. In their observations Barrett and Duffy set out what it is that makes Ireland of particular interest to migration researchers more generally. First, as inward migration into Ireland occurred over a period when the economy was growing at an exceptionally high rate, the economic conditions were favourable for immigrant success in the labour market. Second, as much of the immigration into Ireland was from other European countries, many of Ireland's immigrants should not be subject to the more common forms of possible discrimination such as those based on religion or skin colour. Third was the concentration of Eastern Europeans in migrant inflows, post 2004, allowing the generation of insights into this new source of population movements, namely from the new EU to the old EU.

The specific research problem, as defined, is to examine the response of the Irish trade union movement to inward labour migration in terms of union policy and rhetoric, attitudes and perceptions and organisational approaches. The thesis seeks to trace and investigate union behaviour from which I set out to extract theoretical developments and policy

prescriptions. It thematically and diachronically analyses the empirical material, tracing the development of the trade union response over time, from the beginning of significant labour migration in the mid-1990s, through the critical period post accession, to the new decade with the economic crisis and the fall off in migration. I selected this particular timeframe because it begins when inward migration was very low; incorporates the period pre-2004 when decisions were taken at Government level to support an open border policy in relation to freedom of movement of citizens from the new European accession states (Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia); and after borders had opened and an unexpectedly large number of migrants from these countries travelled to Ireland seeking employment. Finally, the period takes in the present day and will therefore take account of the gradual reduction in migration patterns and the current economic downturn.

It is intended that the knowledge contribution of this thesis will be the recording and detailing of the untold story of the labour movement's engagement with migrant labour, an examination of the possibly mutually beneficial aspects to the deepening of the relationship and the role it played in the revitalisation debates and consideration of new organisational models. In doing this, it will interrogate whether there is a new unique model of trade unionism emerging in Ireland, one that is a distinct variant on the international organising model, based primarily on the organisation of migrant labour and internal union dynamics.

1.2. Research Rationale

As noted by Mac Éinrí and White modern immigration to Ireland on a substantial scale dates from the late 1990s and few studies on immigration to Ireland are to be found before this time (2008). In fact, as of 2008 there was only one comprehensive general publication on immigration into Ireland, that being Fanning 2007. An even smaller proportion of published research focuses on labour migration specifically and typically most of the focus is on the economic dimension¹. There are now a number of sectoral specific and nationality specific studies (see particularly Wickham et al, 2013; Arqueros-Fernandez 2011; Krings et al 2012; 2013; Krings 2007; 2009a; 2009b) but there is a lack of knowledge of the overall Irish trade union response to labour migration and indeed a dearth of research on

¹ See Barrett 2009; Barrett & Duffy 2007; Barrett et al 2005; Conroy and Brennan 2003; Dundon et al 2007; Mac Éinrí and Walley 2003; O'Connell & McGinnity 2008; Ruhs 2003;

the area more generally: to quote McGovern, ‘if immigration is in important respects a matter of labour, then it is extraordinary that the literatures on immigration and trade unionism came together so rarely’ ((2007:231).

It was in the context of that identified research gap and the sense of Ireland as a ‘new laboratory’ that I embarked on this research project, in a relatively unexplored research terrain where there was a great deal of media and public discussion and debate, large quantities of anecdotal evidence of new and, in many cases, questionable employment and labour relations practices but little by way of verifiable research. My original proposal was to examine the role of the trade union movement in the integration of migrant workers in Ireland with a view to creating new insights and also contributing to the development of actionable, measurable trade union policy on workplace integration. However, through my early documentary analysis phase and initial exploratory interviews, it became clear that there was a need to address a much more fundamental question. It became evident that the relationship between trade unionism in Ireland and migrant labour had been inadequately explored and quite weakly theorised. It also appeared to be the case that there was a lack of informed policy and coherence and consistency in how the trade union movement responded to issues around migration, both at national Irish Congress of Trade Union (ICTU) level and at member union level. It raised questions as to whether the Irish trade union movement could be considered as a homogeneous unit in relation to its response to contemporary labour migration and there seemed to be good reason to investigate further the complexity of that response. This then led me to revise my original research proposal to the one which I undertook herein - to examine the response of the Irish trade union movement to inward labour migration in terms of policies and rhetoric, union attitudes and organisational approaches using a temporal lens. The aim was to investigate the Irish union response, to examine to what extent they have reached out to the new constituency of migrant workers and to what extent they have adopted new models of unionism and how, if at all, these models replicate models already identified within the international literature.

In undertaking the research I adopted a single country case study approach in order to present an in-depth dynamic picture of Irish trade unions’ response to migration over time. This was contextualised within a comparative European framework. The research process involved diachronic analysis of the impact of migration on Irish trade union policies,

attitudes and organisational approaches. I situated the study within the broader international debates around the economic, political and social modalities of trade union action. The single country case study and the diachronic approach were intended to illuminate those debates by presenting and analysing the richness and depth of the Irish response over time, the main advantage of this research strategy being that it provides for an in-depth examination of national context. It avoids narrow mono-causal explanations and opens up the possibility of leading to more realistic and wide ranging understanding and knowledge. It allows for a detailed description of the particular institutional setting within which groups' actions take place in order to improve understanding of the context in which the investigated case may be interpreted. While it does not provide explicit comparisons, it is possible to draw implicit conclusions regarding the way institutions and cultural characteristics affect behaviour and destinies (Yin 2014). It is thus possible, as in this case, to provide comprehensive analysis of institutional arrangements and their historical development and impact. Culpeper (2005) observes that temporal variation is particularly useful in single country case study as it illuminates the value of sequencing and contingency in causal analysis.

I had originally considered taking a comparative approach to the study in terms of comparing different union experiences but, following initial engagement with a comparative process, I identified a number of problems using such an approach in this case. Firstly, by its nature, it seemed a fairly static approach which wouldn't capture either the temporal nature of the response or illuminate the complexity of trade union debates and uncertainties around the issues. Also there was huge disparity between unions, for example SIPTU is a union with a membership of 200,000 and accounts for 34% of ICTU membership while BATU, the builders union, has a membership of 2,000 and accounts for less than 1%. This made a comparative approach of dubious validity and so I focused on the Irish labour movement as a whole and its interaction with migrants and migrant support organisations such as MRCI.

The chronological approach to the case study allowed me to pick some key events and disputes, namely a mushroom industry one in 2004, Gama in early 2005 and Irish Ferries in late 2005, where there was concentrated attention both from the media and within the trade unions. I posit a logic of development with these disputes acting as clear 'tipping points' which shaped and determined the trade union responses to the question of

migration within the parameters of a faltering social partnership based system of industrial relations.

1.3 Research Context

The sections of this chapter to follow will present the background to the research, placing the issue of the trade union relationship with migrant workers in Ireland in a broader theoretical context. In doing this it will consider the evolution of trade unionism and its location within a specific societal and national construct, the emergence of globalisation and its impact on national economies, labour markets and trade unions. It will discuss the historical ambivalence of the trade union relationship with migrant workers and the increasing role that atypical workers, such as migrants, have to play in trade union revitalisation. It will conclude with an outline of the chapters to follow.

1.3.1. Trade Union Evolution

For a long time the issue of workers' organisation within employment has, in the main, been focused on the trade union structures that emerged as a response to Taylorism² and transatlantic Fordism³ of the early to mid-20th century. Political unionism, principally linked to its militant and corporative versions in Western Europe, and business unionism (largely linked to the US) have in recent decades been analysed as being in crisis, and trade union movements have been looking to new ways of doing business with an increasing focus on combining political, workplace and community struggle.

The classic definition of a trade union is that of the Fabian socialists, Sidney and Beatrice Webb, in their history of British trade unionism and is described as 'a continuous association of wage earners for the purpose of maintaining and improving the conditions of their working lives' which may be achieved either through collective bargaining with employers or through the provision of benefits to their members (Webb and Webb 1920). The earliest unions were composed predominantly of skilled male workers. With the

² Taylorism is a production efficiency methodology developed by Frederick Winslow Taylor in the 1880s, based on time and motion principles, whereby every action, job, or task is broken down into small and simple segments which can be easily analysed.

³ Fordism gets its name from Henry Ford and is a manufacturing philosophy of the mid-20th century which proposed the achievement of higher productivity by standardising output, using assembly lines and breaking the work down into small deskilled tasks.

growth of large-scale mass-production industries, core groups of workers (typically male, white, full-time, and permanent) tended to dominate the processes of internal union democracy. As a corollary, those in lower skilled jobs with insecure labour market positions – notably, women and migrant workers and those from ethnic minorities – were in most countries, and for much of the time, marginalised within trade unionism: their interests neglected. This reflects the Gramscian perspective of trade unions as actors located within a specific societal construct whereby when unions have claimed to represent the interests of the working class, what they have actually represented have been primarily the interests of relatively protected sections of workers (Anderson 1977).

Hyman deploys a threefold over-arching typology in his discussion of trade union forms, each associated with a distinctive ideological orientation – unions as ‘schools of war’ in a struggle between labour and capital; unions as vehicles for raising workers’ status in society more generally and hence advancing social justice; and interest organisations with predominantly labour market functions (1994; 2001). The first of these was one of anti-capitalist opposition with the purpose of trade unionism, in this configuration, being to advance class interests, largely through militancy and socio-political mobilisation. The second evolved in part as a rival to the first and involved a more functionalist vision of society and formed the basis for what came to be known as social democratic and Christian democratic trade unionism which shared common ideological attributes: a priority for gradual improvement in social welfare and social cohesion, and hence a self-image as representative of social interests. The third model, which has been primarily associated with US unions, is that of business unionism which has economism at its centre and which prioritises collective bargaining. While Hyman’s typology is essential to any consideration of forms of trade unionism, the fact is (as he himself points out) in most cases, most trade unions incorporate some elements of all three models (2001).

1.3.2. Labour and Globalisation

The trade union dilemmas in relation to immigration are very much bound up with the labour movement’s identification with the homogenous nation state which, as it has developed since the eighteenth century, is premised on the idea of cultural as well as political unity. In many countries, ethnic homogeneity, defined in terms of common language, culture, traditions and history, has been seen as the basis of the nation-state. Castles claims that this unity has often been fictitious – an ‘imagined community’ - but it

has provided powerful national myths with which many labour movements have been complicit (2000). At the end of the nineteenth century that ‘imagined community’ within a national territory became the dominant framework for the organisation of workers and employers alike and citizenship became an important distinction against ‘aliens’. Industrialisation, urbanisation and unionisation all went hand-in-hand (Munck, 2004; Hyman 2001; Penninx and Roosblad 2000). This was the position from which trade unions engaged with the concept and reality of migrant labour. The presence of ‘aliens’ within the borders of the nation-state became an anomaly and so, by implication, the position of the immigrant alien worker in the organisation of labour was also considered anomalous. More so when such immigrants were largely regarded as temporary by both state authorities and unions as has been the case in most Western European countries since the end of the Second World War (Penninx and Roosblad 2000). Denis McShane remarks: “While the rhetoric of internationalism has always been part of the trade union narrative, the actual trade union form has remained profoundly national. They are embedded in specific national contexts and thus primarily represent the interests of their existing national membership” (2004: viii).

As the phenomenon of globalisation emerged in the last quarter of the twentieth century, the dominant nation-state-based economic model began to break up. The context for trade unions was altered radically. Economic expansion in most developed countries slowed, turning into stagnation and recession. The new economic orthodoxy rejected Keynesian demand management⁴, insisting that governments should have little influence over employment and that labour market flexibility was what was needed. The trade unions, oriented toward the nation-state, found that the centre of gravity had shifted and that the old corporatist arrangements were undermined and no longer likely to be the viable mechanism to defend the interests of workers that they had been.

Growth in privatisation, the rise of service employment, the increased use of flexible employment contracts and outsourcing and the control of inflation by means of tighter monetary policies all served to restrict union power and union recruitment. The major

⁴ Keynes’ theory that optimal economic performance could be achieved – and economic slumps prevented – by influencing aggregate demand through activist stabilization and economic intervention policies by government.

structural changes that, in previous decades, worked in favour of trade unions — the decline of agriculture and traditional household services; expanding public employment; and increased bureaucratisation in industry and services — were reversed (Ebbinghaus and Visser, 1999). With diminished capacity to mobilise traditional forms of economic and political pressure, unions were ill placed to respond to this far less sympathetic environment. From 2000 onwards there is a clear recognition from the international trade union movement that globalisation operated as a new paradigm which demanded new strategies, tactics and organisational modalities such as co-operation with other civil society actors, an increasing focus on new organisational approaches and a move towards broader civil engagement (Munck, 2002; Hyman, 2001).

1.3.3. The Labour Movement and Immigrant Labour

Industrial relations, as a discipline, tends to focus on the technical aspects of the employment relationship and then treats migrants as purely economic agents. As noted earlier, specific literature on the relationship between trade unions and migrant labour is relatively scarce though there has been some seminal work in the area in a number of publications concerned with post-World War Two labour migration to Western Europe. Among them are Castles and Kosack (1973), Castles and Miller (1993) and, most significantly, a comparative study by Penninx and Roosblad (2000) that analyses and compares trade union responses towards immigrants in seven Western European case countries from 1960-1993. In recent times there has been an increase in both national and international research in the area, largely, but not exclusively, in the context of the globalisation debate and emanating primarily from an industrial relations discipline rather than from a migration one.⁵ These studies have problematized the role of trade unions, pointing to the dilemmas they face in dealing with migrant workers and the possible strategies and choices that are open to them.

Generally, trade unions in the industrialised world have, what Kahmann refers to as, ‘an ambiguous relationship’ with migrant labour that can be situated ‘on a continuum ranging from exclusion to inclusion’ (2006: 186). Historically, trade unions saw their interests as being best served by restrictions on immigrant labour because a surplus of workers on

⁵ See Turner *et al.*, 2008a; 2008b; Krings 2007, 2009a; 2009b; Milkman, 2000, 2006; Munck 2004; Wrench 2000, 2004 and. Haus 2002

which employers can draw is seen to weaken the position of trade unions and concomitantly have a depressing effect on wages (Castles and Kosack 1973). As representative bodies, trade unions are contending with the tension between their tradition of international solidarity and their role within individual national and economic contexts which demands that they represent the interests of their members, even if they are in conflict with the greater good (McGovern 2007). This reflects the contradiction between ideals and organisational interests - Flanders two faces of trade unionism, 'sword of justice and vested interest' (1970: 15).

Ambivalent and racist attitudes towards ethnic minorities have been a common feature of trade union attitudes and activities through the decades (see Kirton and Greene 2002; Bhavnani and Bhavnani 1985; Mayhew and Addison, 1983). During the 20th century, unions developed a politics of solidarity that was often constrained by the established and nationally bound set of interests of the workforce that supported organised workers vis.-a-vis. both employers and 'outsiders'. Unions were "widely perceived as conservative institutions, primarily concerned to defend the relative advantages of a minority of the working population" (Hyman 2004: 19). Highlighting this conservatism, McGovern observes that the traditional trade union perspective on immigration is one where migrants are viewed as *homo economicus* personified, willing to accept low wages, and highly individualistic and therefore difficult to unionise (2007: 228). Thus, unions feared that admitting large numbers of migrants would exert a downward pressure on wages, undermine their bargaining power and divide the working class.

In the history of European labour migration; there have been many cases of trade unions erecting barriers against migration more broadly (See Meardi 2010; Donaghey and Teague 2006; Penninx and Roosblad 2000; Castles and Kosack 1973). However, it is increasingly the case that unions no longer believe that restrictive immigration policies are in their best interests (Avci and McDonald 2000; Haus, 1999; Watts, 1998). Restrictive policies, it is feared, could have the unintended consequence of fuelling the informal economy with potentially negative effects on labour standards but opening up to this potential new membership remains structurally difficult. Castles and Kosack (1973) would argue that once immigrant workers are present in a country it is essential for trade unions to organise them, as failure to do so will, ultimately, lead to a division in the working class and a weakening of the trade union movement. Haus found supportive evidence for this

conclusion in her study of French unions where she found that unions opposed state immigration restrictions on the basis that “this policy, rather than attain its aim of deterring entrance and increasing exit ‘creates clandestines’ which, among other things, impedes organisation” (1999: 714).

Despite the reputation for being ‘unorganisable’, there is little empirical support for the idea that immigrants, including those from ethnic minorities, are inimical to trade unionism (McGovern 2007). However there is substantial evidence to indicate that the level of unionisation among immigrants is generally significantly lower than that of the indigenous population (Barrett *et al.* 2005; Fulton 2003; Roosblad 2000). This fact does not necessarily contradict McGovern’s thesis that the problem of immigration and trade unionism is not one of immigrants being difficult to organise but one of trade unions not adopting appropriate organising approaches or not being sufficiently pro-active in recruiting and supporting immigrant workers (2007). This is borne out by a number of studies which indicate that migrants’ characteristics (such as language, educational level, country of origin, previous experience in unions) have little influence on union inclusion outcomes (Turner *et al.* 2008a, 2008b; Penninx and Roosblad 2000). And also that given the appropriate circumstances, their unionisation propensity can actually be high. Where union density among migrants is low, it is largely seen to be the result of occupational segregation and the difficulty migrants have in getting jobs in unionised workplaces (Turner *et al.* 2008b; Milkman 2000; Penninx and Roosblad 2000). Overall, the literature suggests that, in general, it is industrial relations institutions, and union attitudes and practices, rather than subjective factors related to migrant workers, that are the most important factors in the determination of union-migrant relations (Geary, 2007; Wrench, 2004). However, it is undeniably the case that there are particular difficulties for unions in organising migrant workers in a globalised society. Contemporary forms of labour migration in Europe exhibit some novel features, including increased East-West migration, a more temporary character of migratory movements and an increase in precarious work situations (Anderson 2010; Krings 2009b). This and the macro factors arising from it, such as the weakening of organised labour, the deregulation of national labour markets and the informalisation of employment relations, pose challenges.

1.3.4. Trade Union Revitalisation

We now see evidence of movements towards trade union revitalisation more or less across the world, particularly in the context of trade union decline and the crisis of trade unionism. The growing academic literature on revitalisation has found advances in the strategic areas of organising new sectors, greater political actions, reform of trade union structures, coalition building and international solidarity (see Turner, 2005; 2011; Frege and Kelly, 2003, 2004; Behrens 2002; Turner and Hurd, 2001). There has been a growth in research into alternative ways of organising and representing migrant and ethnic minority workers specifically.⁶ There are debates about how trade union renewal has emerged as a strategy based on reconnecting with labour market constituencies and creating new modes of action (see Milkman 2006; Fitzgerald and Stirling 2004). From the outset many of these debates have focused on issues of power relations, institutionalisation, voluntarism, organising and servicing.

Though trade unions were slow to react to the onset of membership decline, from the 1990s the elements of a transition to an alternative form of unionisation began to emerge (Waddington 2000). Increasingly the narrative was about the value of the organising model of trade unionism versus the servicing model as a mode of revitalisation. In its ideal form the servicing model is defined as relying on trade union activities external to the workplace, satisfying members' demands for resolving grievances and securing benefits through methods other than direct grassroots-oriented pressure on employers. Thus, it places the burden of servicing and recruitment on the professional trade union staff. The organising model, by contrast, places the emphasis on union organisation and activity at the workplace. The objectives of the organising model are seen to be the development of activism and the engagement of union members in the workplace in union negotiation and activities, thus conferring on them a level of autonomy. However, many are critical of what they see as the simplistic nature of this debate presenting, as it does, the service relationship on one hand in opposition to the organising relationship on the other (Fairbrother *et al.* 2007). The reality is that trade union responses to the organising vs. servicing dilemma are complex and not simply based on strategic choices taken in a vacuum. They are strongly influenced by union internal structures and by the institutional

⁶ See Holgate 2009; Martinez Lucio and Perrett 2009a, 2009b; Fine 2005, 2006; Tait 2005; Wills 2001, 2002, 2006..

context – in particular collective bargaining and corporatist arrangements - and a combination of elements of both forms is an increasingly common feature of contemporary unionism (Frege and Kelly 2003; Bronfenbrenner *et al.* 1998).

A central element in new organisational approaches and in the overall logic of trade union renewal is broad based coalition building (see Frege and Kelly 2004; Wills 2001; Heery 1998, Tarrow 1998) which has been a difficulty for trade unions in recent decades as their more rigid organisational structures have developed. In very many cases, at all levels – local, national and international - unions have proved reluctant to collaborate with social movement and other such bodies and often consider themselves as the true representatives of civil society, particularly in areas that have direct implications for workers. Tarrow (1998) has argued that ‘coalitions of organisations’ can exert influence far greater than the sum of their parts. And while this is the case, it appears that, nonetheless, it is really only when trade unions have been forced to come to terms with the decline in their autonomous influence that they have contemplated broader alliances of this kind. It is only with the reduction of political and institutional supports, that unions are incentivised to organise the unorganised and build coalitions with other groups (Bacarro 2003; Hyman 2001).

1.3.5. The New Unionisms Debate

While the concepts of social movement unionism and community unionism are closely related and the terms frequently used interchangeably, their theoretical and practical formations are quite different. Moody (1997) in his *Workers in a Lean World*, defines social movement unionism as a model of trade unionism which concerns itself with organising beyond the workplace and workplace issues, with union democracy and rank-and-file involvement at all levels crucial to it. Turner and Hurd define it as a model of unionism which is trade union led but which engages in wider national and local political struggles for social justice as well as labour rights. It is aimed at “organising the unorganised and taking political action to strengthen union influence” (2001: 23). They differentiate between social movement unionism as a type of unionism based on member involvement and activism as opposed to social movements which are broad society-wide phenomena that rise and fall in unpredictable historical waves. Whereas economic unionism focused on workers as sellers of labour power and political unionism focused on the nation-state to advance labour’s cause, social movement unionism recognises workers as part of a broader society (Turner and Hurd 2001).

There is an increasing focus, from academics, trade unionists and from community and migration activists, on the concept of ‘community unionism’ (Holgate 2009; Fine 2005, 2006; Tait 2005; Wills 2001, 2002) as they grapple with the problems faced by organised labour and the increasing disengagement of people from civil society. Community unionism is defined as the coming together of trade unions and communities to organise around issues in common. The community unionist perspective argues for a re-focusing of union organisation, moving from the sole focus of the workplace as the place to organise to a much broader geographical community focus, involving both living and working spaces and with a focus on community empowerment (Wills 2001). In these cases the community becomes an essential place to organise as well as the workplace. Janice Fine, former union organiser and expert on workers’ centres, says that in community unions “forms of identity such as race, ethnicity and gender stand in for craft or industry as the principal means of recruitment and strongest bonds between workers”. Mindful of the overwhelming importance of legal status for migrant workers they are, as Fine puts it “as likely to focus as much attention on organising to change immigration policy as they do on labour market issues” (2005: 154). Community unionist advocates generally take a negative perspective on traditional trade union structures. For example Fine argues that the emergence of workers’ centres in the US has come about as a result of the decline of trade unionism and the ‘institutional narrowness of the contemporary labour movement’ (2005: 244). Meanwhile Wills and Simms posit a modified version of the community unionist approach which they term ‘reciprocal community unionism’ (2004: 61). They argue that rather than being based in communities or working for communities, trade unions are well placed to develop this type of unionism in which unions work with communities to effect social change.

It is important to note that that there are also many voices critical of these distinctions. For example Upchurch and Mathers take issue with what they see as varying efforts of radicalism being defined as ‘social movement unionism’. They maintain that there has developed an over-reliance on theories of the new social movements, which, they claim, produces “a largely de-classed and de-politicised perspective” (2012: 265). Tattersall expressed similar dissatisfaction around nomenclature, highlighting what she called the variety of terminology applied to social movement unionism, referring to variants such as “union-community coalitions, social unionism, community unionism, social justice

unionism or citizenship movement unionism” (2009: 99). Her criticisms were twofold: firstly that these terms are frequently used without a clear expression of the meaning and, secondly, and more fundamentally, that many locate their research within the framework of new social movement theory, distinguishing between ‘old’ social movements (such as the labour and trade union movement) and ‘new’ social movements (such as feminist, human rights, environmental campaigns) and falsely placing this form of unionism in the latter camp, consigning the labour movement to history.

1.3.6. Migrant Workers and New Organisational Approaches

Despite this rejection of traditional trade unionism by some, much as the New Unionism of the late 19th Century which reached out to unskilled, semi-skilled and women workers rather than just the skilled male elite, today’s new unionism is reconstructing itself to save itself from obsolescence. Trade unions are fighting for their very survival, and in doing so, are increasingly reaching out to vulnerable workers such as migrants in what is seen as a combination of pragmatism and social solidarity (Milkman, 2014). Recruiting, organising and mobilising migrant workers can have an impact in terms of integrating the migrants in society but also increasingly serves to revitalise the trade unions. They become more open to other perspectives and it also takes them beyond an ‘economic’ or corporate role. Another aspect of revitalisation involves the unions recreating themselves in terms of how they operate. There are signs, in many countries, that the unions are re-finding their original social movement characteristics (see Heyes and Hyland 2012; Frege and Kelly 2004; Martens 2000).

One of the most spectacular forms of trade union revitalisation occurred in the United States, once the epitome of business unionism, where union influence and membership had been decreasing since the 1970s. The 1995 victory of the New Voice slate of John Sweeney to the leadership of the AFL-CIO is seen as having marked a decisive turning point in US labour politics and opened up the doors for new thinking, changing the model from a service, business based one to one with a social movement approach, with a strong focus on migrant workers (Turner and Hurd 2001). That and the move of the largest servicing union in the US, the Services Employees International Union (SEIU), towards an organising model of unionisation, changed the face of the US labour movement. The SEIU’s successful Justice for Janitors campaign which began in Los Angeles in 1990, is also seen as having contributed to the re-invigoration of the labour movement and being

seminal in the re-thinking of contemporary trade unionism (Milkman, 2000; Milkman and Wong 2001). Dan Clawson, writing in 2003, said of the United States, “labour’s links with other [social movement] groups are denser and stronger than they have been for half a century ...” and this interaction led to new, more progressive policies for example, in relation to undocumented migrants (2003: 205). Vanessa Tait observed that the increasing weight of the informal economy more or less forced US trade unions to take up a broader orientation and they thus began to take “the form of a multifaceted political movement not limited to issues such as wages and benefits” (2005: 8).

In the UK these new/re-invigorated forms of unionism have been slower to develop but the belief in such new strategies is growing, although there is still more discourse on the subject of organising and new forms of unionisation than actual practice (Holgate 2009). In many cases, where unions do open to innovative organisational strategies, they are often inclined to rely on long established cultural and institutional practices (leaflets, meetings and officer-led initiatives) without always considering their target audience (Heyes and Hyland 2012). But there have been some interesting initiatives, moving beyond the workplace and the traditional collective bargaining mechanisms which have engaged with unorganised migrant workers in particular. As far back as 2001 the London Living Wage Campaign by Citizens UK (an alliance of civil society organisations) saw intensive work at grassroots level and within trade unions to create a ‘community unionism’ supportive of the mainly migrant low-paid workers in the city. Jane Wills observed at the time that community unionism in the UK was incipient but was allowing unions to find common cause with groups cemented around, religious, ethnic or other affiliations, effectively ‘linking the struggle for redistribution with that over recognition, the universal with the particular, the economic with the cultural’ (2001: 469).

1.3.7. Challenges for the Labour Movement

In considering the debates around new models of trade unionism Cobble, writing in 2001, concluded that new models of unionism must be invented, “specifically models more appropriate for a mobile, service-oriented and knowledge based economy in which women, immigrants and people of colour are in the majority”. She sees the core issue as “not simply how to invent a new unionism, it is how to invent new *unionisms*”. She suggests that both academics and activists must strongly resist the call of the ‘one right way’ approach (2001: 83). Here Cobble has identified a critical issue. There is a tendency

within much of the revitalisation and new unionism literature to promote specific models to the exclusion of all else. There are the organising proponents, the community unionism proponents, the social movement proponents and the sceptics. What is necessary is recognition of the limitations of what AFL-CIO President, John Sweeney calls the “one size fits all approach to unionism” (Cobble 2001: 83).

The literature would indicate that, despite the successes of specific strategies in specific territories at specific times, there is no one best way for labour to respond but that what is needed are a range of innovative trade union strategies with an orientation towards social justice and collaborative practice. Community unionism, for instance “cannot be considered as a homogeneous organisational or conceptual entity and is best understood as a strategic intervention that is contingent upon a range of issues” geography being one, the presence of the assiduous union activist being another and the prevailing trade union culture being the third (McBride and Greenwood 2009: 211). This theory would seem to have a wider application to new models of organisation more generally.

There is also a need for caution in terms of seeing organising as the panacea to all ills. Findlay and MacKinlay point out that “organising inexperienced workers is a heavily front-loaded investment” (2003: 64) as unions face internal financial crises with union dues continuing to fall due to continuing unemployment in previously highly unionised sectors. They also raise two other critical and related issues. Firstly, is the fact that academic advocates researching union organisation tend to limit their studies to the discussion of organising strategies which fail to address what happens after organising ends. This issue of the long-term problems unions face in sustaining activism and cohesion after an organising victory is recognised as a challenge to trade unions adopting an organising model (see Katz 2001; Milkman and Wong, 2001). This is particularly the case where they have adopted the ‘organisational combustion’ approach. Finally, questions do remain concerning the long-term sustainability of organising strategies which are both labour and resource intensive. This is a crucial issue for unions pursuing an organising approach (see Heyes and Hyland 2012; Holgate, 2011).

1.4. Issues Emerging

This chapter has introduced and explicated the research question which is to examine the response of the Irish trade union movement to inward labour migration in terms of union

policy and rhetoric, attitudes and perceptions and organisation. The specific focus is on to what extent unions engaged with migrant workers and to what extent, if any, engagement with those workers influenced Irish trade union organisational approaches i.e. did union engagement with migrant workers lead to a new form of unionism in Ireland? Further to this, if there were new approaches to organisation, to what extent did they replicate those already identified within the literature? In presenting the research question, the chapter has set out the rationale behind its selection and the iterative process that led to it. It has contextualised it within the key salient research issues of importance relating to unions, their identity, the influence of external factors such as globalisation and migration, and the spectrum of trade union responses.

Historically the relationship between trade unions and migrant labour has been a complex and contradictory one – with the response from trade unions to immigration ranging across a spectrum from resistance and exclusion to inclusion. The ambiguity of that relationship is bound up with the labour movement’s identification with the nation state, premised on the idea of cultural and political unity. Despite their internationalist foundations, unions have a national focus. They are embedded in, and shaped by, their specific national contexts and thus primarily represent the interests of their existing national membership (McShane 2004). This is a fundamental issue for a national trade union movement when confronted with the reality of substantial labour migration.

The issue of migration has become more pressing for trade unions with the growth of globalisation from the 1990s and the dilution of the dominant nation state-based economic model. The economic, political and social aspects of globalisation have had significant impacts on the labour movement both nationally and internationally. Mobility of capital has, as is inevitable, led to increased mobility of labour. The increasing turn to neo-liberalism with its focus on the market, the presence of FDI and the profound suspicion of collective action on the part of international capital have led to an undermining of the labour movement through legislative repression in many cases and the creation of a vociferous anti-union narrative. This process has been aided, in some respects, by the trade union movement itself which has been seen to be increasingly out of touch with the labour market of the twenty-first century, one which has become progressively more privatised and has experienced a major rise in service employment and in flexible and informal employment. In many ways, it has continued to function as if the old structures

still existed – providing services to existing memberships within the public service, manufacturing industry and long established service industries. Its original mission has become diluted and it has strayed from its early social movement roots. All of this has served to radically impact on union membership and restrict union power and influence. And thus traditional trade unionism, in particular, has been seen as being in crisis, moving unions to seek new ways of doing business.

Long wave theory suggests that based on past experience (e.g. US unions in the 1930s) the long period of labour weakness will not last. To quote Kelly, “As the long economic upswing gathers momentum then so too should the organisation and mobilisation of workers across the capitalist world” (1998: 130). And current movements would seem to bear this out. From 2000 onwards there is a clear recognition from the international trade union movement that globalisation is operating as a new paradigm and that there is a need for new strategies, tactics and organisational modalities (Munck 2002). For example, in the US which had become one of the most moribund trade union movements in the world, new organisational approaches by the AFL/CIO, approaches taken up subsequently by the SEIU and others, have served to change the face of the US labour movement

Migrant workers have been central to this revival with their presence in the labour market increasingly being seen as an opportunity for trade unions. Where, in the past unions have seen migrant workers as a threat (providing an increased pool of low paid workers for employers to draw on and thus driving down wages and weakening union influence) they are now a key element of revitalisation strategies in many countries and the focus of many of the new organisational approaches being taken by unions (Frege and Kelly 2004).

This thesis will now trace, discuss and analyse these issues in the Irish context. It will trace the Irish trade union relationship with migrant labour and interrogate to what extent that relationship replicates the historical/theoretical model. It will present the relationship on the context of both the crisis of trade unionism and the broader globalisation debates. Finally it will explore the role of migrant labour as an element of trade union revitalisation in Ireland.

It will address a number of questions as in: Is there an ‘Irish trade union response’ or are there a variety of trade union responses within Ireland? How homogeneous is the Irish

trade union movement in its response? What are the commonalities and differences? How does the Irish trade union response compare to that of other European trade unions and how does it measure up? To what extent did Ireland's unions take refuge in the established bureaucratic model response or to what extent did they make new alliances and reach out to newcomers in imaginative and progressive ways?

1.5. Outline of the Thesis

The thesis is structured in three sections, comprising eight chapters in total. The first section which consists of Chapters One, Two and Three provides the context and the overall justification for the study. In the first instance it defines the research problem and positions it within its theoretical context. It then outlines the methodological approach to the research and locates the specific Irish case study within a broader European framework. Section Two presents the findings of the empirical research over four chapters, taking a temporal approach. Chapter Four, outlines the variables considered to be possible influencing factors on the Irish trade union response to labour migration. Chapter Five presents the initial trade union response while Chapter Six presents three case studies which are seen as being tipping points in the subsequent trade union move towards a more active organisational approach to migrant workers. The details of that approach, the variety of strategies adopted and challenges are presented in Chapter Seven. The final section, Chapter Eight discusses the implications of the research findings for Ireland and posits the emergence of a new Irish model of organising.

Chapter One is an introductory overview which has laid the foundation for the thesis. It has set out the context and introduced the research problem. It has set out the rationale behind the choice of research question and the iterative process that led to its selection. It has placed the research within the broader theoretical context with the purpose being to present a theoretical foundation upon which the research is based, identifying the research issues of importance and establishing the particular gap in the research which this thesis will fill.

Chapter Two to follow presents and justifies the methodological approach adopted in carrying out the research. It discusses the research design and outlines the data collection and analytical methods. It outlines the single country case study approach adopted and the justification for locating it within a comparative European framework. It presents, in some detail the methodological approach adopted, in this case thematic analysis which is a

qualitative approach to identifying, analysing and reporting implicit and explicit themes within data. The methods used include documentary analysis, semi-structured interviews and case studies.

Chapter Three deploys a comparative analytic framework to locate the Irish experience of immigration and the trade union response within a broader European context. It analyses the response of trade union movements in nine individual EU countries to labour migration and analyses the influence of a set of variables on that response. It discusses the history of European labour migration from post-World War Two to the present in its national industrial relations contexts. It considers the evolution of the various trade union responses throughout Europe and the role of the ETUC in that and it identifies areas of convergence and divergence.

In Chapter Four the study then narrows the focus to the national Irish case study and traces the development of labour migration to Ireland and presents in-depth the variables considered to be possible influencing factors on trade union response to labour migration. These are the character of the immigration, which changed and evolved over the period considered; the economic and labour market conditions that directly influenced and affected the evolution of the immigration; the political and legislative context through which labour migration was managed and the industrial relations context.

Chapter Five moves on to describe and interrogate the initial response of the Irish trade union movement to the prospect and the reality of significant inward labour migration and the issues arising from it. Using a modification of the analytic framework applied to the comparative analysis in Chapter Three, it presents a thematic analysis of the initial response of the trade union movement to labour migration. It presents and discusses the policy response, the attitudes and perceptions that pertained among trade unionists and the attempts at initial organisation of migrants.

Chapter Six takes a diachronic comparative approach to the examination of Irish trade union engagement with migrant labour by considering three case studies involving exploitation of migrant workers which are identified as tipping points within the development of the Irish trade union response. It starts with an exposition of a case within the horticulture sector where there was no union presence, or knowledge thereof, and

where the perception would be, as discussed in the previous chapter, that this was a major contributory factor to the exploitation. It moves to the case of GAMA Construction, which had a union presence and where, yet, continued exploitation of migrant workers went undiscovered over a substantial period of time. It then outlines the case of the unionised Irish Ferries, which first brought the issue of displacement onto the union agenda and which also brought both it and the issue of migrant worker exploitation into public discourse. It concludes with an analysis of the three disputes in terms of the trade union role.

Chapter Seven considers Irish union organisational approaches to migrant workers in the context of union revitalisation and the identification of migrant workers as a particular focus in terms of that revitalisation. It presents the variety of union approaches, examples of organising strategies and details the inclusion measures adopted by unions to encourage migrant participation. The case studies presented in Chapter Six, in particular, illuminate the shortcomings in the union response and it was primarily the issues that emerged in those cases, coupled with the decreasing influence of the union movement, that prompted ICTU and the trade unions involved with migrant workers to re-evaluate their strategies. That process of re-evaluation had actually begun before the GAMA and Irish Ferries disputes occurred but it was those disputes which, while upping demands for greater legislative provision and enforcement, also prompted unions to move more quickly towards the development of those new strategies.

Finally, Chapter Eight summarises the main findings of the study with regard to the central research question and posits that there is emerging in Ireland a new model of unionism.. The focus is on establishing clearly what has been demonstrated by the research, the aim of which was to investigate how Irish trade unions have responded to migrant labour. It provides an account of the major themes considered, grounded in the data; that is in the context of chapters Four to Eight. This leads on to discussion of the wider debates on migrant worker unionisation, trade union revitalisation and new organisational models and consideration of the implications for theory and also for policy and practice. It concludes with a consideration of the limitations and the possible impact of same on the findings and outlines possible areas for future research.

CHAPTER TWO: RESEARCH DESIGN

As briefly outlined in Chapter One, the purpose of this thesis is to develop a paradigm of trade union / labour migration relations based on how the Irish trade union movement responded to labour migration. It sets out to consider the response of Irish trade unions to inward labour migration to Ireland, in terms of policies, rhetoric, attitudes and organisational approaches; to examine variations, if any, in approach and how possible differences can be accounted for. It considers the influence of wider institutional factors such as economic and labour market conditions, the industrial relations system, the political and social context and the character of the immigration, categories which I considered to have the specificity required for meaningful analysis but to be sufficiently broad to represent the complexity of the data (these factors are discussed further below). This research builds upon previous research as referenced in the thesis with the focus on the trade union relationship with migrant workers in low wage, low-skilled, labour intensive occupations. While the Irish labour market also attracted migrants to high-skilled occupations, these are not considered in any substantial way. The exception to this is in the case of nurses (further information on selection of subjects for analysis is given in Section 2.4). The focus of the research is trade union behaviour with regard to migrant workers and it does not purport to enquire into the migrant workers response to trade unions.

2.1. Aims and Objectives

King, Keohane and Verba maintain that any research project in the social sciences should satisfy two criteria - firstly, it should pose a question that is important in the real world and second, it should make a specific contribution to an identifiable scholarly literature by increasing our collective ability to construct verified scientific explanations of some aspect of the world. This means locating a research design within the framework of the existing social science literature (1994)

With regard to the first of these criteria, I contend that the research question presented in this thesis addresses an issue that is central to our understanding of both current trade union behaviour and future policy development as the pattern of low-paid, informal work, employing predominantly migrant workers, continues with a concomitant decrease in traditional areas of union organisation. I have outlined more fully the reasons for my choice of research question in Chapter One and also in my discussion of methodology

below. With regard to academic impact, the primary purpose of this research is to make a ‘specific contribution’ to the literature on trade unions’ relationship with migrant labour in terms of both policy and practice and specifically on how that relationship has played out and developed in Ireland. This is an area that has been under researched and under theorised in the literature to date and this thesis is intended to contribute to both knowledge and theory. A secondary purpose is to contribute to the knowledge base of trade union leadership in Ireland and to contribute to the development of policy and strategic planning for the trade union movement in relation to inward labour migration going forward.

The specific objectives of this research are: to trace the development of the Irish trade union movement’s response to, and policy on, inward labour migration; to investigate the influence of the trade union movement on the policy environment; to contextualise Irish trade unions’ response within the broader European trade union movement with a view to establishing areas of convergence and divergence; to identify policy gaps that exist; and to develop evidence based policy formulations.

2.2. Methodology

This research is framed primarily within a social constructivist qualitative orientation aimed at developing theory inductively. Social constructivism is a world view where individuals seek understanding of the world in which they live and work. The goal of the research then is to rely as much as possible on the participants’ view of the situation. The meanings are formed through the interaction with others and through historical and cultural norms. Rather than starting with a theory, enquirers generate or inductively develop a theory or pattern of meaning (Creswell 2007, 2009; Crotty 2003; Boyatzis, 1998). The research also includes a post-positivist dimension in that there is a quantitative element to it which is a small scale survey to support theoretical sampling, it is using multiple levels of analysis and a computer programme has been used to analyse data.

The decision on the methodological approach involved a process of exploration, evaluation and revision influenced by a number of epistemological and practical considerations. My original research proposal was to examine the role of the Irish trade union movement in the integration of migrant workers in Ireland in the context of the theoretical debates around integration, multi-ethnicity multi-culturalism and absorption. But, as outlined in Chapter One, through the early documentary analysis phase and initial exploratory interviews, it

became clear that there was a need to address a much more fundamental question than that, which was about the nature of the relationship between trade unionism in Ireland and migrant labour

This then led me to revise my original research question to the current one.

My focus had now shifted from a theoretical investigation of organisational approaches to integration involving an iterative relationship between trade unions and migrant workers to a more exploratory study with a focus solely on the agency of trade unions, thus moving further from a migration studies field towards an industrial relations one. My research question was now an open one looking to the formulation of theory and one with an historical dimension and not appropriate to a theory testing methodology. In terms of research approach, in the first instance I developed an analytic framework which was an elaboration of that used by Penninx and Roosblad in their 2000 study, what they called the ‘three dilemmas of trade unions’ typology. However, after endeavouring to shoehorn my early empirical findings from the Irish data into the framework I realised that it was not sufficient to reflect the richness of the data from an in depth study of union responses in a single country. Thus I modified it in line with my thematic analytical approach as discussed in the next section (I subsequently applied the original framework to analysis of the European comparative material in Chapter Three - see figure 3).

2.2.1 A Mixed Methods Design

This is a mixed methods study with the primary qualitative methodology being thematic analysis (outlined in Section 2.3 below). Mixed methods design is the incorporation of one or more methodological strategies into a single research study in order to access some part of the phenomena of interest that cannot be accessed by the use of the primary method alone, thus making the study more comprehensive or complete than if a single method was used. It is a systematic way of using two or more research methods to answer a single research question. Morse and Niehaus (2009) argue that a mixed method design leads to a scientifically rigorous research project and is in fact a stronger design than one that uses a single method because the supplemental component enhances validity of the project by enriching or expanding our understanding or by verifying our results from another perspective. However, they note that the combination of qualitative and quantitative methods is more difficult than using a combination of qualitative methods because mixing paradigms means using contradictory assumptions and rules for enquiry. So although the

use of a quantitative method in this study is but a small element of the overall research process, it nonetheless calls for a greater rigour in designing and carrying out the research

Nomenclature, as per Morse and Niehaus (2009), for my mixed method study is ‘QUAL + quan’. Thus the core component of the research is qualitative (inductive theoretical drive), and the supplementary and simultaneous component is quantitative (deductive theoretical drive). The position where the supplemental component fits into the core component usually occurs in one of two places; at the analytical interface where the analysis of the core data takes place or at the results point of interface where the results are presented. It can also occur in both as it has done in my case in that the quantitative element – the survey – informed the construction of the qualitative element and also supported the results.

Figure 1: Schema outlining the framework of the study

Epistemology	Theoretical Perspective	Methodology	Methods
<i>Primary:</i> Constructivism	Inductive theoretical drive	Thematic analysis	<ul style="list-style-type: none"> • Interviews • Documentary analysis • Participant observation • Comparative analysis
<hr/> <i>Secondary:</i> Post-positivism	Deductive theoretical drive	Survey research	<hr/> <ul style="list-style-type: none"> • Sample Survey

The methods used included documentary analysis, semi-structured interviews and case studies with the quantitative component consisting of a small scale survey of trade unions to elicit data on individual union behaviour in dealing with migration. The research combines both description and analysis while there is also a strong historical dimension, in order to trace the evolution of the current trade union position, all leading to more realistic

and wide ranging understanding, knowledge and answers (King, Keohane and Verba 1994). While it is not a comparative study, there are comparative elements to it in that the Irish situation is contextualised in a broader European framework.

2.3. Thematic Analysis

Thematic analysis was first identified and described by Boyatzis in 1998. It is a qualitative approach to identifying, analysing and reporting implicit and explicit themes within data. Braun and Clarke, enthusiastic proponents of thematic analysis, wrote of it as being ‘a poorly demarcated and rarely acknowledged yet widely used qualitative analytic method’ which should be seen as a foundational method for qualitative analysis. It is essentially independent of theory and epistemology and therefore compatible with both essentialist and constructionist paradigms (2006: 77). It identifies and analyses themes within data as well as serving to organise and describe the data set in rich detail. It can also interpret various aspects of the research topic (Boyatzis 1998). It differs from other analytic methods that seek to describe patterns across qualitative data such as grounded theory in that it is not wedded to any pre-existing theoretical framework and therefore can be used within different theoretical frameworks and do different things within them. Braun and Clarke argue that thematic analysis can be an essentialist or realist method, reporting experiences, meanings and the reality of participants or it can be a constructionist method examining the ways in which events, realities, meanings, experiences and so on are the effects of a range of discourses operating within society (2006). Boyatzis also considered it particularly appropriate to a mixed methodology study which, as outlined above is the approach I considered best for my research.

Themes or patterns in data can be identified in one of two primary ways in thematic analysis; in an inductive or ‘bottom up’ way or in a theoretical or deductive or ‘top down’ way. An inductive approach means the themes identified are strongly linked to the data themselves (as such this form of thematic analysis bears some similarity to grounded theory). The theoretical approach is driven by the researcher’s theoretical interest in the area or topic which will mean the themes are more likely identified by a pre-defined coding frame. Coding for a specific research question maps onto the more theoretical approach while the emergence of the research question through the coding process maps onto the inductive approach (Braun and Clarke 2006). Boyatzis (1998) added a third way which is code development on the basis of prior research which he places between inductive and theoretical and sees it as combining elements of both. This is the specific

approach which I have chosen to take as it allows for an exploratory approach to the research while also requiring engagement with the literature prior to analysis.

Another distinguishing point for me in choosing thematic analysis relates to the process of code development and thematic identification. Discussion of themes ‘emerging’ or being ‘discovered’ is very much a passive account of the process of analysis, and denies the active role of the researcher in identifying patterns or themes, selecting which are of interest and reporting on them. Braun and Clarke observe that “it implies that themes reside in the data and, if we just look hard enough, they will emerge; if themes reside anywhere, they reside in our heads” (2006: 92). Given that qualitative research is inherently interpretive, I consider that the biases, values, and judgments of the researcher, both informed and instinctive, play an important part in the research process and specifically, in the case of this research, in the identification of themes. In my case those biases, values and judgments were formed and informed by previous research experience in the industrial relations/migration field, by my engagement with the literature and by my active participation in ETUC migration working groups. All of these contributed to my identification of codes and subsequent themes within the research.

There are six phases of thematic analysis:

2.3.1. Data Immersion

In this phase I analysed my data in an active way in searching for meanings and patterns. This initially involved reading and re-reading the material until I was comfortable and a sense of the codes was starting to emerge. Transcription of the data is imperative to the dependability of analysis and I support the view that self-transcription from the original recorded material is a core element of the process. Kelle *et al* considered it should be a “key phase of data analysis within interpretative qualitative methodology” (199: 227). The close attention needed to transcribe data facilitates the close reading and interpretative skills needed to analyse the data (Braun and Clarke 2006).

2.3.2. Generating initial codes

Codes identify a feature of the data that appears interesting to the analyst and refer to the most basic element of the raw data that can be accessed in a meaningful way. A good code is one that captures the qualitative richness of the phenomenon (Boyatzis 1998). Miles and

Huberman see the process of coding as a part of analysis as it involves organising the data into meaningful groups (1994).

In my case initial codes were developed using a combination of an inductive approach to the raw data but one informed by prior research on: (1) trade union responses to migrant labour and (2) new organisational approaches within trade unions. The research considered covered trade union responses and approaches across a range of countries, sectors and models⁷ Coding is a means of reduction and simplification of data. Initially I coded for as many codes

as possible and I also cross coded individual extracts of data. Thus some extracts were coded a number of times within different themes. I used the qualitative data analysis computer package, NVivo, to aid in the coding of the data.

2.3.3. Identifying themes

This phase involved the analysis and ordering of the initial codes to identify potential higher order themes. Themes differ from codes in that *themes* describe an outcome of coding for analytic reflection. A theme captures something important about the data in relation to the research question and represents some level of patterned response or meaning within the data set (Braun and Clarke 2006). Here I set out to provide a rich thematic description of my entire dataset from which I extracted what I identified as the dominant themes.

2.3.4. Reviewing themes

In this phase I searched for data to support or refute hypotheses emerging from the themes. I did this by reviewing and refining themes. This is where it became obvious when themes weren't working or where there was significant overlap between themes or mismatches between the data and analytic claims. Where these issues occurred, data needed to be reorganised in order to create cohesive, mutually exclusive themes.

⁷ Holgate 2009; Martinez Lucio and Perrett 2009a, 2009b; Turner et al. 2008a, 2008b; Krings 2007, 2009b; Fine 2005, 2006; Fulton, 2003, 2007; Frege and Kelly, 2003, 2004; Milkman 2000, 2006; Wrench, 2000, 2004; Wills, 2001, 2002, 2006; Tait, 2005; Penninx and Roosblad, 2000; and Castles and Kosack, 1973.

2.3.5. Defining themes

This is the narrative phase. At this point I had a final refinement of my overall thematic map and had identified the essence of each theme. Part of this process involved identifying sub-themes, the use of which helped to give structure to larger and more complex themes, and also served to demonstrate the hierarchy of meaning within the data.

2.3.6. Writing up

This is the writing up of the empirical material uncovered through thematic analysis. At this stage I had decided on what themes made meaningful contributions to answering the research question. I then organised the presentation of my data around the themes to best convey the research findings in a manner that convinces of the validity and merit of the analysis. The data is presented in Chapters Four, Five, Six and Seven with data extracts embedded within the analytic narrative to demonstrate the prevalence of the themes, and ultimately, to make an argument in relation to the research question.

2.4. Sampling Frame

In the first instance a limited survey of a non-random sample was carried out which was administered within the delimited population of ICTU member trade unions. While one purpose of the survey was to elicit quantitative information from the unions on migrant worker membership, services, policies and organisational initiatives, it was administered at a relatively early stage in the research process in order to assist with purposeful sampling for interview purposes. It served to establish which unions had significant migrant worker membership, their areas of employment, the significance of the issue within the union and the processes and procedures in place.

The Irish Congress of Trade Unions (ICTU) was selected for inclusion in the sampling frame on the basis of its being the peak union confederation in Ireland and with involvement on migrant labour issues, both at national and international level. Then following analysis of the survey responses and initial interviews with key informants, the individual unions selected for further analysis were Services, Industrial, Professional and Technical Union (SIPTU), the Union of Retail, Bar and Administrative Workers (Mandate), the Irish Nurses and Midwives Organisation (INMO), the Builders, and Allied Trade Union (BATU), the Communications Workers Union (CWU) and the Irish section of UNITE, the Union. They were selected on the basis that they best met the requirements

of the research as they all organised in sectors where there was a significant migrant worker presence but they also allowed for variation on the independent variable in that they are different types of unions, representing different sectors and there were varying levels of engagement and development of policy and practice.

ICTU

There is only one peak union confederation in Ireland, that being ICTU. It has 55 affiliated unions and represents over 850,000 workers across the island of Ireland, North and South. The policy of Congress is determined at its biennial conferences attended by about 700 delegates from affiliated unions and district trades councils. It has a 35 member executive council, the members of which are elected at the biennial conference. This includes the election of the President, two Vice Presidents, the Treasurer and 31 ordinary members. The Executive Council oversees the functioning of Congress between conferences. It has a staff of 30 across the island of Ireland, 21 in the Dublin office and 9 in Belfast. It is led by the General Secretary, assisted by two Assistant General Secretaries, who manage the affairs of the organisation and report to monthly meetings of the Executive Council. It has 16 standing committees including the Executive Council and the Solidarity Committee which is the one that deals with issues in relation to migration. The Officers of Congress are ex officio members of Congress Committees (ICTU 2011).

SIPTU

The Services, Industrial, Professional and Technical Union (SIPTU) is a large general union which represents over 200,000 workers from virtually every category of employment, both private and public, across almost every sector of the Irish economy. It represents almost 34% of ICTU membership in the Republic of Ireland. The policies of the Union are decided by the National Delegate Conference which is held biennially and attended by elected representatives from the Union's Divisions and Sectors. The National Executive Committee (NEC), consisting of 29 members, is elected at the Conference. The NEC oversees the work of the union between conferences. National Executive Officers - the General President, the Vice-President and the General Secretary – are also elected at the National Delegate Conference and serve a six year term. The National Executive Officers manage the affairs of the organisation and report to the National Executive Committee. On matters of critical importance a Special National Delegate Conference may be called by the National Executive Council to determine the issue in question.

SIPTU describes itself as an organising union, with a strong emphasis on recruitment of new members. In order to undertake this role it underwent a major reorganisation process which was completed in 2010. This saw the Union move to organisation on an industrial sector rather than regional basis. It now operates on the basis of six Divisions which organise workers in specific areas of the economy, allowing for greater coordination of activities and the pooling of information across industries and services. Within each Division activities are further divided into Sectors dealing with Union operations in similar employments and associated services. SIPTU has a staff of 324 including sector organisers, industrial organisers and administrative staff (SIPTU 2013a; 2013b)

Mandate

Mandate Trade Union is an industry union, representing retail, bar and administrative workers. It has 40,000 members organised in 62 individual branches across 11 divisions. Policies of the union are decided at the Biennial Delegate Conference “which shall determine the union’s policy on all matters affecting or touching upon the interests of the Union or its members” (Mandate 2012: 7). The biennial conference elects the 22 person National Executive Committee (NEC) of the union. The President, Vice-President and Treasurer (the ‘Officers’) are elected at the conference from the already elected NEC membership. A special delegate conference may be called by the NEC on its own initiative or on receipt of a request in writing from 3,000 members of the union. The NEC oversees the work of the union and appoints the General Secretary, who in turn, manages the organisation (Mandate 2013).

Mandate is now an organising union and describes its principal object as “the organisation of workers for the purpose of advancing their social and economic advancement” (Mandate 2012: 5). Mandate has a staff of 54 including Organisers, Officials and administrative staff.

INMO

The Irish Nurses and Midwives Organisation (INMO) is a professional trade union for nurses and midwives. It has a membership of 40,000 the majority of whom are employed in public hospitals with smaller numbers employed in private hospitals and the nursing home sector. It is organised in forty-two branches throughout the country, based either on a single employment location or a geographical area, depending on numbers. These branches are in turn organised into 14 sections, including an International Nurses Section. The supreme authority of the union is the Annual Delegate Conference and / or Special

Delegate Conferences as may be called from time to time at the request of one quarter of the membership or at the discretion of the Executive Council. All policy decisions are taken at these. The general control and direction of policy is vested in the Executive Council which is elected at the Annual Delegate Conference and holds office for a period of two years. The Executive Council consists of twenty-two members, including the President, Vice-President and Second Vice-President. The Officers are elected by all the voting delegates but, in order to be eligible, the candidates must already be serving Executive Council Members. The General Secretary is appointed by the Executive Council and is the Chief Executive Officer with overall responsibility for the management of the business of the organisation. The INMO has a staff of 100 including in industrial relations, education and administration (INMO 2013; 2015).

UNITE

‘UNITE the Union’ was formed in May 2007 following a merger between the T&GWU and AMICUS and is currently the largest union in the UK and Ireland with 1.8 million members. It represents members in a wide range of sectors including Transport, Public Services, Manufacturing, Finance, Clerical, IT, Agriculture, Construction, Power & Engineering, Aviation, Food, Drink & Tobacco and Health. It is one of the first unions in either the UK or Ireland to have moved towards organising, having begun such moves after amalgamation in 2007.

Unite’s supreme policy making body is the Policy Conference which is held bi-annually. All constitutional conferences and committees of the union are obliged to have a gender and ethnic balance of elected representatives, at least reflecting the constituency which they represent. Unite operates on the basis of Industrial Sectors, which include both occupational and professional sectors. In Ireland, it operates on an island-wide basis, with Ireland constituting one Region as does Scotland and Wales while England is divided into seven regions. There is an Irish Executive Committee which makes decisions on matters of an industrial or political nature relating to the Republic of Ireland or Northern Ireland “which do not affect members of the Union not so resident” (Unite 2013: 57). While it is one of the largest unions operating in Northern Ireland, Unite’s presence in the Republic of Ireland is relatively small and much of its organising is concentrated in the border regions.

CWU

The Communications Workers Union (CWU) represents workers in the postal, telecommunications and call centre sectors. Previously a primarily public service union, communications deregulation has meant that its membership is now largely drawn from the private sector, from companies such as Eircom, An Post, Vodafone, Meteor, O2 and others. It currently has a membership of approximately 18,000 spread over 146 branches.

The primary policy making body of the CWU is the Biennial Conference which is where policy decisions are taken and the National Executive Council (NEC) is elected. The NEC, which consists of 32 members, is charged with overseeing the implementation of conference decisions and policy. The President and Vice President, who are part of the 32 person complement, are also elected at the conference but on the last day, having already been elected as ordinary members. The appointment of the General Secretary is made by the NEC. The General Secretary is responsible for managing the business of the union with the support of sub-groups of the NEC as appropriate. Special conferences can be held either at the instigation of the NEC or by decision of the biennial conference. The CWU has a total staff of twenty, including full-time officials and administrative staff (CWU 2013a; 2013b)

BATU

The Building and Allied Trades Union (BATU) is a small craft union with a membership of approximately 2,000. It has a total of four staff. The supreme governing and policy making body of the union is its Annual Delegate Conference, This conference elects the union's National Executive Council which is made up of 10 "ordinary members" plus a General President and a Vice President who are also elected by the conference (2013b; 8). The General Secretary (who also acts as Treasurer), a Deputy General Secretary and "such number of Assistant General Secretaries as the Annual Delegate Conference may from time to time determine" are "appointed by the Annual Delegate Conference" (2013b: 11). A Finance and General Purposes Committee conducts the business of the union between meetings of the NEC and deals with the union's financial affairs. This Committee is elected by and from the NEC.

BATU is currently engaged in discussions with SIPTU with a view to a merger of the two unions (2013a).

2.5. Data Collection

The specific methods applied in this mixed method study for data collection were a combination of documentary analysis, semi-structured interviews, comparative analysis, participant observation and a small scale survey

The research was divided into three stages as follows:

Stage 1

Formulation of research proposal

Documentary analysis

Initial interviews with gatekeepers and key informants

Participant observation (international)

Stage 2

Union survey

Participant observation (international)

Interviews with union leaders and middle management

Comparative analysis

Data analysis 1

Stage 3

Interviews with union officials and organisers

Data analysis 2

Coding and theme development using NVivo

Extrapolation of final hypotheses

Write up

2.5.1. Documentary analysis

Documentary analysis refers to the analysis of documents that contain information about the phenomenon under study. Payne and Payne describe the documentary method as the techniques used to categorise, investigate, interpret and identify the limitations of physical sources, most commonly written documents whether in the private or public domain (2004: 60). In my approach to the documentary analysis element of my research I applied the quality control criteria for the handling of documentary sources, as formulated by Scott. The four criteria are: authenticity, credibility, representativeness, and meaning.

Authenticity refers to whether the evidence is genuine and from impeccable sources; credibility refers to whether the evidence is free from error and distortion; representativeness refers to whether the documents consulted are representative of the totality of the relevant documents; and meaning refers to whether the evidence is clear and comprehensible (1990: 6).

In the case of this research the documentary analysis focused on both primary and secondary sources. I mainly drew on primary sources emanating from trade unions that are of relevance to the topic under research. These included ICTU and member trade union policy documents, submissions, press releases, annual reports, information materials, consultancy reports and published statements and speeches (e.g. ICTU 2005; 2006; 2007; Begg 2006; 2007; SIPTU 2005; 2006; 2007; 2011). They also included similar material from relevant NGOs such as the Migrant Rights Centre of Ireland (MRCI) and the Immigrant Council of Ireland (e.g. ICI 2003; MRCI 2004; 2006a; 2007). Documentary material from the Central Statistics Office (CSO), the Economic and Social Research Institute (ESRI), relevant Government Departments and statutory bodies was also studied (e.g. Barrett et al. 2005; Barrett and Duffy 2007; CSO 2005; 2006; 2007; DETE 2005a; 2005b; 2008). Added to this was material from the ETUC working groups such as reports, minutes and EU material provided to the working groups (e.g. ETUC 2009a, 2009b; 2011a, 2011b; European Commission 2001; 2009). The analysis also involved substantial engagement with the websites of all of the bodies studied. With regard to secondary sources, there was a detailed study of media coverage of three significant industrial disputes involving migrant workers (see Chapter Six) as well as more general engagement with media coverage of trade union and migrant labour issues. To all of this I added a comprehensive review of the academic literature.

2.5.2. Participant observation

Participant observation at ETUC level was a feature of the earlier phases of my research. I sat on the ETUC Migration and Inclusion Working Group, ‘Workplace Europe’, from 2007 to 2010 as an Irish informant, nominated by the ICTU. Arising out of the ‘Workplace Europe’ project, the ETUC established a further project, ‘What Price the Tomatoes’ in 2010 which focused specifically on trade union relationships with undocumented workers. I again sat on this project working group as an Irish informant. Both these project groups were made up of a combination of trade unionists, NGO representatives, academics and

ETUC staff. In both cases I informed the group members of my dual position at the introductory stage of the projects. The purpose of my observation was not ethnographic, but rather was contextual with a view to learning about the experience of trade unions and migrant labour in other jurisdictions in terms of practices, organisational approaches, particular difficulties and models of good practice to inform my approach to and enrich the data from the national research.

The practical aspects of the observation process I found challenging, as noted by Creswell. He discusses the difficulties of role definition of the researcher as to whether to assume a full-participant role, non-participant role or a middle-ground position (2007: 139). I assumed somewhat of a middle-ground role insofar as I neither wished to, and nor was I in a position to, represent the ICTU so I acted more as an informant to the working groups when required and, in turn, kept ICTU informed of developments from the working groups. It was necessary for me to clarify my role on occasion if, as happened, I was called upon to speak on behalf of ICTU. The other difficulty I experienced, also referenced by Creswell, was around the issue of recording my observations, remembering to take field notes (this could be a problem when debate was heated or when we were operating in small sub-groups), recording quotes accurately and applying sufficient rigour to the writing up process to ensure accuracy. This involved writing up at the end of each day.

2.5.3. Survey

A limited survey of a non-random sample was carried out which was administered within the delimited population of ICTU member trade unions. The survey questions were designed according to my theoretical framework and were primarily closed questions with options to provide additional information if wished. The purpose of the survey was twofold. Firstly, as an initial step to address the dearth of information available on the research topic, it was to elicit quantitative information from the unions on the particular areas of interest such as migrant worker membership, recruitment processes, engagement and integration, services, specific migrant focused policies and organisational initiatives and the timescale of development. Secondly, it was designed and administered at a relatively early stage in the research process in order to assist with purposeful sampling for interview purposes.

Following the initial design of the questionnaire the questions were pre-tested on two unions to evaluate reliability and validity and the questionnaire was then modified accordingly. It was then circulated to the designated individuals responsible for equality issues in the affiliate unions of the ICTU. The survey was web based and was prepared and circulated through the web based survey development company, Survey Monkey. It was circulated by, and with the endorsement of the ICTU on my behalf, thus increasing the probability of response. The survey received a 60 per cent response rate. A full list of the survey questions is contained in Appendix B.

2.5.4. Interviews

In a qualitative research interview, knowledge is produced socially in the interaction of interviewer and interviewee, not by following a pre-determined method or set of rules. Rather than locating the meanings and narratives to be known solely in the subjects or the researchers, “the process of knowing through conversation is intersubjective and social, involving interviewer and interviewee as co-constructors of knowledge” (Kvale and Brinkman 2009: 18).

This research used semi-structured interviews as the primary qualitative method within the thematic analysis methodology. Purposeful sampling was applied to the selection of cases of interest meaning that the theoretical purpose of the project, rather than a strict methodological mandate, determined the selection process (Creswell 2007; Marvasti 2004). Creswell describes purposeful sampling as where “...the researcher selects individuals and sites for study because they can purposefully inform an understanding of the research problem and central phenomenon in the study” (2007: 125). This was my primary approach to sampling but later in the process I deviated from it in that it was clear that a snowballing approach (i.e. direction from those already interviewed), was going to lead me to cases of interest which were more information-rich.

A total of 28 interviews were conducted with the interviewees drawn from the Irish Congress of Trade Unions (ICTU) and six of its affiliate unions as outlined in Section 2.4 above (see Appendix for full details of interviewees). A multi-level approach was adopted in the interview process involving (a) Senior Management (General Secretaries); (b) Middle Management (Senior and Regional Organisers); (c) Executives (Branch Officials/Organisers); (d) Local Activists. The interviewees were categorised in this way in

order to gain a broad spectrum of perspectives and to militate against the reflection of institutional bias. Interviews with senior management were conducted in the first instance. This was with a view to gathering data on policy and management perspectives on how ICTU and respective individual unions were engaging with migrant workers. This was followed by interviews with middle management who, in most instances, are located at the intersection between policy development and articulation and local engagement. These were then followed by interviews with executives and activists to establish how those policies and senior management perspectives translated into trade union activity on the ground.

Key informants included former trade union officials and activists who had been centrally involved in migrant worker issues. The contribution of these interviewees to the research was particularly pertinent for a number of reasons. They were individuals who had been actively engaged with migrant worker issues from early on, they had the benefit of hindsight without the constraint of institutional attachment and so could bring a greater level of objectivity to their analysis. Another key informant was a senior academic, drawn from the School of Business, UCD who had been engaged on an ICTU commissioned research project from 2008 to 2011 which explored the strategic choices made by five trade unions in Ireland, their priorities and direction. The research provided a level of multi-union assessment of union organisation in Ireland at that point and was intended to lead to discussion and debate between the unions to, in turn, facilitate the development of new ideas, stronger connections between organizers and increased knowledge transfer. However this did not happen and it remains unpublished. The selection of representatives from the national NGO, Migrants Rights Centre Ireland, for interview was on the basis of their involvement with issues of migrant worker exploitation and their engagement with both the trade union movement and directly with the state's Dispute Resolution Services. Finally interviews were conducted with representatives of the ETUC and the international NGO, PICUM. The primary purpose of these interviews was to illuminate the situation with regard to ETUC engagement with the issue of migrant labour, building on the data gathered through my role in the ETUC sub-committees as outlined above.

An in-depth semi-structured approach was taken to the interviews as being the most appropriate, involving as it does a "set of defined answers to defined questions, while leaving time for further development of those answers and including more open-ended

questions” (Walliman 2001: 241). I designed the interview protocol in advance with broad topic headings, dictated by the theoretical framework and informed by the initial analysis of the survey responses. There was a three-stage approach to the interviews with open interviews of key informants and gatekeepers taking place at stage one of the process. These early interviews provided important information which helped not only to indicate the future research direction but also to identify and prioritise issues (Dunleavy 2003; Walliman 2001). They also determined the focus and scope of later interviews. The second series of interviews, which took place at stage two, involved semi-structured interviews with trade union leaders, including the General Secretary of the ICTU and with trade union middle managers across the selected unions. This phase also involved interviews with representatives of NGOs and the ETUC. The third phase of the interview process, which was very much born of the snowballing process, involved interviews with key union officials, organisers, activists and key informants. The scope of the interview process went beyond serving trade unionists to former trade union employees and to informed observers as I considered that limiting it to insiders only was likely to circumscribe the outcomes of the research and limit its possible application.

The interviews took place in three sessions, the first between April 2011 and June 2011 the second between March 2012 and April 2012 and the third between October 2012 and February 2013. All, but one, of the interviews were conducted in the workplace of the interviewees with one by telephone. All interviews were recorded and I also took notes concurrently to note items that I thought required particular emphasis or to record my own observations. The interviewees were self-transcribed, coded and analysed thematically.

2.5.5. Comparative analysis

Comparative research is the act of comparing two or more things with a view to discovering something about one or all of the things being compared. It has been central to the creation of an understanding of immigrants and their experiences in historical and social context. It has increasingly played a role in developing understanding of how and why trade unions respond to issues of migrant labour in different ways (Hardy *et al.* 2012; Fitzgerald and Hardy 2010; Krings 2007; 2009a; 2009b; Frege and Kelly 2004; Penninx and Roosblad 2000). Comparative analysis is also an integral part of any thematic analysis study.

This research has a strong comparative component throughout with the elements of the comparative analysis informed by the theoretical framework and, more specifically by the thematic analysis coding process. Thus the units of coding and the particular methods applied have emerged from the data. In Chapter Four I have applied the comparative analytical framework as described earlier to a broad analysis of the responses of trade union movements in nine Western European countries to migrant labour. The primary purpose of this comparison is to establish convergence and divergence of responses, with a view to positioning the Irish trade union movement response within that.

I also apply a diachronic comparative analysis to the Irish empirical material. Diachronic analysis concerns itself with evolution and change over time of that which is studied. It is particularly useful in this case in that I have included in this research, in Chapter Seven, three case studies of industrial disputes which were considered tipping points⁸ in the relationship between Irish trade unions and migrant labour and which exemplify the development of the trade union response over time - “single cases can be vivid and illuminating, especially if they are chosen to be revelatory” (Miles and Huberman 1994: 26). The case studies are of a local level Mayo mushroom farm dispute in 2003 which was led by an NGO; the GAMA construction company dispute of early 2005 which was brought to public attention by a politician; and the Irish Ferries dispute where the trade union movement was seen to play a central role.

2.6. Limitations

There are outstanding issues with this research that I have had to either allow for or accommodate within the research framework. A key challenge in my research was going beyond a descriptive account of change and undertaking a critical and meaningful analysis of the data. The process ran the risk of being descriptively interesting but weak in terms of causation and explanation. Thus I endeavoured to put in place a robust qualitative analytical framework, supported by a quantitative element. I took a number of decisions along the way that have had delimitating effects on the outcome. As outlined earlier in this chapter, the first and primary limiting step was the choice of problem itself and why it was

⁸ The tipping point is the critical point in an evolving situation that leads to a new and irreversible development. It is the point at which a series of small changes or incidents becomes significant enough to cause a larger, more important change.

I made that particular choice. Further to this is why I chose to (a) focus on the constituency of migrant workers that I did and (b) exclude others, i.e. those who come to work in the professions. The primary reason for this decision is that, generally, non-Irish workers who come to Ireland to work in the professions are employed under much more favourable circumstances than those who come to work in the traditionally poorly paid areas such as the service industries. This differentiation is made in much of the international literature that discusses labour migration. Other limiting decisions I took were to survey all unions but to only conduct interviews with ICTU and a representative sample. While time and resources played a part in this decision, it was made primarily because I identified a cross section of different union types, all of which had dealings with sectors employing substantial numbers of migrant workers (see section 2.4 above for further information on rationale for those choices).

As outlined in Chapter One I selected to undertake a national case study approach to the research on the basis that it would provide an in-depth and richer data set than would a comparative approach. However, it too has some limitations. For example, it is not possible to conclusively account for the specific influence of one institutional arrangement over another. Secondly, because the analysis is carried out in one country only it is not easy to generalise the outcomes. (Culpepper 2005)

A further limitation emerged through the documentary analysis and survey process but became clear primarily through the interview process. It was born primarily out of the snowballing approach to the later interviews which process began to point up that: (a) while the unions selected had substantial numbers of migrants in the sectors they serviced, there were varying levels of engagement and development of policy and practice; and (b) larger unions had the capacity to present a variety of perspectives from professional staff at different levels and locations within the union (e.g. SIPTU with a membership of 200,000, 34% of ICTU's membership in the Republic of Ireland) while smaller unions had neither the variety of perspective or the availability of personnel for interview (e.g. Batu with a membership of less than 2,000). In order to best represent the variations of both perspectives and approaches I decided to interview more personnel from the larger and more engaged unions. Thus in the final phase of the interviews, more interviewees were selected from the larger unions than were from the smaller ones (See Section 2.2. above for further details on union selection).

The final and significant limiting decision was to focus my research and data collection exclusively on trade union institutions, their professional staff and a small number of key informants to the exclusion of migrant workers themselves. This decision was made on the basis that the focus of my research was trade union behaviour, rather than migrant workers' experience of that behaviour. It was an iterative process where, as I engaged with the literature particularly that on new social movement and community unionism theory and practice, I grew increasingly interested in Irish trade union engagement with these concepts. It became clear that there was a level of engagement on the part of a number of unions who were beginning to look outwards towards other models. There was also the question of sample selection of migrant workers to ensure validity. The lack of a migrant worker voice does mean that I have to use objective facts and information to justify my findings e.g. numbers of people on the streets in the Irish Ferries demonstration, inclusion of migrant issues in the programme for government, levels of migrant worker membership and engagement.

2.7. Conclusion

The objectives of this research are to trace the development of the Irish trade union movement's response to, and policy on, inward labour migration; to investigate the influence of the trade union movement on the policy environment; to contextualise Irish trade unions' response within the broader European trade union movement with a view to establishing areas of convergence and divergence; to identify policy gaps that exist; and to develop evidence based policy formulations.

In this chapter I have laid out and justified my methodological choices and approach to address the research problem and achieve these objective. It involves a triangulated mixed methodology and combines both descriptive and analytic methods while there is also an historical dimension. Thematic analysis is the primary methodological approach. It is a qualitative approach to identifying, analysing and reporting implicit and explicit themes within data which is not wedded to any pre-existing theoretical framework.. I contend that this is most appropriate to this research and will ensure the necessary rigour while allowing the maximum flexibility to represent as fully as possible the Irish trade union movement's relationship with migrant labour. The methods used include documentary analysis, semi-

structured interviews and case studies and a minor quantitative component which involved a small scale survey of all ICTU member unions.

Chapter Three, to follow, presents a European contextual framework for the study of the Irish situation. It outlines the history of European labour migration from post-World War Two to the present in its national industrial relations contexts. It takes a comparative perspective to the responses of trade union movements in nine Western European countries to labour migration placing the Irish response within that European context. The primary purpose of this comparison is to establish convergence and divergence of responses with a view to positioning the Irish trade union movement response within it.

CHAPTER THREE: THE EUROPEAN DIMENSION

To understand the development of labour migration and the Irish trade union response to it, it is necessary to examine it in the context of labour migration more broadly, which emerged as a European-wide phenomenon in the mid-1950s. This was a period of reconstruction, following the Second World War, when many Western European countries were confronted with labour shortages and moved to recruit foreign workers to meet labour market needs. It is only within the context of trade union responses to migration historically that it is possible to evaluate the Irish trade union response today. This chapter takes the typology of European trade union models and examines to what extent the factors at play in any given country may account for individual trade union movement responses to migration. It considers migration patterns across Europe since labour migration emerged as an issue, from a period after the Second World War to the early days of the twenty first century and the trade union responses within nine individual EU countries to immigration.

The aim of this chapter is to trace the dominant trade union response in each of the countries examined. Penninx, Roosblad and Wrench have developed a conceptual framework to interpret the variety of union responses to migration. I apply a comparative analytic framework based on an elaboration of that used by Penninx and Roosblad in their 2000 study, what they called the ‘three dilemmas of trade unions’ typology.

The nine EU member states selected are chosen on the basis of (a) operating under a number of differing trade union models (b) being longstanding members of the EU and (c) having a significant level of immigration over the past half century. The countries selected include Germany, Austria, Sweden, the Netherlands, France and Britain, all countries that experienced early post-war immigration and who featured in Penninx and Roosblad’s seminal work on trade unions and immigration in Europe (2000). The other three, all long established countries of emigration, are Italy and Spain where immigration only began in the late 1970s and Ireland where immigration was not a feature until the 1990s. This chapter examines the levels of convergence and divergence between the trade union responses in the nine selected countries and analyses those responses and considers the factors that influenced them.

Alongside the presentation of the comparative material, this chapter also outlines the engagement with migration issues at the supra-national level of the European Trade Union Confederation (ETUC). It takes account of the development of the position of the (ETUC) on labour migration issues, the nature of the power relationship between the ETUC and its trade union confederation members and the relationship and the possible influences, if any, of the ETUC on national trade union movement responses.

3.1. Phases of Immigration

Post-war immigration to, and within, Europe did not unfold in a single seamless pattern but rather in waves, each of which was precipitated by a unique set of circumstances (Castles and Miller 1993). Penninx and Roosblad (2000) also identified what they referred to as ‘distinct phases in the immigration process’, defining them as: post WW2 – 1972; the 1973 economic downturn -1988 and the post communism phase, from 1989. Since that publication, there has been a further significant phase of the immigration process following EU enlargement in 2004.

The first of these waves began in the period immediately after the Second World War and was defined by the mass influx of workers from the less developed countries of the Mediterranean, the developing world and Eastern Europe to Western Europe, when the Western European countries involved in the war began a period of reconstruction. Within a short number of years many of these countries were confronted with labour shortages and had to look beyond their own borders to recruit labour and by the mid-1950s most Western European countries had become importers of foreign labour (Penninx & Roosblad 2000). Castles *et al.* (1984) estimate that approximately 30 million people entered Western Europe as workers, or dependents, during this period; thus making post-war migration ‘one of the greatest migration movements in human history’. This immigration facilitated the rapid and sustained expansion of the domestic economies, which fed the west European post-war economic boom.

Employers and governments across Western Europe aggressively recruited foreign workers, and systems for recruitment and employment were developed. Historical ties (colonial or otherwise) of immigration and emigration countries played a significant role in the first recruitment phase, while more diversification took place in all countries later on, not least because the migration movement, once well under way, gained its own

momentum and sought new destinations. But during this first phase a specific labour migration system came into existence which was employer led and lightly controlled and largely, though not universally, seen as being temporary e.g. Germany and Austria introduced the concept of the *gastarbeiter* (guestworker), a view of migrant workers which was also held in the Netherlands. The UK was the exception here, in that its immigrants at this time came largely from the former colonies of the Caribbean, India and Pakistan with, initially, greater rights to settle in the UK (Penninx and Roosblad 2000; Messina 1996).

The second phase of immigration ran from 1973 to the late 1980s and was characterised by a new restrictive approach to immigration. It began with the world-wide economic downturn prompted by the oil crisis of 1973 and saw the introduction of a range of legislative instruments across Europe to control the entry and employment of foreign labour. Germany introduced its 'zero immigration policy' and even the UK introduced severe restrictions on immigration, including from its former colonies. However, this period also saw the beginning of the phenomenon of secondary migration of family members and the dependents of the original post-war economic migrants. While this commenced early in the period it accelerated considerably as primary migration was curtailed. Immigration to the southern countries of Europe began during this period, affecting first Italy in the 1970s, followed by Spain, Portugal and Greece (Schierup 2006; Penninx & Roosblad 2000; Watts 1998).

The period 1989 to 2004 saw a recomposition of the European migration landscape with large numbers of migrants from Eastern and Central Europe migrating to the countries of Western Europe. This, the third wave of immigration followed the collapse of communism in 1989. In 1990, Europe experienced higher net immigration than at any time since the period after World War Two with West Germany, being the primary target for immigrants, most particularly those coming from East Germany and East and Central European refugees from the Bosnia Herzegovina war, 1992-1995 (Mac Éinrí 2008; Castles 2000). However, these immigrant workers were also actively sought by employers in many West European countries which were experiencing continued economic growth combined with aging populations, labour shortages and a substantial need for workers. Despite the fact that the numbers who migrated from Eastern Europe were in the hundreds of thousands, rather than the millions that had been postulated by some, it was during this period that the issue of immigration become one of the most incendiary on many domestic political

agendas, leading to the formation and electoral success of anti-immigration political movements across much of Western Europe (Krings, 2009b; Messina, 1996).

EU enlargement in 2004 heralded the fourth, and most recent, wave of migration with the accession of ten new member states into the EU allowing the free movement of workers from those countries, initially into just three existing member states, to five others from 2006 and to all Western European states by 2011 when all barriers to labour mobility from those countries were removed (Donaghey & Teague 2006). Immigration from this period constitutes a historically new phenomenon in a number of respects, exhibiting characteristics that distinguish it from its previous forms. First of all it is a multi-faceted process of labour mobility with different forms of mobility coexisting, including cross-border commuting, short-term migration, circular migration and more permanent migration. It is also a new feature that migrants from low-wage countries have a comparatively high level of education in absolute terms but also in relation to the nationals in their host countries. Finally, though the regulatory environment changed as more and more countries opened their markets to intra-EU labour mobility, the context remained one of different co-existing regulatory frameworks (Galgoczi, Leschke and Watt 2012).

While it is the case that there are substantial variations across both the countries and the periods considered, the character of the immigration can be broadly categorised across the countries as follows:

Germany, Austria, and Sweden are countries whose post World War Two immigration was economically driven and drawn primarily from neighbouring and Mediterranean countries in the first instance. It was seen as being a temporary phenomenon to meet labour market needs at a time of economic boom.

Equally early large-scale immigration to the Netherlands, France and Britain was a post-war phenomenon and fundamentally economically driven, though also the result of decolonisation with the majority of the early post-war migration coming from former colonies. Both the Netherlands and Britain saw these ex-colonial migrants as full residents and granted them citizenship rights from the beginning, though this changed later. France, while treating these migrants as quasi-citizens, nonetheless operated on the basis that their residence in France was temporary and legislated to this effect from early on.

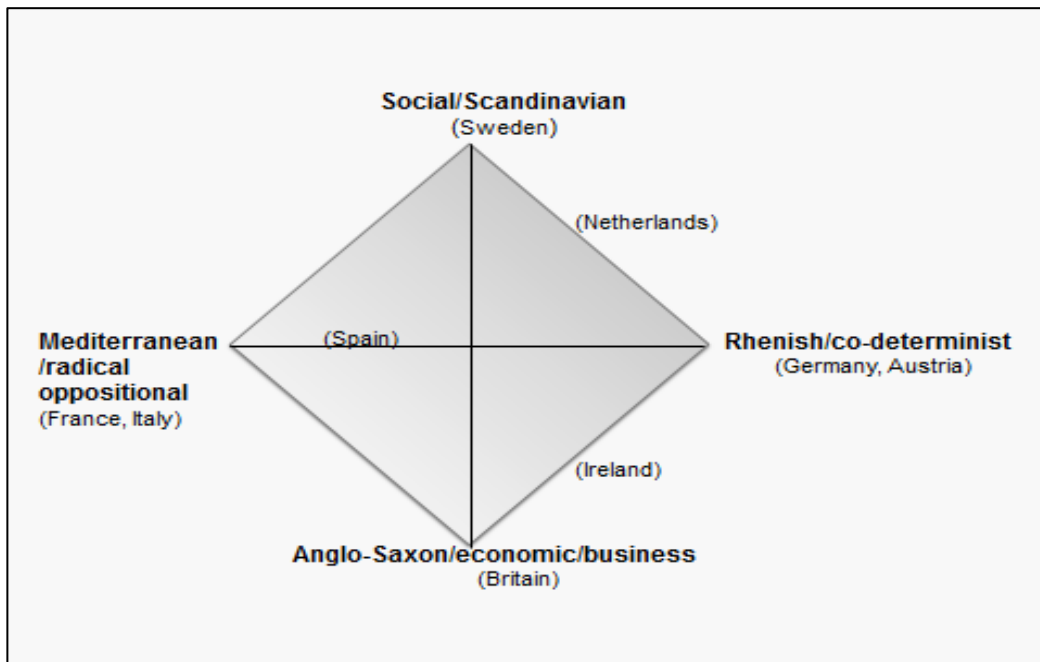
Italy, Spain and Ireland only became countries of significant immigration towards the end of the 20th century, having previously had long histories of emigration. Italy and Spain's economic transformation came about in the early 1980s and they began to attract immigrants from Africa and Asia as well as from other EU countries. Ireland's economic boom came a decade later and resulted in very high levels of inward migration from former communist Eastern European countries primarily as well as lower levels from Asia, Africa and Brazil. In all three cases recruitment of migrant workers was employment led and seen as being temporary, based largely on an unsubstantiated perception that these workers would choose to go home or move on if, and when, the employment market changed.

3.2. Trade Union Typologies

It must be recognised that general typologies of trade unionism are neither static nor absolute, in that trade unions are generally not absolutely fixed at a particular point, as they constantly adapt to the economic, social and political contexts within which they function. Hyman (2001) referred to this as 'the eternal triangle' of market, class and society that characterises the trade union position. Taylor *et al.* (2011) argue that the 'path shaping' decisions of trade union leaders are constrained and conditioned by the historical path-dependency of labour movement development in specific nation state formations. Thus, national variance within the liberal democratic states of Western Europe is inevitable as trade unions endeavour to maintain the 'balance' between class solidarity and national interests.

However, for the purpose of analysis here, the trade union movements within the countries discussed are located within a broad-based four-point typology (as in Figure 2 below) in order to examine the different responses. While, as Hyman (2001) points out, the clash between ideological visions of trade union identity has led in most European countries to a fragmentation of labour movements with competing models of trade unionism within them, one system will generally be dominant. The classification below identifies the dominant trade union types within the countries under analysis. As can be seen, and as reflected in Hyman's 'eternal triangle' while trade union movements in some countries may be clearly identified with one particular model (e.g. Sweden), others such as Ireland occupy a space between two.

Figure 2: Models of Trade Unionism



The Scandinavian/Social model is a social integrative model based on centralised bi-partisan bargaining, characterised by a strong state, strong unions and strong society and a highly supportive social welfare system alongside continuous trade union involvement in socio economic decision-making and support for growth delivering productivity. Also known as the ‘Swedish Model’, Sweden is the strongest example of it, while the Netherlands too shares features with it, particularly in relation to the strength of both the societal role and the social welfare system (Taylor *et al.*, 2011; Knocke, 2000; Roosblad, 2000).

The Rhenish model is led by Germany and characterised by co-determination, a cautious approach to neo-liberalism and a commitment to minimising conflict. It is a mixed model of social dialogue and corporatism within a coordinated market economy (CME). German unions are seen as having an ideological commitment to practices of codetermination and social partnership which are deeply institutionally embedded (Taylor *et al.* 2011; Behrens 2002). While this model of codetermination may have some features specific to Germany, it also shares many features with Austria where there is a highly developed corporatism with centralised and strong trade unions. The Dutch model also shares some features, as it too has a form of codetermination and continuous involvement in socio-economic

decision-making. It is strongly corporatist and institutionalised with political support and influence. However, it also shares features with the Scandinavian model (Penninx and Roosblad 2000).

The Anglo-Saxon Economic/Business model, most closely identified with Britain in Europe, is characterised by the centrality of free collective bargaining and the 'regulation of conflict'. Resistance to statutory regulation of collective industrial relations is a feature of this model, which is founded on the traditions of voluntarism (low level of state intervention) and economism as part of a Liberal Market Economy (LME). The philosophy of *laissez-faire*, central to British industrial development, influenced industrial relations approaches and Hyman (2001) maintains that in Britain the model/orientation has not changed substantially, it is just that the power of the unions has been weakened. British unions had no history of corporatism. Alongside Britain, Ireland was also an example of this model previously though, in the 1980s, it moved closer to the German model (Taylor *et al.* 2011; Wrench 2000; 2004).

The Mediterranean model is one of political unionism and is characterised by being oppositional and having weak political connections and influence. Spanish, Italian and French unions fit into this model, where trade unions are excluded from the institutional mechanisms of the state and are not included as partners in national socio-economic decision-making. In the case of all three countries, union confederations are politically divided and organisationally weak. Italian and French industrial relations have a 'conflict orientated image' (Erne 2008) while the Spanish unions, which emerged during a period of dictatorship, are moving into a more neo-corporatist phase of engagement (Richards 2009; Kahmann 2002; Lloyd 2000).

In Germany, Austria, the Netherlands and Sweden trade unions have been part of a corporatist decision-making structure in relation to labour issues. In Italy and Spain, what could be termed a semi-corporatist model applied where the trade unions had some input into decision-making but their influence was either weak or facilitated informally and thus dependant on political linkages. In the case of both Britain and France trade unions have never been part of the socio-economic decision making system.

While Ireland shared the voluntarist British model up to the 1980s, there was then a radical change with a shift to a much more corporatist approach with the advent of social partnership in the 1980s – a very different response to recession than that of the UK. Traditional collective bargaining became secondary to legislative and nationally negotiated agreements. In Ireland, from then onwards, unions held a strong role in the corporate decision making process, a process that Roche and Cradden define as having evolved into ‘competitive corporatism’ by the 1990s (2003). Erne sees the Netherlands and Ireland as sharing similar traits, particularly that transition to competitive corporatism (Erne 2008; Rhodes 2000).

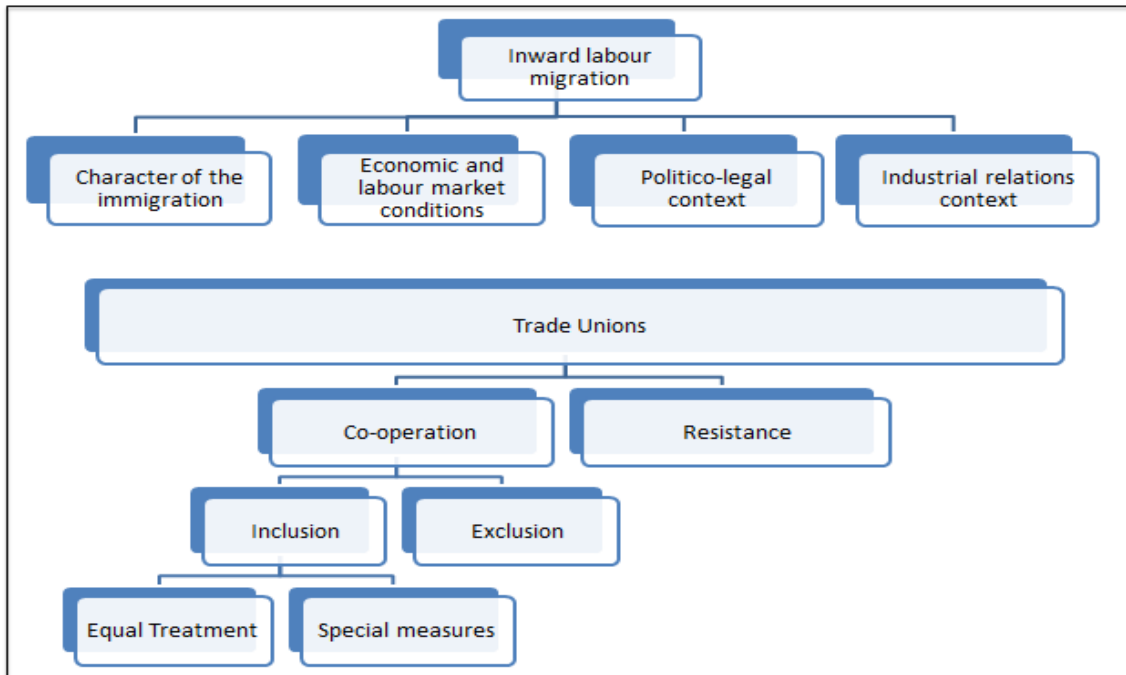
3.3. Forms of Engagement

The literature recognises that, despite a lingering or nominal commitment to internationalist ideology, labour movements and individual trade unions are embedded in their particular national contexts and charged, as they see it, primarily with representing the interests of their national membership (McShane 2004; Penninx and Roosblad 2000; Ebbinghaus and Visser 1999). Also, as outlined earlier, trade unions have generally seen their interests as being best served by restrictions on immigrant labour largely because, as Castles and Kosack (1973) have pointed out, a surplus of workers on which employers can draw tends to weaken the position of trade unions and concomitantly have a depressing effect on wages. These challenges were faced by the trade unions across Western Europe after World War Two as labour migration developed and foreign workers arrived into national labour markets in large numbers. The challenges continue to the present day as migration evolves and changes.

In considering the nature of immigration over this period and the trade union response in the selected countries, I have deployed what Penninx and Roosblad (2000) identified as ‘the three main dilemmas’ that unions had to face when confronted with the issue of migrant labour (See Figure 3 below). First, was the question of whether to cooperate with employers and the state in the employment of migrant labour or to resist? Secondly, once migrant workers had arrived, whether to include them fully or exclude them. Thirdly, if following a line of inclusion, whether to adopt a policy of equal treatment or one of special measures for this new category of union member. I have attempted, in each case, to examine the initial attitude of trade unions towards immigrants, the extent to which they are included, if at all, in unions and their structures, the development of union policies on immigrant workers and the role of unions in the wider struggle against discrimination and

racism. The focus is on labour migration and migrant workers and not on immigration for political asylum or refuge.

Figure 3: Analytical Framework, Europe



As presented in the analytical framework, the four possible explanatory factors that influence union responses to migration are set out. The first of these variables is the character of the immigration which may help to explain differences in attitude. Historical ties may play a role as in unions may be more open to migrants who have automatic legal status by virtue of colonial links. Equally they may accept migrants who share characteristics with the indigenous workers, cultural, physical, religious, while being less open to those that do not (Wrench, 2004; Penninx and Roosblad 2000). The second is the economic and labour market conditions that pertain in the society in that it seems reasonable to assume that trade union resistance to immigration will be greater in times of economic downturn whereas in times of economic growth and full employment, unions may be more amenable to co-operation. A third variable is the national politico-legal context in which trade unions are based in that national identity and historical path-dependency are integral to the development of trade union orientation (Taylor *et al.*, 2011). The fourth and final variable is that of the industrial relations context and the position of trade unions in the power structure of the society, in other words, the model of trade

unionism that applies as discussed above. Marino and Roosblad (2008) hypothesised that because corporatist unions are not dependent on rank and file mobilisation to affirm their position in the policy-making arena, they are likely to expend less effort on recruiting minority workers such as migrants than are more oppositional unions. In contrast, unions with a weak institutional position within an industrial relations system, such as in the Mediterranean model, would have a greater focus on membership levels and diversity as a way of justifying their role and consequently put more effort into organising and recruiting migrant workers.

3.3.1. Initial Immigration: co-operation or resistance

While there was a great deal of convergence in trade union responses to immigration within the nine countries, there was also a significant level of divergence. In the first instance all trade unions were confronted by the dilemma of their avowed commitment to international solidarity versus representing the interests of their existing membership. The concern that the importation of foreign labour would undermine trade union bargaining and have a depressing effect on wages and employment standards was shared by all, irrespective of their position within national power structures. In all cases immigration began at a time of economic prosperity within the individual states. These were periods of full employment and increasing labour shortages. This was a significant factor in initial trade union responses. However, there were variations in responses within the different states.

Trade unions in Austria and Sweden were initially resistant to immigration while those in Germany, the Netherlands and Britain took a more inclusive and open approach (Penninx and Roosblad 2000). With regard to those countries which experienced immigration later, unions in Spain and Ireland welcomed migrant workers from the start but did not necessarily actively organise them while Italian unions were initially ambivalent. However, in almost all cases unions supported, and sought, restrictions with regard to countries of origin, numbers, sectors, etc. Italian and Spanish unions were the exceptions as they did not support restrictions at any point (Kahmann 2002; Calavita 1999).

The acceptance of immigration by unions in Germany, the Netherlands, Sweden, Britain, Italy, Spain and Ireland was, in most cases, a conditional acceptance. German unions sought and attained rights but always on the basis that the employment would be

temporary. The Dutch unions fully accepted ex colonial migrants and were positive towards the ‘guestworkers’ who arrived in the 1960s, and advocated equal treatment. The Swedish trade unions were initially resistant and thereafter insisted on restrictions though they did also insist on equal wages and employment conditions for migrant workers. In the case of Britain, though the trade unions were hostile to the general recruitment of migrant workers immediately after World War Two, like their Dutch counterparts, they did not oppose the arrival of Commonwealth migrants, as they were not regarded as labour migrants but as UK citizens with equal rights. But, unlike the Dutch, UK unions had no involvement in decision making in this regard.

When immigration to Italy first began in the 1970s the trade unions took a ‘wait and see’ approach but did not really engage with the issue until the 1980s. Spanish unions on the other hand seemed to accept immigration from its beginnings in the mid-1980s and reached out to migrant workers, irrespective of their status. Irish trade unions did not resist immigration when it began in the 1990s and they adopted a rights based approach, seeking equal rights and entitlements for migrant workers.

In Austria the trade unions resisted attempts to introduce immigration and thereafter looked for very restrictive measures of control. Through their strong position in economic decision-making, they sought strict quotas and lesser employment and social rights for migrant workers. According to Gächter they used this influence to pursue a policy of ‘protecting indigenous workers from immigrants’ (2000: 67). French unions, which had little influence over government policy, also favoured a restrictive immigration policy but, in contrast to Austrian unions, they considered migrant workers ‘an important section of the working class’ who should be organised (Lloyd 2000: 117).

Even for those unions who actively resisted the import of foreign labour initially it became increasingly obvious that the maintenance of such a position was unsustainable. In that post-war era most Western European countries experienced labour requirements, which far exceeded what could be filled by indigenous workers. And so the import of additional labour was seen as being necessary to re-build those countries and to sustain continuous economic growth. It is against this background that many unions modified their initial position of resistance towards labour migration into a position of acceptance coupled with a demand that it not diminish wages or employment standards and that migrants not

represent a cheaper alternative to indigenous workers. In most countries unions succeeded with this demand, largely through a variety of forms of legislative provision (Wrench 2000; Castles and Kosack 1973). These provisions ranged from the severely restrictive and nationalistic in the case of Austria through the less restrictive in the cases of Germany and the Netherlands to the somewhat more liberal in terms of migrant workers' rights in the cases of Britain and France and, to a greater extent still, Sweden.

Attitudes among trade unions became much more polarised as the recession of the 1970s arrived. There is evidence of some trade unions becoming resistant to labour migration as increased unemployment became a feature of many Western European countries. The world-wide economic downturn led directly to calls for and, in most cases the introduction of, restrictions on immigration. Penninx and Roosblad argued that an "alliance between governments and trade unions in favour of restrictive immigration policies since the mid-1970s seems to be a natural one" (2000: 189) and indeed, as a minimum, no national trade union movement opposed the introduction of restrictive policies and many actively endorsed them. German, Dutch, British and French trade unions all supported government initiated restrictions while in the cases of both Austria and Sweden, it was at the instigation of the unions that restrictions were introduced. In most cases this coincided with government policy. This was also a period when both governments and trade unions began to recognise the more permanent nature of immigration and trade union policies began to become more nuanced with calls for recruitment restrictions combined with the introduction of integration measures for immigrants already resident. However, there were exceptions as some unions recognised that the movement of people is an inextricable part of the 'global age' and increasingly viewed restrictive migration policies as neither desirable nor feasible (Haus 2002; Avci and McDonald 2000; Watts 1998).

So we can distinguish a number of different types of reactions on the part of trade unions to early immigration and to the question of whether to co-operate or resist. In their analysis of such responses, Penninx & Roosblad (2000) identified a four-way breakdown. Firstly, there is co-operation from a position of strength which would apply in the cases of Sweden, Germany, the Netherlands and, to a lesser extent, Ireland. In these countries, unions were part of the socio-economic decision-making process, giving them, for the most part, a direct input into decisions on migration with which they co-operated. The case of Ireland was somewhat different in that, though unions were social partners, they were not

participants in the decision making around immigration. Austrian unions represent a second type of reaction, that being resistance from a position of strength in that they used their strong position within the socio-economic decision-making process to oppose immigration and to limit migrant workers' rights within the country. The reaction of the British unions to that initial immigration was one of co-operation from a position of weakness in terms of their lack of a role in the national decision-making process but they did not oppose immigration, at least not initially. This too was the case with the Italian and Spanish unions who would not have been consulted by government but who did not oppose immigration and were supportive of immigrant workers when they arrived in the country. The situation in France represented another variant, that of resistance as an opposition movement. French unions, who were outside the decision making process, were critical of the Government's lack of regulation of migration and looked for greater controls.

3.3.2. Migrants: inclusion or exclusion

The nature of the dilemma for unions changed after the mid-1970s. In the direct sense trade unions were relieved of the original one – that of co-operation or resistance - in so far as most governments were now implementing very restrictive policies relating to immigration due to the international economic downturn, and trade unions only had to endorse such policies.

The 1980s were characterised by greater divergence between unions and governments on immigration policy. In most cases trade unions opposed increasingly restrictive measures being introduced by national governments as being incompatible with protection of immigrant workers rights. Only in Austria did unions continue to call for restrictions and fully support government policies of short-termism and exclusion. Elsewhere, there was a growing recognition that trade unions interests are not necessarily best served by restrictive immigration policies. Particularly in countries such as Italy and Spain, which were in the early stages of immigration, and which had a large informal economy, union officials increasingly viewed restrictive immigration policies as counter-productive with the possibility of such policies channelling even more migrants into the informal economy (Watts, 1998). They feared the possibility of this having negative consequences not only for the vulnerable migrant workers, but also for indigenous workers as the growth of the informal economy undermines established labour standards.

In some countries trade unions became one of the first institutions in the host society into which migrant workers could integrate but other trade union movements pursued the integration of migrant workers less urgently (Wrench, 2000). While there may have been organisational and structural issues involved in this, the issue of racism was also a factor whereby racial prejudice was frequently seen within trade unions in their attitudes to organisation (Wrench 2000; Castles & Kosack 1973). Munck observes that “there is a history often overlooked in the annals of the official trade union movement which tends to airbrush out the sexism, racism and xenophobia which forms an integral element of most labour movements” (2008: 12). However, as it became clear that labour migration was now a permanent feature of Western Europe and as the concept of the guestworker faded and migrant workers became embedded in their host societies, trade unions became increasingly open to the recruitment and active representation of them, regardless of race (Penninx & Roosblad 2000).

In general, having accepted immigration as a phenomenon, trade unions went for a policy of inclusion whereby they accepted legally resident migrant workers as part of the national workforce who should be included and organised. In fact, in the case of Sweden, union membership was largely a requirement of employment. So, on an ideological level, trade unions were open to including migrant workers in their ranks. However, when examining the situation across the nine countries, it is clear that in many cases this was a passive openness to inclusion which is not, of itself, sufficient to constitute real inclusiveness.

Over time German unions increased their efforts to organise migrant workers and to integrate them into the workplace (Kühne 2000). This was facilitated by the reform of the Works Constitution Act in 1972, which accorded the right to immigrants to be elected on to works councils. Penninx and Roosblad (2000) argued that German trade unions were a major institutional force for integration, in the absence of adequate government policy. Dutch trade unions also took a positive attitude to organising and representing migrant workers from their arrival in the early 1960s, recognising the dual benefit of this approach in improving the conditions of migrant workers while minimising the possibility of unfair competition from them (Roosblad 2000). Irish unions also adopted a policy of inclusion from the start of labour migration to Ireland in the 1990s, taking a similar position to that of the Dutch (ICTU 2005).

While French unions operated a policy of inclusion in relation to immigrants there was, and is, a tension within French unions between particularism and universalism with equality of treatment seen as being a fundamental tenet of French trade unionism (Lloyd 2000). As mentioned above, in the Swedish case union membership was largely a condition of employment but unions also insisted on equal pay and working conditions for migrant workers. Thus while many immigrants may have worked in low paid jobs they were paid union wages and had access to full social welfare benefits ((Knocke 2000). Though British unions had accepted ex-colonial migration, it was only from the late 1970s that the unions began to actively tackle issues of racism and discrimination and to put specific structures and policies in place targeted at black and minority ethnic members (Krings 2009b; Wrench 2004). Austrian unions were reluctant to pursue inclusion measure and, to quote Gachter, "... in deed, if not in word (they) pursued a strictly discriminatory policy against immigrants settled in the country" (2000:84) Latterly this has changed somewhat and Austrian trade unions have put in place some measures to encourage greater inclusion of migrant workers (Fulton 2003).

Italian unions had little engagement with migrant workers initially as they were largely employed in sectors and jobs with little or no unionisation and also they settled to a large extent in central and Southern Italy where traditionally the labour movement had been weak. However, this changed over time and from the 1980s Italian unions were actively involved in the recruitment and representation of migrant workers, most markedly, on issues outside of the workplace such as regularisation, housing, language etc. (Basso, 2006; Calavita 1999). Spanish trade unions provided support to migrant workers from their first arrival in that country and, like their Italian counterparts, much of that support was provided outside of the workplace and on non-labour related issues (Kahmann 2002). In both cases they set up a range of services to assist immigrants, in many cases, beyond the usual/typical remit of trade unions.

Membership density is commonly seen as the obvious measure of inclusion but it is not an entirely reliable indicator. As can be seen here overall membership density varies across the nine countries studied. While that relates to some extent to international economic change, it is primarily dependent on national institutional factors, most particularly the position of the union in socio-economic decision making, whether the union operates as a service model and whether there is obligatory membership. Secondly, the data on

immigrant membership is not comprehensive as some unions have an ideological objection to collecting such information while others have difficulty in compiling it and others still categorise migrants and ethnic minorities under the same headings (Visser, 2006; Fulton, 2003).

Sweden has high overall union membership levels and equally high levels among immigrants, there being a compulsory element to membership. Germany's density is lower but again with equal levels among immigrants. Information on the case in France is indicative of a similar pattern. In Italy, however, where immigration came late, membership is somewhat higher among immigrants than among the indigenous workforce. This is partly explained by the fact that traditionally Italian trade unions do not differentiate between legal and illegal status and they also operated a very pro-active approach to recruitment. In Britain, Austria, the Netherlands, Switzerland, Spain and Ireland union density is lower among migrant workers than among indigenous workers. In so far as it can be assessed the general situation seems to be that overall rates of union membership vary according to national circumstances, there is variation between the level of membership within the indigenous workforce and the immigrant workforce but the variation is not huge and can probably be accounted for by national structural and organisational factors (OECD 2014; Visser 2006; Penninx and Roosblad 2000).

Involvement in trade union structures is possibly a stronger indicator of unions' commitment to active inclusion and while there is some variation, the picture that emerges indicates that representation of migrant workers at decision-making level within unions throughout the nine countries is poor. To start with, in the case of Spain those who are in the country illegally are precluded from joining a union in the first place. In Britain immigrants appear to feature at all decision-making levels but it is important to note that, in the case of Britain ethnic minorities and migrants are counted as one category so that the picture presented represents the combination of both migrant and ethnic minority representation. In Ireland too immigrants feature at all decision-making levels but, at national executive level, only in three unions and the numbers generally are very low proportionately.

In Italy and Germany migrants are represented at a variety of decision-making levels though not at executive committee level. In the Netherlands representation is very low with

migrant workers represented only at union delegation levels. Marino and Roosblad (2008) would argue that this is unsurprising as there was very little priority given to migrant worker recruitment at local level. In the case of Sweden, representation of migrants is thought to be low but the Swedish unions could not provide definitive figures. No information was available from the French trade unions (ETUC 2011; Fulton 2003).

Another measure of union commitment to inclusion is how actively it pursues its recruitment and internal integration policies. It is noteworthy that while representation of migrant workers at decision-making levels within trade unions is low, in most cases trade union bodies have had specific strategies and measures in place both to increase it and to increase migrant membership generally. Almost all trade union confederations and many of their member unions have designated staff with specific responsibility for migrant issues, many produce literature in a variety of languages and provide targeted training for migrant members. Unions in Britain, Germany, Sweden, Italy and Spain are particularly strong in this regard. Austrian unions have some inclusion measures in place while the Dutch trade union confederations have no strategies in place to increase migrant representation other than generalist anti-discrimination ones. The Irish trade union confederation has measures in place to increase migrant membership with some unions developing strategies specifically targeted at improving representation at decision-making levels. French unions have actively, and quite successfully, recruited migrant workers from the beginning and while they do have some measures in place to increase general minority participation at decision making levels, they do not monitor their effectiveness as any such monitoring is seen as being in contravention of the universalist principle.

Finally, the issues of illegal immigration and irregular employment have been of increasing concern for unions as the numbers employed in irregular situations throughout Europe grow. This has led to real fears of a negative impact on labour standards and wage rates. Unions took, and continue to take, different approaches in different national contexts with regard to inclusion of such workers. While many unions have supported government initiatives at regularisation, they have also generally either supported or been silent with regard to restrictive legislation to control illegal immigration. Some, such as those in Germany and the Netherlands support government measures to combat irregular migration but also provide services to workers in irregular situations once they are in the country. Austrian unions seek severe restrictions on irregular migration and do not provide any

union supports to those in such a situation. In the case of both Britain and Sweden, unions do not have a stated policy on irregular migration and they provide union services to members only. Irish unions do not have stated policies either but, individual unions provide informal support to individuals in irregular situations. The majority of unions in France and Italy do not support restrictive measures and offer a full range of services to all workers, including those in irregular situations. Spanish unions do not support restrictions and they too offer supports to workers in irregular situations but, as pointed out earlier, they are legally prohibited from recruiting them (Krings 2007; Hamann 1998).

3.3.3. Migrants: equal or special treatment

In most cases the question of equal versus special treatment of migrant workers has had to be confronted by trade unions within the selected countries at some point in time. Generally unions are somewhat suspicious of special policies for certain groups as they aim to organise workers regardless of nationality or ethnic belonging. When it became apparent that many migrant workers were 'here to stay', most trade unions, over time, adopted some special policies in recognition of the particular circumstances that the former have to face. Penninx and Roosblad observe from their study that the historical evolution seems to be that 'in the course of time but at different points in time' most national trade union organisations come around to the view that the specific situation and characteristics of migrant workers require special attention and policies' (2000: 198). These policies can range from anti-racism and discrimination, to the provision of specific targeted forms of assistance and advice to special committees and sections (Visentini 2011; ETUC 2003, 2011; Wrench 2004).

There is an inevitable overlap between many of the inclusion measures outlined in the previous section and special treatment, in that, in order to be inclusive many unions put in place special measures such as designated staff, specific training courses, producing literature in a range of languages, special committees etc. In almost all cases unions have put in place some or all of these measures at some time. German unions have measures such as special services and have also increasingly placed immigration issues on their national negotiation agenda. Austrian unions came very late to these policies and, while they do provide some targeted information and support services to immigrant members and have supported and initiated anti-racism and anti-discrimination training, it is all still within a context of the unions seeing their primary function as the protection of the

indigenous Austrian worker (Fulton 2003; Gachter 2000). The Dutch unions have tended to frame policies of inclusion largely in anti-discrimination terms and Roosblad (2000) would claim that the rhetoric on the issue is not necessarily matched by the reality. While specialist committees and policies were developed by French trade unions in the early days of immigration⁹, they lean generally more towards an equality, rather than a separatist, approach as outlined earlier with a focus on anti-discrimination and anti-racism. Many do have designated staff with particular responsibility for migrant issues, and the confederations do have specific policies to increase migrant participation at activist and executive level (Fulton 2003; Lloyd 2000) Like their French counterparts, Swedish unions established specialist committees and sections in the early days of immigration but by the 1990s had come to see this organisational model as problematic and a contributing factor in the marginalisation of both migrant issues and of the migrants themselves. They then moved towards a more inclusive model with immigrant issues integrated into general union business (Fulton 2003; Knocke 2000). Through this model they run targeted recruitment and awareness raising campaigns and also provide internal anti-discrimination training.

British unions have been committed to the application of special measures since the 1970s which saw the growth of racism and right-wing extremism in the UK, including within the ranks of the trade union movement. They have well established and long-standing anti-racism and anti-discrimination policies and practices such as self-organisation structures for black and ethnic minority members, ethnic monitoring and positive action measures (Wrench 2000, 2004). Italian trade unions too adopted a particularist approach to the issue of migrant workers. They moved away from traditional forms of unionism and adopted a social movement type approach, meeting with migrants outside the workplace, providing a wide range of supports to all, irrespective of legal status or union membership, “it was outside the workplace and on issues not strictly connected with labour negotiations that the first mass contact between immigrant populations and trade unions took place” (Basso 2006: 2). Largely due to internal pressure from union members, Italian unions were forced to re-evaluate this approach in the mid-1990s and revert to a more traditional approach whereby they represented immigrants as workers primarily. However, they continued to provide specialist services and most trade unions have succeeded in including immigrants

⁹ CGT, one of the two main confederations, established a designated National Committee of Immigrant Labour after the war while the other, the CFDT had a Foreign Workers’ Section.

at all levels of the organisation, with a union rate equal to, and in some cases, higher than that of native Italian workers (Basso 2006; Fulton 2003).

Spanish unions have also introduced specialist measures to support, recruit and develop migrant workers, chief among them are the designated Immigration Offices and the network of Information Centres for Foreign Workers (CITEs and Centros) established by the two union confederations. In 2010 there were close to 100 centres throughout Spain providing a broad range of support and information services to both immigrant union members and non-members. Despite the level of services the fact that immigrants in irregular situations cannot be union members under Spanish law has an obvious knock on effect on both migrant union membership and on migrant worker involvement at decision making-levels (ETUC 2011; Fulton 2007; Kahmann 2002). Despite a general policy commitment to an inclusive and universalist approach, increasingly Irish unions have introduced special measures, such as language support, designated migrant worker organisers, targeted advice and information and active organisation through links with migrant representative and support groups.

Perhaps the most significant example of special treatment manifests itself in collective bargaining situations where unions negotiate issues of specific interest or relevance to migrant workers. An ETUC study of 2003 found that a number of union confederations include such issues in their negotiations (Fulton 2003). In the cases of France and Sweden quite broad equality of opportunity, anti-harassment and anti-discrimination agreements were sought. But many also negotiated around issues of equality of access to training, promotion, workplace benefits and recognition of qualifications. In Germany, Italy, the Netherlands, Spain and Britain issues pertinent to the cultural characteristics of specific migrant groups were raised in these situations. Unions in these cases have negotiated agreements around religious practices and holiday arrangements. These types of negotiations are not a feature of either the Austrian landscape where there is no specific outreach to migrant workers or the Irish one, where the representative focus is generally on migrants in the context of their employment circumstances e.g. low-paid, irregular. Though this evidence is not necessarily definitive, it does indicate that, in most cases, unions prefer to take an egalitarian approach to negotiation whereby in seeking special measures for the minority it is in order to give them equal opportunities with the majority.

Unions in all of the countries studied increasingly engage in co-operative initiatives with NGOs who work with and represent migrants. These include initiatives such as anti-racism and anti-discrimination campaigns; awareness raising campaigns around exploitative practices; Government lobbying on legislative issues; and joint support initiatives.

3.3.4. Trade union responses: convergence and divergence

When we look at the response to migration of trade union federations and their member unions across the nine countries selected we see a level of convergence emerging with initially hostile responses evolving, in most cases, into much more inclusive approaches over time. However, there are significant variations to be observed and so we look to the influence of the four explanatory variables the character of the immigration, the economic and labour market conditions, the politico-legal context and the industrial relations context (see Figure 3 above).

With regard to character of the immigration, it is seen that historical ties can play a role in union responses, such as in the Dutch and British cases where the unions were initially more open to ex-colonial migrants who had automatic legal status by virtue of their colonial links. It is also the case that societies are more likely to accept migrants who share characteristics, cultural, physical, religious, with the indigenous workers (Penninx and Roosblad 2000). However, consideration of the trade unions across the nine countries does not indicate that either the character of the immigration or of the immigrants themselves are crucial factors in the union response to migration but seem to be more a function of the socio economic environment at the time. Thus as Penninx and Roosblad point out, it seems to be the ‘characteristics which have been allocated to immigrants by the receiving society’ that is the important variable (2000: 201). These include issues such as their legal status (as in employed on work permits, or being undocumented); the frequently insecure and informal nature of their work (in generally non-unionised workplaces and their social exclusion).

As could be expected, economic and labour market conditions clearly played a role across all of the nine countries considered in the responses of trade unions to migration through its different phases. Unions were generally more open to immigration at times of economic growth and full employment as in the early days of post-war migration when there was an ever-increasing demand for labour or again during the economic boom of the 1990s. Union

resistance was greater in times of economic downturn as can be seen from the almost universal calls for, and support of, restrictions on migration with the international economic downturn of the 1970s. This supports the view of Avci and McDonald that “in liberal industrialised countries, times of economic recession and high unemployment create pressures for restrictive immigration legislation, proposals which will be supported by trade unions as a means of safeguarding their interests” (2000: 191). There has been much less evidence of this response from union movements during the current recession with almost all having moved to a point where they identify migrant workers, and even those in irregular situations, as an important constituency with the focus on organisation and inclusion. This shift in perspective is widely recognised in the literature with trade unions increasingly realising the inevitability of immigration and recognising that “restrictive immigration policies are unrealistic and futile” (Watts 1998: 657). It is also the case that all of the countries now have quite restrictive policies in place on migration, removing possible internal pressure on unions from their membership. However, in countries such as Austria, France, the Netherlands, Sweden and Britain economic downturns led to the emergence, and in many cases electoral success, of the far-right anti-immigration movement.

The actions of trade unions, as actors in national contexts, are likely influenced by politico-legal factors peculiar to their individual countries. In almost all of the countries examined in this study the dominant discourse, terminology and policy development since the 1970s have centred round restriction of immigration, this despite the very evident labour market needs. While trade union movements have generally challenged this discourse they also cannot move too far ahead of their national memberships which, in many cases, are opposed to migrant labour. Wrench sees these factors as being especially significant, “of particular importance is the quality of public discourse on immigrants, ethnic minorities, and multiculturalism, in particular that of political opinion leaders, and the balance between ‘conflict’ and ‘consensus’ in political life, also reflected in the relationship between trade unions, employers, and government” (2004: 8). Penninx and Roosblad too identified these as the ‘most important explanatory factors’ and point out that immigration and the presence of ‘foreigners’ was perceived differently in the light of different historical experience and regulation by different instruments (2000: 206). This is probably the most likely factor to explain the contrasting attitudes of German and Austrian unions to immigration with the Austrian unions’ stance of rejection of an open immigration policy

going hand in hand with a discourse focused on the protection of the native workforce. It is also a significant factor in explaining the resistance of French unions to the introduction of specific migrant focused policies as they are strongly committed to the republican values of French society with their focus on equality and universality.

It is evident from the literature generally and from an examination of the situation in the nine countries specifically, that the industrial relations system and, most particularly, the level of union institutional embeddedness, are critical factors in determining the overall behaviour of trade unions, including their specific response to migration. In fact the pattern that emerges indicates that the particular model of trade union is a less important determining factor than is the broader socio-economic position of the trade unions (e.g. corporatist vs non-corporatist or strong vs weak institutional embeddedness). Thus, for the most part, strongly embedded unions such as those in Germany, Sweden the Netherlands and, latterly, Ireland co-operated with governments and employers, somewhat reluctantly, in the opening up of economies to ‘temporary’ immigration but were not pro-active initially in organising such workers. On the other hand weakly institutionally embedded unions in Britain, Italy and Spain did not oppose immigration but did engage directly and pro-actively with migrants and their issues from an early stage. This supports the thesis that where trade unions’ institutional position is strong, they focus on building institutional partnerships with less incentive to prove their strength through recruitment and mobilisation but where their institutional position is weak, with little influence on policy-making, they are more likely to be pro-active in recruitment and organisation (Baccarro *et al.* 2003; Frege and Kelly 2003; Ebbinghaus and Visser 1999). However, while this factor can explain the individual union movements’ approach to migrant worker organisation, it does not explain the differences in union response to migration. Nor does it explain the responses of the union movements in France and Austria who both sought restrictions on migration. The other factor here discussed by Gorodzeisky and Richards (2013) is the role of what they call ‘organisational security’. They argue that a single dominant union confederation (as, for example, in Austria, Britain and Ireland), holding a monopoly position, enjoys greater organisational security and therefore may have fewer incentives to organise migrant workers. This is in contrast the situation where there are competing union confederations which may be more willing to recruit migrant workers as a means of gaining organisational strength at their rivals’ expense.

And so, as has been argued by Penninx and Roosblad (2000), there is no clear-cut mono-causal explanation for individual trade union movement responses and no one factor on its own can explain the complexity and multi-faceted nature of national trade union movement responses. It is only possible to draw valid inference through consideration of all of the variables. When taken separately they have limited explanatory power.

3.4. The Supra-national Dimension

As well as being a major issue that affects individual member states in the EU and one that is at the top of the political agenda at European level, labour migration has also been a key concern of the European Trade Union Confederation (ETUC) and its affiliates, and even more so now, as trade unions across the EU try to respond to new challenges in the protection of workers and social justice in a globalised world. Founded in 1973, the Brussels based ETUC is formally recognised by the European Union, the Council of Europe and by the European Free Trade Association as a social partner, representing more than 60 million trade unionists throughout Europe. Among its affiliates are 82 national trade union confederations from 36 European countries and 12 European industry confederations. It is considered to be a politically pluralistic organisation, as in it does not maintain privileged relations with a specific political group at EU level, in contrast to many of its national affiliates. Instead, it co-ordinates its EU level lobbying activities through an intergroup of union-friendly members of the European Parliament (MEPs) from all political groups as well as union friendly Commission and Council officials and union friendly members of national delegations (Fulton 2011; Erne 2008).

The ETUC describes itself as being “faced with a manifold challenge: providing European citizens and workers (including its current immigrant and ethnic minority inhabitants) with the perspective of a sustainable social Europe” (ETUC 2011: 7). It supports the general principles underlying the European Union in terms of the free movement and equal treatment of workers within the boundaries of the Union and the social and political integration of migrant and ethnic minority workers. However, it has voiced concerns and lobbied against many proposed EU directives in this regard as not offering the protections enshrined in the general principles, not least among them the Posting of Workers Directive

(PWD) of 1996, the controversial Bolkestein Directive of 2004¹⁰ and the European Pact on Migration and Asylum, 2008 (ETUC 2011; Kip 2011; Erne, 2008; Notes from meetings 2008)

Political lobbying and consultation, both formal and informal, through the diplomatic channels of the European institutions is central to the work of the ETUC. Dølvik & Visser see this as due to what they consider “... unions’ lack of clout and limited ability to muster industrial muscle, membership mobilisation or secure political influence through institutionalised representation” (2001: 27). Meanwhile, Waddington notes that the ETUC struggles to secure influence within the European polity while concurrently trade unionists across Europe remain embedded in national frameworks of union activity and the ‘logic of influence’ assumes priority over the ‘logic of membership’ (2005: 520). But the ETUC, as a strong proponent of the European Social Model defends its focus, seeing its role as a social partner - a co-regulator of European social policy - as its major strength, particularly following the institutionalisation of that position under the Maastricht Treaty of 1992 (Erne 2008; ETUC 2005).

The process of devising a common European policy on immigration goes back to the Amsterdam Treaty of May 1999 when the community institutions first claimed competence in the fields of immigration and asylum. Prior to that migration policy was seen as a core national policy area. Most migration flows either reflected traditional bilateral links, defined in part by geography, culture and politics¹¹ or were a by-product of colonial relationships with countries in other regions of the world (Mac Éinrí 2008).

The ETUC initiated its first substantial engagement with the issue of migrant labour at its 1999 Helsinki Congress, following the European Council decision taken at Tampere in Finland for the development of a common EU policy on migration and asylum to cover areas such as a European asylum system, fair treatment of third country nationals and management of migration flows (European Parliament, 1999). At that Congress, the ETUC approved a resolution, *Trade Unions without Borders*, to develop mutual, cross-

¹⁰The Bolkestein Directive set out to establish the ‘country of origin principle’ for workers within the EU whereby workers ‘posted’ from one European country to another could be paid the lower wage rates of the sending country. It was subsequently watered down considerably to become the ‘Services Directive, 2006’

¹¹ (e.g. Finland to Sweden; Ireland to Britain, Italy to France and other parts of northern Europe; Portugal to France)

border support systems. It was a call for unions to act at the European level through the ETUC and other bodies and to develop cross-border solidarity so that the rights of workers in other jurisdictions would be guaranteed and defended irrespective of their national trade union affiliation. The delegates signed up to a resolution to provide for trade union members from one country working temporarily in another to avail of trade union support in that second country, a 'European Membership Card'. Though this was agreed at the time, it appears never to have been implemented, "no steps on (sic) that direction have been reported at European level" (ETUC 2011: 32). In fact, this proposal re-emerged in 2010 (ETUC 2011).

While in 2003 the ETUC introduced its *Action Plan on Migration, Integration and Combatting Discrimination, Racism and Xenophobia* which included a commitment to work with its affiliated organisations to organise undocumented migrants (Visentini, 2011) it was really only from 2005 that it became pro-active in pursuit of what could be considered an international solidarity agenda in defence of the rights of migrant workers. A new Confederal Secretary, Catelene Passchier, had been elected in 2003 with responsibility for migration. She came from the Dutch trade union, FNV, had a legal background and had a particular interest in migration issues. Her presence was seen as being a significant factor in the pro-active approach of the ETUC on migration issues in the period from 2005 to 2010 when she left (Interview, Michelle Levoy, Director, PICUM, 2011).

It was in 2005 that the ETUC articulated a comprehensive policy on migration, *Towards a Pro-active EU Policy on Migration and Integration*, where it affirmed its commitment to fighting for a Europe characterised by openness, solidarity and responsibility and which formed the basis of the ETUC engagement with the issue of migration subsequently. It also called for ratification of the International Labour Organization (ILO), UN and Council of Europe conventions on the protection of the rights of all migrant workers and their families (ETUC 2005, 2011b). It committed itself to a broad range of actions to implement these policies but, as with much of its engagement with migration issues, many of these were dependant on the agency of others such as EU institutions, the Governments of Member States, employer bodies and national trade union movements. These ETUC 'actions' could, in fact, be seen more as immeasurable aspirations than real actions, using terms such as 'monitor, promote, explore, contribute, call on'. This is indicative of the circumscription of the power and the limitations on the abilities of international trade union organisations to deliver on policies (Kip 2011; D'Art and Turner 2007; Dolvik, 2001;

Hyman, 2001). The ETUC is not positioned, as national federations or sectoral associations are, to directly affect policy. Instead, it is dependent on its capacity to lobby in order to exert influence.

In 2006 the ETUC established a ‘Migration and Inclusion Working Group’¹² to consider issues around migration from a trade union perspective with a view to contributing to the development of both ETUC policy and that of its affiliate organisations. The group brought together trade unionists, policy makers and researchers from the European Union member countries. ‘Workplace Europe: Trade Unions Supporting Mobile and Migrant Workers’ was a specific, focused 12-month project of the working group which examined the experiences and practices of trade unions across Europe in dealing with migrant workers with a view to developing models of good practice and innovative ways of “... informing, supporting, protecting and organising migrant/mobile workers and their families” to be disseminated throughout Europe’ (ETUC 2009a:1). The working group completed its work in 2010 and issued a report in 2011, which contained recommendations for European unions and details of models of good practice, some of them major transnational projects such as the Baltic Sea Labour Network (BSLN)¹³ and the Inter-regional Trade Union Councils (IRTUCs)¹⁴. While some of these national and cross-border initiatives are replicable given similar structural configurations, policy environments and availability of funding, there was no clear pathway for the application of the learning from the transnational level projects to be applied in national contexts (for example, information on these models was never communicated in any structured way to Irish unions).

There was also an increasing level of co-operation with NGOs working specifically in the area of irregular migration, particularly the Platform for International Cooperation on Undocumented Migrants (PICUM) and the European Network of Social Justice NGOs (SOLIDAR) with whom the ETUC adopted a joint policy position in 2007 that

¹² As outlined in Chapter Three, I sat on this Working Group from 2007 to 2010 as a participant observer / Irish informant, nominated by the ICTU.

¹³ BSLN is a transnational co-operation project of 22 partners and associated partners from 8 countries in the Baltic Sea region (Finland, Sweden, Denmark, German, Poland, Lithuania, Latvia and Estonia) which commenced in 2008 and is scheduled to run until 2011. The partners included trade unions, employer organisations, politicians and academics who worked together transnationally to develop sustainable and responsible labour markets

¹⁴ The IRTUCs are an ETUC initiative, which bring together regional organisations of the national trade union confederations in cross border regions. In 2010 there were 45 of them across Europe, many of which are running joint initiatives focused on cross-border labour migration issues.

undocumented migrant workers should have the same labour rights as native born and documented migrant workers (ETUC 2009a). Arising out of that collaboration and also out of the ‘Workplace Europe’ project, the ETUC established a further project, ‘What Price the Tomatoes?’ in 2010 which focused specifically on undocumented workers and those working in irregular situations, and on the role of trade unions in protecting and supporting those workers.¹⁵ This concluded in 2011 with the publication of two reports (Merlino and Parkin 2011a; 2011b) There had been an increasing focus at national trade union level in the latter part of the decade on the growth in irregular migration and the concomitant increase in vulnerable workers employed in irregular situations.

During the period of existence of the Migration and Inclusion Working Group, the ETUC was consulted on and contributed to major EU directives on migration: the European Job Mobility Action Plan (2007); the EU Directive on Temporary Agency Work (2008); the Employers’ Sanctions Directive (2009) and the EU Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, EU Blue Card (2009). It had also made substantial, and effective, contributions on what became the Services Directive (2006) which set out to establish the ‘country of origin principle’ for workers within the EU. Its mobilisation and lobbying campaign is seen to have contributed to the substantial watering down of the original ‘Bolkestein Directive’ Also, and somewhat controversially, in its resolution ‘Towards Free Movement of Workers in an Enlarged European Union’ (December 2005) the ETUC opposed the transitional measures brought in by 12 of the original 15 EU members following the accession of new member states in 2004. This was despite the fact that some national trade union movements supported them, though Ireland did not.

The ETUC working groups and projects provided valuable opportunities for union representatives, policy makers and NGO representatives from across the European Union to discuss and exchange information on good practices and overcoming obstacles in the area of migration. They also provided unique networking opportunities for activists working specifically on migration agendas within their particular union confederations and individual unions, the value of which should not be underestimated in terms of facilitating exchanges of information and, most importantly, facilitating linkages between unions in

¹⁵ I again acted as an Irish participant observer on this project working group.

sending and receiving countries. They informed ETUC policy and there is some evidence of direct input into policy from these projects, one of which is the UnionMigrantNet initiative which is an ETUC led portal - a social network of trade union contact points for migrants – which provides information and assistance to migrants and would be migrants that are in Europe or wish to come to Europe. It was established on a pilot basis in 2014 and describes itself as providing assistance for the integration of migrants. It has yet to be fully operationalised so it is too early to analyse its success or otherwise at this point.

The influence of the outcomes of these projects on union behaviour within national jurisdictions more generally is negligible. The reality is that the ETUC has little influence at national level. While it can contribute to the debate among national trade union movements and encourage greater co-operation between unions across borders, it has no power in this regard, particularly as it operates on the political premise of mutual non-interference in national trade union politics. A further issue in this is that of democratic legitimacy. The ETUC, as an over-arching body, has its relationship primarily with the national federations. So while it endeavours to promote cooperation among national unions, its structures make it difficult to develop channels at a trade union organisational level (Erne 2008).

Concomitantly, as Erne (2008) claims, it can be seen that through its lobbying approach and despite the lack of ties with a specific political group, the ETUC has political influence at EU level, largely because of the importance of trade union support for the development of the EU integration process. On the other hand, as Kip points out, though it is the most prominent organisational vehicle of the labour movement at EU level, its power is circumscribed by what national unions allow it to do. He sees this as mirroring the low degree of political integration within the EU and the continuation of the national as the predominant political arena (2011). Thus, the “Europeanisation” of the trade union movement can proceed only with the consent of member union confederations whose primary concerns will always tend towards their own national agendas (McGovern 2007; McShane 2004; Hyman 2001).

3.5. Conclusion

This chapter has deployed a comparative analytical framework to critically analyse the response of trade union movements across nine EU countries to labour migration. It has

outlined the main influencing factors in operation in the individual countries, under the broad categories of character of the immigration, economic and labour market conditions, politico-legal context and industrial relations context. It has considered to what extent these factors may account for individual trade union movement responses to migration.

On the basis of the foregoing analysis it is possible to extrapolate that the Irish trade union response compares favourably with that of its European partners. Immigration came to Ireland much later than to the majority of the countries studied, and its long history of emigration meant its first experience of labour immigration differed fundamentally, both in nature and in timing, from that of the more traditional countries of immigration, particularly those with a colonial background. Nonetheless, the Irish trade union response to immigration shared many features with that of its European counterparts and it is apparent that the explanatory variables as set out in this chapter – character of the immigration, economic and labour market factors, politico-legal context, industrial relations context - were influential factors in that response. In that sense Ireland is very much part of the EU system of industrial relations.

The composition of labour immigration has usually been discounted as a significant factor in shaping trade union response generally (Penninx and Roosblad 2000). However, it would appear to have a bearing in the Irish case. The fact of certain cultural similarity between the majority of the migrants and the indigenous population was significant, particularly in the first instance. This combined with favourable economic and labour market conditions was certainly relevant in shaping the reaction to labour migration in Ireland. Irish trade unions, as those elsewhere, were not opposed to immigration at a time of economic growth and full employment. With regard to the politico-legal context, the lack of strong legislative controls on immigration and the absence of a significant anti-migrant discourse generally, allowed Irish unions more freedom to articulate a policy of openness and inclusion than might otherwise have been the case.

With regard to the industrial relations context, as a strongly institutionally embedded partner at the time of initial immigration, the Irish trade union movement co-operated in the main with the opening up of the labour market to immigrant labour. This reflected the behaviour of embedded union movements in other countries at an earlier time. Also, further reflecting that behaviour, they did not pro-actively organise those workers in the

first instance. This fully reflected the thesis that where trade unions' institutional position is strong, they focus on building institutional partnerships with less incentive to prove their strength through recruitment and mobilisation (Baccarro *et al.* 2003; Frege and Kelly 2003; Ebbinghaus and Visser 1999).

At the supra-national level of the European Trade Union Confederation (ETUC) it is clear that despite its official position as a European level social partner, where it has some impact, its power to influence the policies and practices of trade unions in their individual national contexts is really quite limited. This extends to the area of clearly supra-national issues such as international labour migration. As is shown above, the Irish engagement with the ETUC has been largely at the national confederation level and while ETUC initiatives may have informed national policy to some extent, its influence more generally would appear to be negligible. While there have been some specific initiatives which have involved an Irish input, they have been primarily in the realm of information exchange and co-ordination (e.g. engagement in ETUC Migration sub-committees, participation in UnionMigrantNet, where SIPTU acts as the Irish contact point).

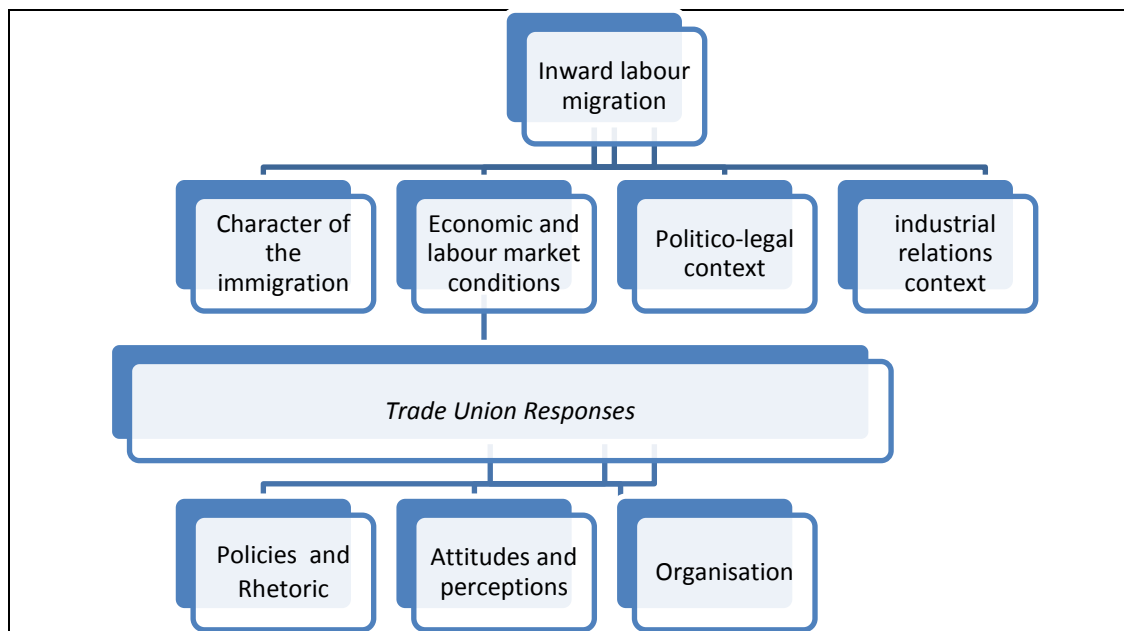
Having contextualised labour migration and trade union responses to it within a broad European framework, I will now move on in the following chapters to present the Irish case in detail. Based on my engagement with the literature, the code development as outlined in Chapter Two and the application of the original analytical framework in this chapter, the modified version of the framework, as it has developed, will now be applied to the analysis of the Irish data in the chapters to follow. In the first instance, Chapter Four will outline the history of labour migration to Ireland and present the defining characteristics of same. It will then critically evaluate the various explanatory factors as defined in this chapter and apply them in more detail to the Irish situation.

SECTION 2: NATIONAL CONTEXT

CHAPTER FOUR: IRELAND, MIGRATION AND THE STATE

As previously stated, following on from the thematic analysis of the interview material, it became clear that the analytical framework devised from Penninx and Roosblad, and applied to the comparative analysis in Chapter Four was inadequate for the in-depth analysis of the Irish trade union response to labour migration. The rich detail of the response could not be fully reflected by a simple duality paradigm of A versus B, needing, rather, to allow for greater variation within the response. Thus it was necessary to modify the framework to better reflect the outcomes of the inductive coding process that had been engaged in with the interview material. The modified diagram, as below, takes the independent variable of inward migration; the possible explanatory factors of character of the immigration, economic and labour market conditions, politico-legal context and industrial relations context to analyse the Irish trade union response in terms of policies and rhetoric, attitudes and perceptions and organisation. The analysis reflects the themes that were drawn from the coding process as described in Chapter Three.

Figure 4: Analytical Framework, Ireland



The statistical material in this chapter is largely drawn from the Central Statistics Office, Quarterly National Household Survey (CSO, QNHS). However, as has been noted by many commentators, reliability is somewhat of an issue (Barrett and Kelly, 2008; Roche 2008; Barrett et al., 2005):

It has been known for some time that the QNHS significantly undercounts the immigrant population, by over 30 per cent. Given this undercount, a concern exists that the QNHS may not provide an accurate picture of Ireland's immigrants in terms of socio-economic characteristics (Barrett and Kelly 2008).

Unite Officer, speaking of the difficulties in accurately monitoring labour migration levels in Ireland:

We don't know the migration flows. You know our data lags very far behind the rest of Europe, there's such a lack of detail. Other countries have so much detailed data on economic indicators to migration flows and all of that. And that's historical hangover, the difficulty goes right back to the statistical information systems set up in the 1930s (Interview, 2013).

So, while the statistical information contained herein provides good indicators of labour migration levels, it would be inadvisable to presume on its absolute accuracy.

4.1. Background

Much of the literature would portray Ireland as historically an impoverished, mono-cultural mono-ethnic state dominated by an inward-looking and isolationist culture and an economy which up to the 1990s could not provide sufficient employment for its people who emigrated in large numbers throughout the 19th and most of the 20th centuries.¹⁶ In the period 1861 to 1961, the average annual net emigration from Ireland consistently exceeded the natural increase in the Irish population. Consequently, Ireland's population shrank from 4.4 million in 1861 to 2.8 million in 1961 (Ruhs 2005). Hickman takes issue with the mono-cultural argument, considering it "one of the central myths of Independent Ireland that we all shared a common set of social values and a common culture" (2007: 15). She maintains that like most other nation states, Ireland is a "hybrid product" with a long history of traditional and, latterly, ethnic minorities. Mac Éinrí would argue that, prior to the 1990's there was no part of Ireland (with the partial exception of one area of Dublin where many of the city's Jewish community lived) where the presence of minorities or immigrants was publicly and visibly manifest. He suggests that Ireland's historical demographic and migration profile can fairly be described as unique, at least in European terms (Mac Éinrí, 2008).

¹⁶ See Heyes and Hyland 2012; Turner et al. 2008a, 2008b; Krings 2007, 2009a; 2009b; Mac Éinrí, 2005; 2008; Fanning 2007; Barrett and Duffy 2007; Barrett et al. 2005; Ruhs 2005.

While the cultural make-up may be contested, clearly, Ireland was a relatively poor peripheral European country with strong and sustained emigration, limited employment opportunities and no traditional colonial ties to majority world countries which had not received any significant immigration flows prior to the mid -1990s. As such, Ireland had not received any significant immigration flows prior to the mid -1990s and therefore little consideration, therefore, had been given to a formal immigration policy. The prevailing official attitude towards immigrants, or ‘aliens’, the term generally employed, was one of caution, if not outright opposition (Mac Éinrí 2005). The only cases of immigration to Ireland previously had involved small numbers of refugees: Hungarians in 1956; Chileans in 1973; Vietnamese in 1979; Iranians in the mid-1980 and Bosnians in the early 1990s) (Krings 2007; Mac Éinrí2005). Up to the late 1980s, Ireland continued to be a country of emigration. For the decade 1981 – 1991, the net outflow was over 200,000, or almost 6% of the population (Barrett & Duffy 2007). In 1993 Ireland’s unemployment level peaked at 16%.

4.2. Economic and labour market conditions and initial immigration

In the mid-1990s, the Irish economy underwent an economic transformation when the ‘Celtic Tiger’¹⁷ emerged and Ireland began to experience the highest growth rate in Europe. Unemployment fell, population outflows were reversed and net inflows began. In the decade 1991 – 2000 almost half a million new jobs were added to the Irish economy, an expansion of 43%, creating a need for new labour that could not be filled from the indigenous existing labour force (Barrett & Duffy 2007; Mac Éinrí 2005). Ireland moved to a situation where it experienced almost full employment, with an average unemployment rate of just over 4 per cent in the early years of this century (CSO 2006) with the EU average standing at 8 per cent during this period (Eurostat 2009). In 1994 non-Irish nationals had accounted for about 2 per cent or 24,200 of the employed labour force. By 2006, and after the opening up of the Irish labour market to workers from new EU countries following enlargement in 2004, immigrants accounted for 17 per cent of the labour force (Barrett & Duffy 2007; CSO 2007). Thus Ireland went from being a country of net outward migration to becoming one of net inward migration at a speed that was

¹⁷ The first recorded use of the phrase ‘Celtic Tiger’ is in a 1994 Morgan Stanley report by Kevin Gardiner (Kirby et al, 2002, p17).

unprecedented. In just 15 years Ireland moved from being Britain's ex colony on the European periphery to the epitome of neo-liberal globalisation (Castles 2011).

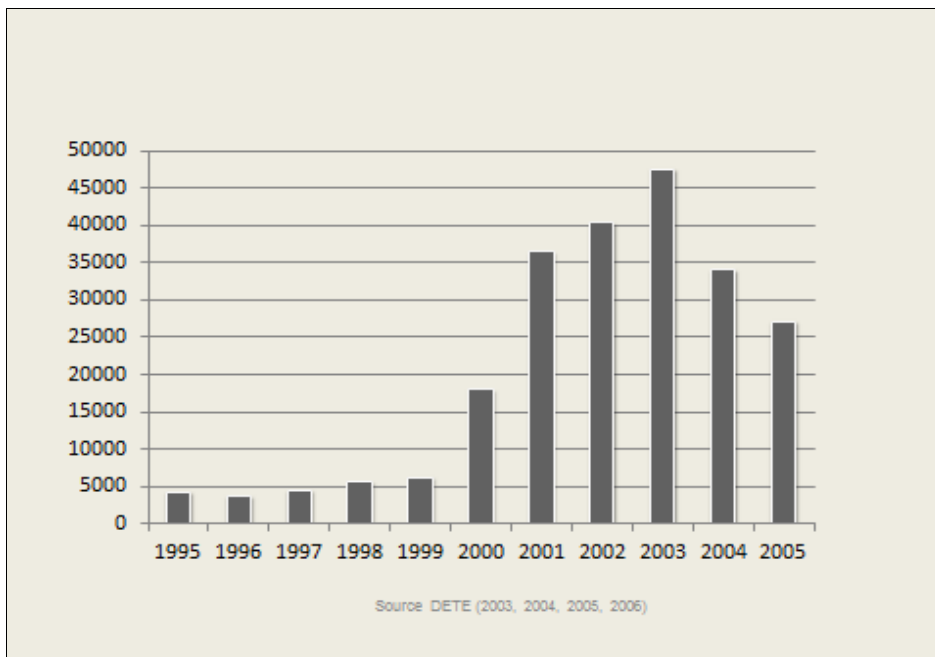
The literature would generally contend that the admission of immigrants was largely market-led and, indeed, the claim was made by successive Irish Governments that Ireland's migration regime was one of the most open and flexible in the EU. With no history of immigration, little consideration had been given at Government level to the development of a formal immigration policy. Mac Éinrí observed in 2008 that "Ireland is no longer a country where immigration can be regarded as a short-term or transient issue. The country has now definitively joined the European mainstream as a society where a population of mixed ethnic backgrounds will be the norm" (2008: 12). He pointed to a number of particularly noteworthy features of this immigration. Firstly it followed the classic two-tier pattern, with a strong demand for high-skilled migrants in certain sectors such as medicine and technology and a substantial flow of migrants into unskilled or relatively unskilled sectors. Secondly, the range of source countries was highly diversified (although Central and Eastern Europe were dominant), most of the source countries had few previous close political or cultural connections with Ireland, posing an additional challenge for migrants arriving here as well as for the receiving society. And thirdly that, despite the levels of immigration, Ireland still did not have a finely tuned labour market immigration policy (Mac Éinrí 2008). This remains the case to date but the economic downturn and the consequent fall-off in non-EU migration, has taken the urgency out of the situation.

From 1995 Ireland looked outside its own borders to meet labour market needs. In the early stages, Ireland's immigrants were made up of a combination of returning emigrants and new arrivals, primarily from the countries of the former Eastern Bloc (Poland, Lithuania, Latvia, the Ukraine, Romania, Russia, Bosnia and Hungary) as well as smaller but significant numbers from the Philippines, South Africa, Brazil and China. Much smaller numbers came from other parts of Asia and Africa. By the end of the 20th century the numbers of returning emigrants had all but ceased while the numbers of migrant workers into the country continued to grow.

Up to 2004 the majority of labour migrants to Ireland came under an employment permit system, targeted at unskilled occupations and administered by the Department of Enterprise, Trade and Employment (DETE). According to Ruhs (2005) 74% of all work

permits issued related to relatively low-skilled occupations. There were fewer than 4,000 work permits issued in 1996, just over 6,000 in 1999, with this increasing to almost 48,000 in 2003, the year before accession. It dropped to 34,000 the following year (See Figure 5 below). This reduction is due to the fact that one of the largest regions of labour supply to Ireland was the block of Eastern European Countries which became members of the EU in May 2004, whose workers then no longer required permits. Thus while the issuing of work permits fell slightly, the rate of foreign workers entering the Irish labour market continued to rise (Dundon *et al.* 2005). Migrant workers also came under work visa and work authorisation schemes during this time, but these schemes were focused on the more highly skilled professions and the numbers entering the country were much lower.

Figure 5: Work permits issued in Ireland, 1995 – 2005



Work permits were issued to employers, rather than migrant workers, they were non-transferable and were valid for one year but could be renewed annually. This meant that a migrant worker employed on a work permit was legally only eligible to work for the employer specified on the permit. Up to 2003, this system was almost entirely employer led, with very little state intervention and, while it created the opportunities for large numbers of migrant workers to find work in Ireland, it also created conditions for exploitation. Under the system, workers were tied to a specific employer and unable to move to other employment if they had any difficulties with that employer. In the event that they left employment, they became undocumented and would then be considered to be

illegally resident in the State. Siobhan O'Donoghue, Director of MRCI observed "Work permits were, to all intents and purposes a form of bonded or indentured labour with huge potential for exploitation" (Interview, 2012).

The composition of the migration flows changed over the years; while they were at first dominated by returning Irish migrants, the proportion of Irish migrants decreased around 2000-2002. Between 2002 and 2004 migrants from non-EU countries, entering on work permits, dominated the immigration flows. There was a marked decline in these numbers following the accession of the 10 new EU Member States in 2004, after which Ireland was able to source the majority of its labour from within the EU (Joyce *et al.* 2008).

In that initial period while migrant workers were employed in most sectors of the economy, they were largely concentrated in unskilled or low-skilled employment in services, hotel and catering and construction. In 2004, 24% of all migrant workers were working in the hotel and catering sector, most of them from non-EU countries (Macri 2006). While there were also substantial numbers recruited to nursing, both public and private, the majority worked in low-skilled, manual, hourly paid jobs despite their having higher mean levels of education than Irish workers (Turner *et al.* 2008a; Mac Éinrí and Walley 2003)

4.3. Economic and labour market conditions and post-accession immigration

In order to enable the continued buoyancy of the economy and fulfil the objectives of its National Development Plan (2000), the Irish government stated that in the region of 200,000 new workers, representing 11% of the labour market would be required between 2003 and 2008. However, the demographic trends in Ireland appeared to dictate that the bulk of these new workers would be migrant workers. Therefore, a number of initiatives such as recruitment campaigns and trade missions were implemented in order to recruit overseas workers (FÁS 2008).

EU Accession occurred during this time when the Irish economy was growing rapidly and after a period of almost 10 years of sustained growth (Barrett 2009). May 1st 2004 saw the

accession of ten new member states to the EU (EU10)¹⁸ under the 2003 Accession Treaty. This EU enlargement heralded a major change in immigration patterns to Ireland with an acceleration in the inflow of migrant workers due to the new member states being given full access to the Irish labour market. Ireland was one of only three existing members of the EU to allow full access to its labour market to the EU's new citizens from the date of accession, the other two being Sweden and the UK (Donaghey & Teague 2006). This change in legal status and access to the labour market applied not only to new arrivals but also to those who were already resident in Ireland, either legally or illegally.

The ESRI, among others, observed *retrospectively* that “given the rapidly growing economy and the limited numbers of countries who granted such free access as of May 2004, it was perhaps unsurprising that a large inflow into Ireland from the EU10 commenced” (Barrett 2009: 12). However, the vast majority of commentators, both national and international¹⁹ did not foresee the rapid increase in migration from the new EU countries that would occur. An EU Commission study in 2001²⁰, suggested that “the impact of enlargement on Ireland will be relatively marginal, with most new migrants opting for Austria and Germany” (Immigrant Council of Ireland 2003: 13). Unsurprisingly, the trade union movement was also taken by surprise. Almost all of those interviewed for this thesis commented on it with remarks such as ‘I believe we were caught very much unawares’ and “I think the levels of immigration we had surprised everyone, nobody was really prepared for the issues that emerged, the challenges’. David Begg, General Secretary of the ICTU said:

Maybe (though) it should have occurred to us that this could happen but it didn't. We should have predicted maybe that the Government would open the labour market here to everybody from day one. But even then, whether we could have predicted from that that it would involve such an inflow of people is another question. Probably not, on the scale of it, I doubt if we would. And, if we did know, what would we have done? We would have tried to do what we subsequently did anyway, that's tried to regulate it (Interview, 2012).

¹⁸EU10 refers to the ten EU accession states: Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia, Slovakia, Cyprus and Malta.

¹⁹This included the ESRI at the time

²⁰EU Commission (2001) The Free Movement of Workers in the Context of Enlargement

Not only was Ireland's increase in immigration from the new member states higher than expected, it was also much higher than that experienced by either Sweden or the UK. The number of EU10 nationals resident in Ireland grew from under 14,000 in 2002 to over 120,000 in 2006. They accounted for approximately half of the jobs created in Ireland after accession with the number of EU10 citizens in employment in Ireland having more than trebled between the third quarter of 2004 (19,500) and the end of 2005 (61,600). However, administrative data collected through the issuing of social security numbers suggest a much bigger inflow. Between 2002 and 2006 over 300,000 PPS numbers were issued to EU10 nationals, with a further 100,000 issued in 2007. The majority (60%) were accounted for by Polish nationals. However, as is pointed out by Barrett and others, these figures overstate the scale of economic migration into Ireland as 1 in 4 of those who received a PPS number never took up work in the country, and many of those who did work here seem to have done so only on a seasonal basis (Barrett 2009; CSO 2007b).

In 2007 nationals of the EU10 and Romania and Bulgaria accounted for 48 per cent of all immigrants in Ireland (Joyce *et al.* 2008). The majority of these workers were in the construction and manufacturing sectors which employed more than half of the Accession State workforce in Ireland with the hotels and restaurants sector having the highest share at 7.4% (Doyle *et al.* 2006). The total number of immigrants into Ireland in the year ending April 2007 was 109,500, up almost 2,000 on the previous year and substantially higher than for any other year since 1987 - the year the present series of annual migration estimates was begun (CSO 2007a). The 2006 Census suggested that there were around 420,000 non-Irish nationals in the Republic at that time, which represented almost 10% of the total population (4,239,848) with the vast majority of those migrants involved in the economy (CSO 2006). This compares with a foreign born population of just 3.2% in 1996. (Doyle *et al.* 2006). Around a quarter of all immigrants in 2007 were from the 'rest of world' (i.e. not EU or USA).

In the ten year period from 1996 to 2006 Ireland's population grew by over 600,000, an increase of over 17% in total, while in the final quarter of 2007, non-Irish nationals accounted for 355,000, or almost 16%, of the 2.24 million members of the labour force (CSO 2007b). The size of the workforce is itself worthy of note, bearing in mind that only about a million persons were in paid employment in Ireland in 1987 (Mac Éinrí 2005)

Significantly, there was also an increase in the category ‘emigration’ from 2002, to a level of 42,200 in 2007. However, a closer look at the countries of destination – 7,000 to the New Accession States and 19,000 to the ‘rest of world’ suggests that the bulk of these movements were not made up of emigrants at all, but return migrants going back to their countries of origin (Mac Éinrí 2008; CSO 2007a).

Immigrants also made up an important element in a number of higher-level occupations in Ireland. The Irish health service relied on inflows of medical professionals and nurses under the work visa scheme. In 2005 20% of doctors holding full registrations with the Medical Council of Ireland had overseas addresses (not including temporary registrations) while the proportion of non-Irish nurses increased from two to eight per cent over the period 1998 to 2004. There was also an inflow of engineers, architects and computer specialists (FÁS 2008). 60% of all visas issued between 2000 and 2006 were to nurses according to Liam Doran of the INMO in an address to an Immigrant Council conference (Doran 2008)²¹. In discussing it in interview he pointed out:

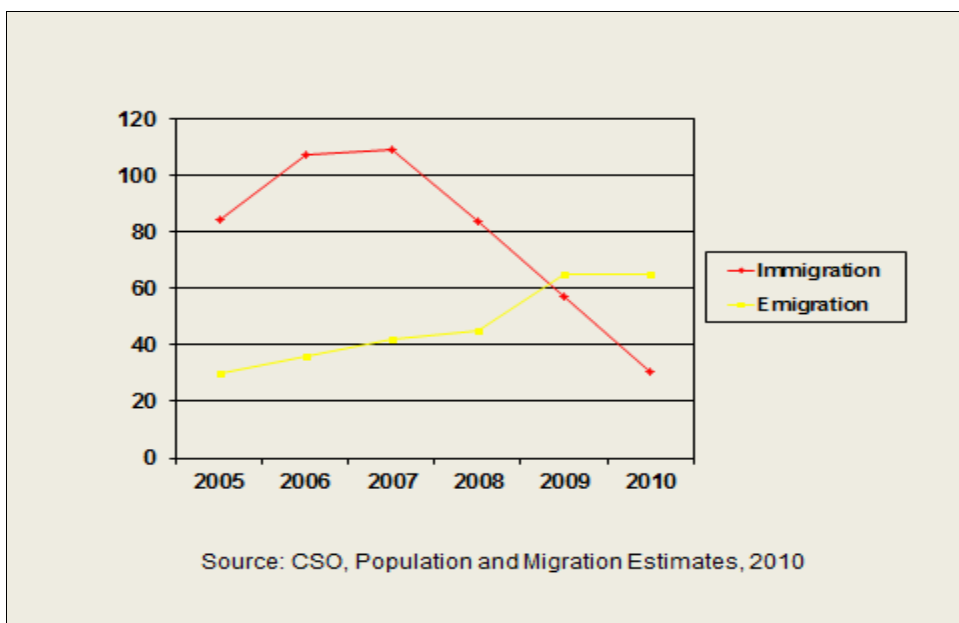
The Philippines was making it known that it had a surplus of nurses and Irish nurse recruiters were moving over there in teams from about 2000 onwards. At the peak, in the early 2000s we were recruiting between 2,000 and 2,300 nurses from abroad each year, for example 50% of the nursing workforce in the Mater Hospital in Dublin was Filipino and that would be out of a total workforce of about 1,000 (Interview, 2012).

This trend towards a continuous increase in immigration continued until the downturn in 2008 when net migration into Ireland dropped, and it has continued to contract since. A decline in employment and a concomitant decrease in migration began in 2009, with 36,000 non-Irish nationals leaving the labour force between the second quarter of 2008 and the second quarter of 2009. By the second quarter of 2010, a further 49,000 non-Irish nationals had left the labour force, 18,600 of whom were EU10 nationals (See Figure 6 below).

²¹ The very significant recruitment of non-Irish nurses was a particular phenomenon, largely created by a shift in nurse education in the late 1990s from a three year hospital-based practical training to a four year university-based degree programme.

Between Q1 2008 and Q1 2009 the unemployment rate of migrant workers increased markedly in all OECD countries but most particularly in Ireland (eight percentage points compared to three percentage points in the EU-15) where the recession impacted disproportionately on Irish migrant workers. In a paper to the European Migration Network Barrett and Kelly found that while the employment of Irish nationals fell by about 10 per cent from the onset of recession; the fall for immigrants was 26 per cent. The most severe impact appears to have been on nationals of the new member states (NMS), which is consistent with a general finding of poorer labour-market outcomes for this group (Barrett and Kelly 2010).

Figure 6: Immigration and Emigration, 2005 – 2010



4.4. Politico - legal context

With no history of immigration to Ireland, little consideration was given to the development of a formal immigration policy. As the economy burgeoned and immigration developed at an ever increasing rate in the latter half of the 1990s “the country was faced with the difficulties of constructing immigration and integration policies against a background of a rapidly changing picture, limited experience, a less than positive attitude towards difference and a largely mono-cultural tradition” (Mac Éinrí 2005: 91). The prevailing official attitude towards immigrants, or ‘aliens’ as was the term generally employed, was one of caution, if not outright opposition (Mac Éinrí 2005).

At this early stage, the claim was made by the Irish Government that Ireland had “the most open economic migration system in Europe” (DJELR 2005 in IOM 2006) Indeed, there was some truth in this claim in that the immigration regime was entirely market-led and employer-driven, and thus had the facility to respond quickly to the labour demands of the rapidly growing economy. The onus was on employers to show that a particular individual or group of individuals was required and that no European Economic Area (EEA) persons were available and willing to do the job. Few restrictions were imposed on employers other than this ‘labour market test’, aimed at encouraging them to make efforts to fill existing vacancies with EEA workers before looking to employ non-EEA workers. The test required that vacancies be advertised with FÁS for a period of four weeks and be advertised in a local or national newspaper for a period of three days. It seems clear that this test was not always rigorously applied. In 2002 FÁS carried out a comparative analysis of the data on the potential labour supply, vacancies notified with FÁS, and work permits issued across the various occupations. The striking finding of this analysis was that the majority of work permits issued in that year had been issued for work in unskilled occupations for which there appeared to be a sizeable supply of local labour (IOM 2006).

Remarkably, at an earlier stage, when immigration was at miniscule levels the Government, through the relevant department, had consulted with trade unions with regard to labour market need:

I remember in the 1980s we used to get these exotic things in from the Department of Labour, a request for our opinion of a work permit application for somebody coming to work in a factory in Kildare or whatever. But, by the time migration became much more commonplace, either the original practice was just extreme courtesy to the trade union movement or else it had been completely revisited and revised and ditched. By the time immigrants were coming in numbers, there was no consultation whatsoever (Interview, Former SIPTU Regional Secretary, 2013).

In addition, until changes in policy introduced in 2005, large numbers of foreign students were able to come to Ireland to take advantage of opportunities to work part-time in low paid jobs with very little regulation of the education sector. Unlike most other countries of immigration, Ireland did not have any formal quota-based immigration policy with country quotas or special category immigration visas (with some exceptions). Ultimately, this market-led, administratively light policy was to prove inadequate to deal with the dramatic

changes in labour market supply and demand which led to some well-publicised, and some less well-publicised, cases of exploitation (Mac Éinrí 2005; 2008)

Up to the mid 2000's the core legislation covering the entry and residence of non-EEA workers and residents in Ireland continued to be the *Aliens Act 1935* and the *Aliens Order 1946*, as amended. These 'draconian provisions' (Mac Éinrí 2008), reflected their origins in First World War British legislation, having been adopted at a time when all foreigners were regarded with suspicion. Also, wide-ranging and discretionary powers concerning immigration were conferred upon the Minister of the day, who could take decisions without explanation and without appeal. Following Ireland's admission to the EEC in 1973, the regulations implementing the European Union Rights of Residence Directives came into effect (Joyce *et al.* 2008; Mac Éinrí, 2008). Other than this, much of Irish immigration policy was conducted by ad hoc ministerial orders, statutory instructions and confidential rules and procedures, resulting in parliamentary scrutiny rarely taking place, and civil society having little opportunity to engage with, or exert influence on, policy development. It is, however, the case that all of the employment rights legislation on the Irish statute books applied equally to migrant workers as to Irish workers. All workers, be they Irish, members of the EU or non-EU citizens are and were entitled to the same protection under Irish labour law and the laws covering equality and non-discrimination.

In 1994 legislation had been introduced under the Terms of Employment (Information) Act to establish the initial work permit scheme which was effectively a response to employer demand and involved minimal Government intervention (Ruhs 2005). Then in response to growing political pressure and an evident requirement a variety of legislative measures was introduced from the late 1990s. These included the Refugee Act 1996; the Immigration Acts 1999, 2003 and 2004; the Illegal Immigrants (Trafficking) Act 2000; and the Employment Permits Acts 2003 and 2006. But while there were these legislative measures, it has been argued that the development of Irish immigration and asylum policy to the present time has been piecemeal, reacting to specific problems as they arise, rather than developing in a coordinated and consistent manner. For example, while a number of different government departments were involved in regulating the admission and employment of migrant labour, there was no permanent interdepartmental committee or working group to co-ordinate the work of these departments (IOM 2006). Allen argues that the basic structure of the Irish migrant labour scheme up to 2003 had developed in "a

crude, ad hoc manner to serve employer interests by defining workers primarily as a marketable commodity” (2007: 92). Mac Éinrí (2008) too cited the piecemeal nature of policy changes, the lack of any long-term integration policy, and the public concern regarding well-publicised cases of exploitation as having led to a recognition that a more comprehensive and durable regime was needed. He highlighted issues such as the absence of transparent regulations about questions such as family reunification and the absence of any path to permanence (other than citizenship) in Ireland’s immigration regime.

With the introduction of the Employment Permits Act of 2003, the Irish state adopted a more interventionist approach to labour migration. It introduced greater restrictions with regard to work permits than heretofore while at the same time enabling workers from the new EU member states to freely access the Irish labour market. This approach made it more difficult for Irish employers to obtain work permits for unskilled non-EEA workers, and it also declared jobs in some sectors off-limits to non-EEA workers. Government policy developed on the assumption that, in the future, unskilled job vacancies would be filled by EEA nationals and future non-EEA migrants would be highly skilled. In line with this perception, Ireland adopted one of the most liberal positions of any of its EU counterparts, alongside Sweden, on the entry of workers from Eastern Europe. However, while there was a sharp increase in migration from the accession states, there continued to be a need for workers from outside the EU25 (IOM 2006; Ruhs 2005).

The government also introduced an Habitual Residence Condition for those EU workers who came in after 2004 which meant that they were not entitled to claim social welfare for at least two years from the date of their arrival in Ireland. This was introduced to quell public concerns about welfare abuse and the feared ‘welfare tourism’. However, there were concerns raised that the imposition of such a condition would expose EU migrants to poverty. Fanning points out “the Government used the occasion to remove a range of social security entitlements from new immigrants and their families for an initial two year period” (2007: 21). Amongst these, the Social Welfare Act 2004 removed entitlements to children’s allowances and other non-contributory payments previously available on a universal domiciliary basis for EU citizens’. Some amendments were introduced in 2006 allowing all EEA workers to access child benefit and allowing EEA workers with a record of employment in the State to access supplementary welfare allowances.

Since 1989, under a Supreme Court ruling, “Irish citizen children had the right to the company, care and parentage within a family unit” (Mullally 2007: 27). This meant that immigrant parents had been routinely granted ‘leave to remain’ in Ireland on the basis of the children’s right. Restrictions were imposed on these rights under a further Supreme Court ruling in 2003, leading to widespread confusion and fear among immigrant families affected. In 2004, the government held a citizenship referendum, the result of which removed the automatic right of citizenship for all those born in Ireland in the future and thus removed the right of both children and their parents to remain in the country. A scheme was subsequently introduced which, in effect, regularised the vast majority of parents of Irish-born children who had been left in legal limbo by the 2003 Supreme Court decision.

In 2005, there was a further shift towards a more managed approach to migration. That year saw the creation of the Irish Naturalisation and Immigration Service (INIS), a new ‘one-stop shop’ for applications for entry to the country. Following the accession of Romania and Bulgaria, the Employment Permits Act 2006 was introduced. On foot of this the old dual system of work permits and work visas was replaced by a new system with three main elements – a ‘green card’ scheme; a work-permit scheme; and an intra-company transfer scheme. The legislation liberalised conditions for employees in relation to work permits, specifically allowing the permit to rest with the employee rather than the employer, in an attempt to reduce the potential for employee exploitation. However, it severely limited access to work permits which are now generally only available in exceptional circumstances. The new ‘green card’ regime grants employment permits on more favourable terms to persons who either earn more than €60,000 p.a. or who earn between €30,000 and €59,000 in a category considered to be in short supply.

In April 2007 the government introduced the Immigration, Residence and Protection Bill, which attempted to codify many of the disparate instruments and administrative practices in order to present coherent managed immigration and asylum policies. The Bill fell with the General Election and change of government in June 2007 (Joyce *et al.* 2008). Following the election of the new Fianna Fáil / Progressive Democrat / Green Party coalition in June 2007, the Government appointed a Minister for State with Special Responsibility for Integration. Commentators welcomed this appointment as an indication of a more focused and positive approach on the part of Government to immigration.

However, the post was dropped in a Cabinet reshuffle in 2009 which was seen as evidence of a diminution of Government commitment to the area, particularly as this followed the abolition of the National Consultative Committee on Racism and Interculturalism (NCCRI)²², and significant reductions in funding to the Employment Equality Authority (EEA) in the 2008 budget.

Given its geographical position, and the fact that it is a small island nation, it is not surprising that Ireland did not experience large-scale irregular immigration. However, while there are no statistics on the numbers of migrants with irregular status in the country, irregular working of non-EEA nationals, following legal or illegal immigration, does exist and has been documented (MRCI 2006b, 2007). MRCI estimated that in 2010 there were approximately 30,000 irregular migrants living in Ireland. In very many cases, moving into an irregular situation and becoming undocumented seems to have followed a period when the individual's position was legal and regularised (MRCI 2007; Hyland 2005). For example, some migrant workers may not have left Ireland after their employment permits expired, other work permit holders may have had to leave exploitative employment and thus became irregular through no fault of their own²³. In a study carried out by MRCI, the vast majority of participants, 54 of a sample of 60, entered the country legally on a valid visa. All found themselves at some point with an irregular status (MRCI 2007). In other cases non-EEA students may have chosen to work more than the legally allowed 20 hours per week and there has also been anecdotal evidence that some 'English language schools' effectively sold visas to non-EEA nationals without providing any significant education services.

Ireland passed a number of laws aimed at combating irregular immigration, the Immigration Act 1999; the Illegal Immigrants (Trafficking) Act 2000; and the Immigration Act 2003. Together, these laws provided a legal basis for the deportation of immigrants in violation of Ireland's immigration laws, and financial penalties or imprisonment for employers and workers who did not comply with the Employment Permits Act 2003. In

²² The NCCRI had been established in 1998 as an independent expert body to provide advice and to develop initiatives to combat racism and promote inter-culturalism. It was a partnership body, bringing together government and non-government organisations

²³ This became less of an issue after the enactment of the Employment Permits Act 2006 which allows the work permit to rest with the employee.

addition, some state benefits were restricted for those in irregular situations (e.g., the payment of rent assistance was restricted in 2003). But, despite the introduction of these measures, there was no evidence of a serious crackdown on employers employing migrant workers in irregular situations. As of February 2005, only three employers had been convicted for violating the Employment Permits Act 2003. The failure to effectively prosecute employers who illegally employed migrant workers was widely agreed to be one of the most important factors leading to irregular immigration and irregular work and, as a potential consequence, to the failure of labour immigration policies. Joyce et al. pointed out that the low number of convictions did not necessarily imply low compliance with the Employment Permits Act but what it did do, was reduce the incentive of employers to comply (Joyce *et al.* 2008; IOM 2006). An MRCI staff member commented: “Even the MRCI doesn’t condone undocumented immigration but it happens, so there needs to be equally strict penalties applied and enforced against employers who hire undocumented” (Interview, MRCI Officer, 2012).

According to a study cited by Ruhs (2005: 37), the “single most important matchmaker between migrants and employers in Ireland are private recruitment agents”, whose number rose from 329 in 1998, to a peak of 778 in 2001 before falling to 541 in 2003, when they recruited one-third of migrant workers (IOM 2006; Ruhs 2005). According to SIPTU, between 2002 and 2003, there was a 68% increase in temporary agency work placements (SIPTU 2007) while the CSO estimated that approximately 2% of the total workforce in 2005 was employed as temporary agency workers. However, these are only estimates and there is anecdotal evidence to say the proportion is even higher, with some trade union sources suggesting it is likely to be closer to the UK figure of 5% (SIPTU 2007). In Ireland these agencies were regulated under the Employment Agency Act 1971 which was originally enacted mainly to protect Irish emigrants going to the United Kingdom from potential abuses by recruitment agents. Under the Employment Agencies Act of 1971, recruitment agencies must obtain licenses; neither employers nor recruitment agents are allowed to charge workers for jobs or work permits; and both the employer and migrant must sign the work permit application (Ruhs 2005). Agencies must renew their licenses each year at a cost of EUR €500, and face fines of EUR €2,500 for violations. Many of these conditions were routinely being broken by recruitment agencies operating in and into Ireland without prosecution or sanction. Many employment-related complaints from migrant workers referred to experiences with employment agencies. A senior INMO

official told of large numbers of recruitment agencies being involved in the early days of nurse recruitment:

When overseas nurses first came to Ireland, there were recruitment agencies which did the work for the hospitals. The experiences these nurses had were very much dependent on the ethics and professionalism of those recruitment companies. In many cases they behaved well but in some cases there were very questionable practices. For instance, the contracts were supposed to start immediately but some people found they weren't being paid during the six weeks orientation or that premium payments were not being made. And remember they were working in the public service (Interview, INMO Officer, 2013).

There was also a growing concern, particularly within the trade union movement, that the increasing tendency for employers to use temporary agency workers would lead to exploitation of these workers, displacement of directly employed staff and the undermining of standards of employment (Krings, 2007; SIPTU, 2007; MRCI, 2006b; 2007). A former SIPTU organiser told of the particular approach he used to take in trying to identify bad practices within recruitment agencies, particularly those in the construction sector:

These recruitment agencies were springing up all over the place. I used to phone them up and pretend I was looking for a gang of 20 or 30 workers. And when I asked how much they'd offer me them at, it was about half the legal rate. And some of these were big established employment agencies, not just small time cowboys. It was considered fair game (Interview, Former SIPTU National Organiser, 2013).

And so Ireland's transformation into a country of net immigration obviously raised new issues that needed to be considered in the regulation of employment agencies. In 2005 the Department of Enterprise, Trade and Employment (DETE) instigated a review of the Immigration Act with a view to introducing new legislation which would meet the new needs and provide greater protection for migrant workers coming to Ireland. The new bill was to be introduced before the end of 2005 (DETE 2005b) but had not been introduced by the end of 2007. It was then overtaken by the EU Directive on Temporary Agency Work 2008, which provides that all temporary agency workers must have equal treatment as if they had been directly recruited by the hirer from their first day at work. This was scheduled to come in to effect in 2011²⁴. Prior to the transposition of the directive, all union sources to whom I spoke confirmed that there was still extensive use of recruitment

²⁴ The directive was not actually transposed into Irish law until May 2012

agencies as a way of circumventing permanent and full-time employment and thus applying lesser terms and conditions. The practices were particularly prevalent in the domestic and care industry according to MRCI. Also, one SIPTU interviewee referred to a practice in the meat industry whereby the meat companies themselves set up recruitment companies in order to avoid direct employment of staff:

In this particular sector we have pockets of agency workers employed by agencies that are actually owned by the companies so they can be paid lower wages and have much lower terms and conditions than the guys working beside them on the factory floor (Interview, SIPTU Senior Organiser 2, 2012).

EU law is generally an important source of protection for migrant workers and another relevant directive here was the Posting of Workers Directive 1996 (PWD), which was transposed into Irish law in 1999. It had as its basic principle, that pay and working conditions in a Member State should be applicable to workers from that State and to those from other EU countries posted to work there. The impact of this directive was seriously undermined in 2007 and 2008 with the four judgments of the European Court of Justice (ECJ) on industrial disputes involving posted workers, namely Viking, Laval, Ruffert and Luxembourg. The ECJ ruled that the PWD neither justifies taking industrial actions to ensure compliance with collective agreements as in the Viking and Laval cases, nor that national labour legislation with regard to collective agreements (Ruffert and Luxembourg), can be forced upon service providers. The major issue in all cases was the priority established by the ECJ in favour of economic freedoms as opposed to fundamental social rights which weakened the position of trade unions vis-à-vis industrial action and effectively established the host country's minimum wage as sufficient to meet the requirements of the directive, thus undermining the commitment to equal terms and conditions (Warneck 2010; Woolfson *et al.* 2010; Woolfson and Sommers 2006). According to the European Trade Union Confederation "the ECJ judgments are a threat to workers in terms of unfair competition on pay and working conditions, and unequal treatment between migrant and local workers" (ETUC 2008),.

As can be seen, much legislation was introduced over the period of the late 1990s to the late 2000s but it was in a piecemeal fashion and, importantly, there was an on-going issue with regard to enforcement of both existing and new legislation. As previously outlined, there was substantial anecdotal evidence supporting the view that employment legislation

was not always translating into the effective protection of migrants' employment conditions in practice. This obviously had adverse consequences for migrants but, it was argued, low levels of enforcement of employment laws and regulations could also harm Irish interests. For instance, it could put local workers at a disadvantage by undercutting local wages and employment conditions (IOM 2006). Jack O'Connor of SIPTU spoke of the trade union frustration around issues of enforcement:

In the summer of 2004 there was a review of the then national agreement which was the Sustaining Progress Agreement. There was a formal review process and we endeavoured within that process to raise the employment rights issue with regard to migrant workers, the issue of the inadequacy of the legislation itself and the wholly inadequate enforcement of it. No we didn't object to the opening of the borders and nor would we even still but we did argue that it could not be done unless the employment rights infrastructure and the enforcement of it was radically overhauled. But we failed to make any progress in the mid-term review (Interview, 2012).

While on the face of it that's a fairly clear-cut critique of the state, O'Connor went on to explain the more nuanced context in which the union efforts took place:

...there was an understanding, the prevailing understanding which incidentally I did not share and I was party to the negotiation of the agreement in the winter of 2002/2003 that the review was simply about the second phase of the pay deal and didn't relate to anything else. But that was the prevailing view; not just on the employers' and the Government side, but on the trade union side as well. And so we failed to make the employment rights agenda an issue in those talks because of that but also because we failed to make it an issue within the trade union movement at that time (Interview, 2012).

Not everyone saw enforcement of legislation as the solution to the problems that existed. One SIPTU organiser said in response to the question "I guess I'm not a big fan of legal solutions, that's why I'm in organising because I think enforcement, and all of that, only scratches the surface of the broader change needed" (Interview, Specialist Organiser, 2012).

The Labour Inspectorate of the Department of Enterprise Trade and Employment was the statutory body responsible for ensuring observance of occupational health and safety and of labour legislation up to 2007. It was responsible for enforcing and policing all employment rights, including those of migrant workers. At the end of 2004, the Labour Inspectorate stood at 21 with an administrative back-up of a further seven Officers. In practice, the number of actual inspectors was believed to be around 17 at the time as the

“Labour Inspectorate has only very rarely had its full complement due to delays in filling vacancies” (DETE 2005a). In a press statement issued in 2004, SIPTU’s Mike Jennings observed that there were more dog wardens than labour inspectors in the country (50 as against 17), indicating the level of seriousness with which the state took abuse and exploitation of workers. There was a commitment to increase this number in 2005 and according to DETE at that time, the additional inspectors “will concentrate their efforts on issues of concern to migrant workers” (DETE 2005b). Later in 2005, under the Social Partnership Agreement, *Towards 2016*, a commitment was made to establish the National Employment Rights Authority (NERA) and to increase the number of inspectors to 90, following revelations of substantial cases of exploitation and abuse. Jack O’Connor again:

We insisted in the negotiation on the agreement which ran into the summer of 2006, on mainstreaming the employment rights agenda and the enforcement agenda and so on and the effect of Irish Ferries was to make that a mainstream issue in the trade union movement. And we ultimately emerged from that negotiation with a very comprehensive range of proposed legislative changes and the enhancement of the enforcement infrastructure and the creation of what became NERA much to the chagrin of the unscrupulous elements among the employers (Interview, 2012).

NERA was established on an interim basis by the Government in February 2007 despite what union sources described as ‘a major campaign’ against its establishment by IBEC and elements of Fianna Fáil (ICTU interviewee). Its remit was to ensure the compliance and enforcement of employment rights legislation through five main functions: information; inspection; enforcement; prosecution; and protection of young persons in employment. With increased powers and numbers of inspectors (though it never reached the promised 90) NERA had some success in recovery of wages, and improvements in compliance with regard to record keeping, working time and payment of wages acts. However, prosecution of employers was obviously an action of last resort with just 1% of its caseload in 2010 resulting in prosecution. Also, despite a commitment at the time of its establishment to place it on a statutory footing, this did not happen. A Mandate official spoke of the continuing frustration around inspections and enforcement:

They really need to tighten up enforcement. With regard to the inspectorate and all of that, I question whether it is just a resource issue or is there unwillingness to unearth the nasty stuff. Do people want it buried rather than identified? You’re dealing with prolific delays in trying to get anything done. I don’t think there’s any real desire to change it or to move things on and I think that’s where the biggest problems lie (Interview, Mandate Senior Organiser, 2013).

Of all those trade unionists interviewed, none were unequivocal in their support of NERA but almost all saw its existence as a positive force in employment protection while all agreed that its non-statutory basis was a weakness. Former SIPTU National Organiser summed it up:

NERA did start to make an impression but the employers whinged about various aspects of it – the criminalisation of employers for instance (though many of them were criminals). In truth, even at its height, there were very few prosecutions and not only that, at its height NERA used to publish its reports on the levels of money it recovered, something like €700,000 and SIPTU could have recovered €5million in the same year. But it was a deterrent and in exactly the same way as Health and Safety, when there was no price to be paid by employers, then for years and years nothing was done. And then when health and safety legislation came in (largely imposed through Europe) accidents and deaths dropped dramatically (Interview, 2013).

The economic downturn, rising unemployment and the breakdown of social partnership arrangements saw an increased threat to the state industrial relations machinery with employers and employer organisations speaking of over-regulation of employment relations and regulation and enforcement being a disincentive to employment creation and a block on competition. This has led to a move towards a streamlining of employment rights agencies and enforcement²⁵. Trade unions argue that this will see the effective dismantling of NERA and more besides. David Begg:

There's an interesting counter-movement. If you look at it, we [the unions] created NERA as a counter-movement to what had happened with the opening of the labour market, OK and now the employers are counter-moving that again by seeking to dismantle not just NERA but the actual architecture that sort of underpins it in a way. They weren't threatened by the architecture historically because in most cases they could get away with doing what they wanted to do but then NERA arrived and started to enforce a lot of what was already there (Interview, 2012).

²⁵ From January 2012 all information on rights and obligations under employment equality and industrial relations legislation is provided through a single point of contact, Workplace Relations. There is currently new legislation in preparation (expected to be enacted in 2014) to establish the Workplace Relations Commission which will bring together the existing services of the Labour Relations Commission, Rights Commissioner Service, Equality Tribunal, the National Employment Rights Authority and the first instance functions of the Employment Appeals Tribunal. The Labour Court will be the single appeal body for all workplace relations appeals, including those currently heard by the Employment Appeals Tribunal.

4.5. The industrial relations context

The Irish trade union movement ranks as the fourth most centralised in the EU27. There is just one peak union confederation, the Irish Congress of Trade Unions (ICTU), to which the majority of unions are affiliated. Irish trade unions are also quite concentrated in comparative terms with only thirty unions in the Republic of Ireland, one of which SIPTU, a large generalist union, has 34% of the membership according to a standard measure of the ‘effective’ number of unions. The next largest unions are the public services union, IMPACT, which has less than one third SIPTU’s membership, the retail workers’ union, Mandate and the Irish Nurses and Midwives Organisation (INMO) both of which have around one fifth of SIPTU’s membership. One side effect of this concentration is an intensification of the importance and strength of individual large unions, often leading to tensions between unions. This is an issue that comes up in term of approaches to organising for instance. One interviewee summed it up:

SIPTU is the leader in the area of union organising in Ireland but if organising is to spread, it can’t lead it. It will be seen as the large powerful SIPTU taking control and won’t work. There’s too much resentment among the smaller unions towards the large and powerful SIPTU (Interview, UCD Academic, 2013).

One of the areas considered by the Commission on trade union renewal, set up in 2010, was that of union restructuring, continuing the move away from occupational group-based unions towards more generalist ones. This is an issue that has been on the agenda since the late 1980s when the then ITGWU merged with the FWUI to form SIPTU (Donaghey 2007). The commission considered a SIPTU proposal to collapse the number of unions from the present 55 across North and South to no more than 10. The commission seemed to be strongly in favour of consolidation at the outset but when it came to its final report, it didn’t pursue it and instead recommended greater collaboration and pooling of resources among similar unions where possible (ICTU 2011; SIPTU 2010).

Ireland generally shared the voluntarist British model of trade unionism up until the late 1980s, at which point there was a radical change with the advent of social partnership and the move to a corporatist tri-partite model, characterised by partnership. The industrial relations system in Ireland changed significantly from that time to become one with increased legalisation of the employment relationship of which individual rights-based employment law, from both domestic and European labour law, formed the basis. This led

to the gradual erosion of voluntarism and collectivism, with a trend away from a bargaining-based towards a rights-based system for resolving individual disputes. Much of what formerly took place under collective bargaining was now handled by individual employment law through a complex system of employment rights institutions which operate in a quasi-legal manner.

4.5.1. Social partnership

From 1987 the Irish trade union movement operated within a corporatist political model, based in part on the German model and characterised by a Social Partnership arrangement involving the government, unions and employers and, to a lesser extent, other interest groups. Social partnership was initiated by the Fianna Fail Government with the Programme for National Recovery as an initiative to help get Ireland out of recession. It was a process borne of, and sustained by, extreme pragmatism and one that, to an appreciable extent, was the product of serendipity rather than one of clever policy design (Doherty, 2011; Donaghey and Teague 2006). However, it became an integral part of a system of institutional complementarities that propelled economic growth and prosperity and thus continued for over twenty years, finally collapsing in 2009 with the failure of the social partners to reach agreement. “When the ‘perfect storm’ of a global economic crisis, a slump in economic growth and a rapid decline in prosperity hit, the partnership model, given its weak ideological foundations, proved unable to adapt and renew itself. The partners quickly (and brutally) brought an end to the affair” (Doherty 2011: 39).

The basis of social partnership in the Irish case was one of political exchange where wage restraint was traded for social progress; new mechanisms for conflict resolution were developed and dense networks of social interaction between government, union leaders and employers were forged (Roche 2007). Doherty and Erne would contend that the Irish partnership process cannot be classified as an example of the ‘classical corporatism’ of the 1970s as it did not have most of the institutional preconditions for corporatist arrangements and it had an Anglo-Saxon industrial relations tradition (Doherty 2011; Doherty and Erne 2010; Roche 2007). One of its unique features was that it was not directly concerned with building or enlarging a welfare state, which would be the norm, but with easing the employee tax burden (Donaghey 2007). Through the process, unions held a central role in corporate decision making, a process that Roche and Cradden (2003) define as having evolved into ‘competitive corporatism’ by the 1990s. They pursued political influence

through the social partnership system as a primary strategy with other strategies, such as traditional collective bargaining becoming secondary to legislative and nationally negotiated agreements. It is undeniable that this gave trade unions substantial influence on economic and social issues at a policy level (Hastings, 2008; Donaghey and Teague, 2006; Bacarro, 2003). But some would argue that the primary focus on negotiation at the national elite level, weakened the trade union movement overall with the undermining of local structures and activist engagement at workplace level (Doherty 2007; 2011; D'Art and Turner 2005; 2011; Erne 2008; Allen 2007). Others saw it as being a 'Hobson's choice' for the trade union movement at the outset in 1987 as there was considerable public pressure on all parties to engage in a collective national effort to address the country's serious economic difficulties. At the same time, Irish unions were looking to the dramatic weakening of the British trade union movement under the Thatcher Conservative Government so remaining outside the process did not seem to be a realistic option. It was seen as a strategy for survival (Roche 2007; Donaghey and Teague, 2006).

Many in the trade union movement would contend that they were not unaware of the risks posed by engagement in social partnership but that during the twenty years of its existence it facilitated economic recovery, substantial job creation and improved living standards (SIPTU 2011). In the interviews conducted for this thesis, no union representative at any level defended partnership unequivocally, though many acknowledged achievements gained under it. The positions adopted by the union representatives on the question were influenced by personal and political perspectives but, also in the main, by framing processes such as the nature of their union, its identity and its membership base. Interviewees from ICTU, as the overarching confederation and the body which led the trade union engagement in social partnership, were reservedly positive about the process as were interviewees from the large generalist SIPTU with its substantial public sector membership (both white collar and blue collar) and those from the INMO whose membership is over 80% professional and public sector. Those interviewed from Unite (which in Ireland is a regional office of the large British based union and represents workers almost entirely drawn from the private sector) were unreservedly critical of the partnership process. So, too, were interviewees from Mandate, the union of retail workers and BATU, the builders' union, which is still very much a craft union. David Begg summed up the situation regarding trade union attitudes to partnership:

Nothing so consumes energy within our ranks than arguments about the pros and cons of social partnership. Yet it is not central to our mission of achieving social justice within the market system other than as an instrument, methodology or strategy – call it what you will – to maximise our influence. Frankly, it was a mistake to call it social partnership in the first place because this implies a balance of power in the relationship between the actors which ...does not exist (Begg, 2008: 53).

Jack O'Connor of SIPTU, while characterising the partnership process overall as providing “a surfeit of access and a deficiency of influence” maintained that it was still better to be in it, rather than outside of it during its lifetime (Interview 2012). He suggested that for the trade union movement a major hurdle during much of the period of social partnership (from 1997 onwards) was the pro-business position of the coalition Government, with the junior partner, the Progressive Democrats, exerting a strong influence in this regard. O'Connor outlined how he saw the situation

The trade unions did try, unsuccessfully, to progress strategic issues such as collective bargaining rights, statutory employment protection and pension provision but the main focus of the partnership period was on the bread and butter issues of day to day pay and conditions. I always argued that it wasn't the social partnership that was the problem, which was a manifestation of a degree of influence and power actually. It is a fact that we didn't do the things that we should have done to complement social partnership, in terms of building an infrastructure within the trade union movement. I mean producing a national paper for example, I mean developing a communications capacity, I mean providing support for shop stewards and all that, creating mass education campaigns which would incidentally have contributed to a level of public awareness which would have rendered it less likely that the catastrophe that happened would have happened because more people would have known what was going on. We didn't do any of those things and a paralysis developed. But to attribute it to social partnership I believe is completely and totally wrong. The paralysis was well engrained before social partnership (Interview, 2012).

Very much echoing and elaborating on Jack O'Connor's argument, Siobhan O'Donoghue of MRCI also suggested that it was simplistic to view partnership as being the cause of trade union and community sector weakness:

I wouldn't be one of these people who think that social partnership was all bad; I don't think that at all. With my community sector hat on, at the end of the day in the '90s it was the main game in town. If you wanted progress made on fairly important policy issues it was the place to be and we'd have been crazy not to have been in there. Now I think it may have been a mistake to put all our eggs in one basket. I think it was probably over before it was over... One of the failings of the whole social partnership era, and this is the

community sector as well as the trade union movement, is that we forgot who our constituency was. A set of skills became dominant in organisations, in the community sector as much as or even more than in the unions, dominant skill sets such as policy development and research not social justice engagement type and that influenced what those organisations did and do and now we're all struggling with that. That focus on research and policy combined with the distance that grew between representative type groupings and those they represented, the people on the ground. Is that social partnership's fault? Not necessarily. I think it was about not being clear about what our agenda was and that can happen in eras of partnership or not (Interview, 2012).

Other union representatives were much more negative about the legacy of social partnership, seeing it as being responsible for the weakening and fragmentation of the union movement. A senior Unite representative dismissed social partnership and the reasoning that led the trade unions to engage in it:

It was just glorified IR, an incomes policy. No-one voted in social partnership on anything other than the pay rise. The problems with social partnership were twofold. On the one hand it's hard to be a partner with somebody when they refuse to recognise you, as in after 20 years of social partnership we're still the only country in the industrialised world without the statutory right to collective bargaining. Secondly, we didn't really have a strategy for dealing with it. We went into social partnership as a defensive measure because, back in the '80s, people were afraid that if Haughey²⁶ got into power, he'd 'do a Thatcher' on it (Interview, Unite Officer, 2013).

Meanwhile a Mandate Organiser argued a very significant point, both from the perspective of Mandate and from that of many trade unionists that represent the low paid:

Social partnership actually exacerbated the distance between the low paid retail worker's pay and the public sector worker's pay. Social partnership has taken the fight out of the trade union movement in many ways in my view. It has turned us from street warriors into boardroom solicitors. It has turned the picture of the union movement into one of old men with beards in suits and carrying briefcases. And we need the leaders and that element but we also need the direct connection on the ground (Interview, Mandate Senior Organiser, 2013).

4.5.2. Collective bargaining

Ireland's level of collective bargaining - which dropped through the period of social partnership, particularly as reliance on rights-based employment law grew - is considered low by comparison with most other EU countries. In 2010, the EU average was 62% with

²⁶ Charles Haughey served as Taoiseach (Prime Minister) of Ireland four times: from 1979 to 1981; 1982; 1987 to 1989 and 1989 to 1992

Ireland at 44%. In so far as collective bargaining happens, it is bargaining at company level which, almost by definition, depends on union activity at company level and therefore relates directly to issues of union density and union member activism and engagement. Despite a long history of centralised collective bargaining, there is no legal obligation to compel employers in Ireland to engage in collective bargaining. This situation arose out of a Supreme Court ruling in 2008 which upheld a challenge by Ryanair to the provisions of the Industrial Relations Acts 2001–2004. Under the acts in the event of failure of a voluntary process of negotiation of pay and terms and conditions of employment for union members in companies that do not recognise trade unions for collective bargaining purposes, the unions could seek legally binding determination by the Labour Court. This legislation was rendered ‘redundant’ following the successful Ryanair challenge. The last national agreement, (concluded in September 2008), included commitments on revisiting this issue in the wake of the Supreme Court judgement but the economic crash coupled with the death of social partnership and subsequent fall of the Government meant these commitments were not honoured. A number of those interviewed saw the issue around the right of collective bargaining as being one of the key issues for trade unions in Ireland now. A SIPTU official said “We have a huge problem in this country in that we haven’t got any right to collective bargaining. That’s a huge impasse in trying to build trade unionism, particularly in the current economic times.” A Mandate union official contended that it was about more than just legal prohibition:

The art of collective bargaining was lost through social partnership. It ruined unions in many ways in my view. I think it served to disconnect workers from the union. I think we lost the credit for a collective agreement, for sitting down at a table and when its being done collectively in that way, the members don’t connect to it because they’re not there. They’re not sitting with the union and the employer in the traditional way, seeing it worked out (Interview, Mandate Official 2, 2013).

4.5.3. Trade union models

There is an inevitable tendency towards bureaucratisation within any large organisation and it is clearly a feature of Irish trade unions. Flanders sees trade union bureaucratisation as being linked to the institutional needs of the unions (Flanders 1970) while Lester (1958) sees it as being an inevitable consequence of maturation of unions over time. Allen (2010), addressing the bureaucratisation of the Irish trade union movement sees it as creating a gap between the leadership and the membership, bringing with it attachment to structures and procedures and an increased reliance on legislation. He, as a critic of social partnership,

sees bureaucratisation as leading to a divergence of interests which in turn leads to union leaderships being more committed than the wider membership to partnership agreements. This is a somewhat more complex issue than Allen would have us believe in that bureaucracies, leading to hierarchies are an inevitable part of organisational development and the larger the organisation the more bureaucratic it becomes. Also, the development of a service model of trade unionism calls for quite tight bureaucratic and hierarchical structures requiring, as it does, delivery of a range of professional services generally to a geographically widespread and, frequently, diverse, membership. The issue becomes one of model with bureaucratisation a by-product.

Irish trade unions, like many of their European counterparts (and particularly those within a corporatist industrial relations framework), have operated for some time within a service model. This model is one where “the function of the union is to deliver a range of collective and individual services to members, directly through the hierarchical union structures” (Heery and Salmon 2000: 38). Thus, under the servicing model, the responsibility for union resources, strategies, policy implementation, grievance handling and recruitment rests almost entirely with paid union officials (Fletcher and Hurd 2001). Critics of service unionism argue that it is hugely demanding on paid officials, places too much focus on non-core union activity and is disempowering for union members (Turner *et al.* 2008b). It relies on the actions of union officials to deliver services to individual members, often on the basis of a rights-based agenda, supported by legal mechanisms. Typically, local union representatives take up the initial individual cases and then refer them on to the professional full-time official who processes them through the labour relations mechanisms of the State (Rights Commissioner, Labour Court). Jack O’Connor refers to passive ‘insurance company’ unionism accompanied by ‘vocationalism’ as being what has prevailed and what reflects the dominant value system in society. The social solidarity model has virtually evaporated. “For some time it was possible to ignore the fundamental issue of values, relying on lowest common denominator, sectoral and vocational self-interest (latterly accompanied by inertia) as the primary instrument of organisational momentum. This is no longer sustainable” (SIPTU 2011: 5).

The combination of the servicing model, the role of partnership and the anti-union position of the majority of Foreign Direct Investment (FDI) companies coming into Ireland, as well as that of the growing Small and Medium Enterprise (SME) sector, contributed to the

decline in both membership and membership participation. While basic pay levels were set for unionised workers by centralised wage agreements, many non-union employers ‘shadowed’ these centrally set pay rates. The wage agreements were seen by many as Government initiatives with little or nothing to do with trade unions. One Mandate senior official remarked on this, “What I have been asked on many occasions through the era of social partnership from both indigenous workers and migrant workers was ‘when are we getting the government pay rise?’” (Interview, 2013). Roche writes of tax concessions and pay rises as seeming to many to have “...come from Dublin or from heaven rather than from the negotiating achievements of unions” (Roche 2007: 33). This reflects the view that the trade union had no role in it. As Frege and Kelly noted:

Where union influence rests on comprehensive industry-wide collective agreements, then so long as employer defection is rare, union leaders have little incentive to recruit the substantial number of free-riders who benefit from union agreements without having union membership. Declining membership therefore is less likely to be framed as a priority issue to which organising is the appropriate response (2003: 20).

4.5.4. Trade union decline

The emergence of large-scale labour migration to Ireland in the 1990s came at a time when the trade union movement in Ireland, as elsewhere, was facing major new challenges as never experienced before due to a confluence of circumstances. They include European economic integration; internationalism of financial and product markets; dominance of the neo-liberal economic model; changing structures of employment with a growth in individualisation, feminisation and informalisation; industrial restructuring and employment shift from manufacturing to services; expansion of the small firm sector (often hostile to unions and hard to organise); and increased competitive pressure in product markets, both nationally and internationally (Munck 2011; Frege and Kelly 2003; Hyman, 2001). These, then, were a combination of the factors contributing to ‘the crisis’ in trade unionism both in Ireland and beyond.

When it comes to union decline the literature usually focuses on quantitative measures, the primary one being decreasing membership density as discussed above but that is far from being the whole story, which is partly why recruitment is far from being the whole answer. Frege and Kelly (2003) suggest that to get a clearer picture we should broaden the perspective to focus on the variety of inter-related problems that arise as a result of the challenges outlined above. In the Irish case chief among the issues was, of course, decline

in density coupled with the reduction in bargaining coverage. But there was also the erosion of structures of interest representation such as workplace and branch committees, the loss of mobilisation capacity, contributing to the loss of industrial power with members increasingly reluctant to participate in union activities, the decrease in resources, financial and human (linked to the drop in membership) making it more difficult to implement corrective strategies; the problems of interest definition as a result of increased membership heterogeneity²⁷ and the loss of political influence as the majority of private sector workplaces became non-union.

This decline resulted in union branches being amalgamated, low attendance at branch meetings, workplace meetings becoming increasingly rare and the union being seen as the small number of committed activists or as the branch official who made an occasional appearance. There was a view of “here comes the union when the union official entered the premises and there goes the union when he/she left so there was no sense of ownership of the union” (Interview, Mandate Official 2, 2013).

The level of crisis for the trade union movement in Ireland was somewhat camouflaged in those early days by the economic environment with its extraordinary growth and ever expanding labour market. Thus, while there was a decline in union density, there was actually a modest increase in the numbers of workers joining unions, due to the major increase in employment overall. Jack O’Connor:

I and one or two others here tried to raise consciousness around the issue of collapsing union density in the middle ’90s because I mean density had stood at around 60% for all of the years from the early ’90s back to the ’50s even though we had been through a number of economic crises as it were but there was no appetite for that debate at that time (Interview, 2012).

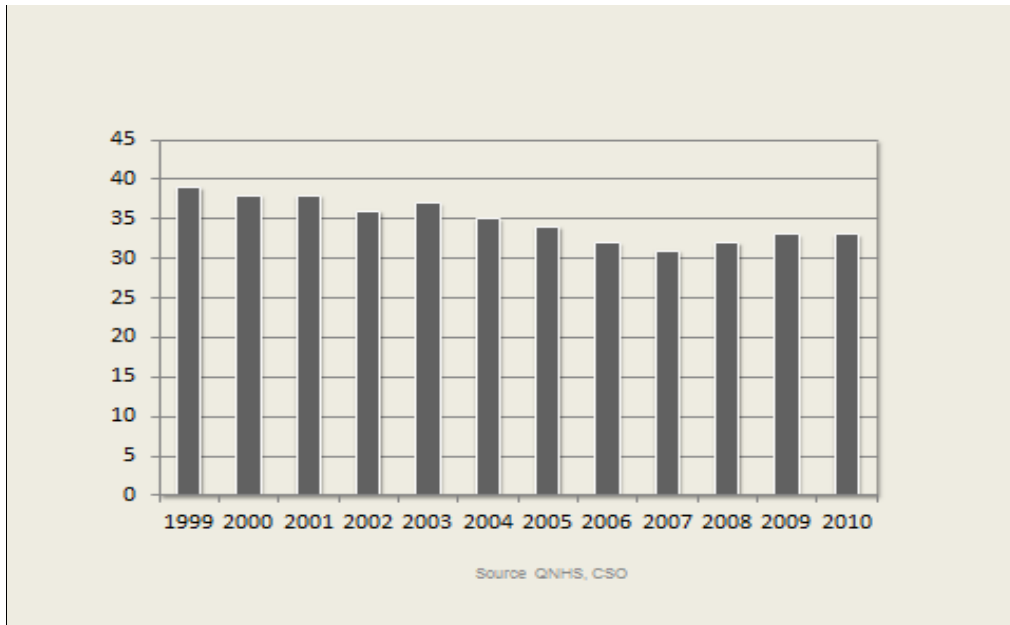
Union density had peaked at 54% (62% based on trade union data) of those in employment in the 1980s but from then on it suffered a steady decline, falling to its lowest point of 32% in 2007 with a small increase to 33% in 2009²⁸ (see Figures 7 & 8). But these figures further masked the fact that density was less than 20% in the private sector and lower again

²⁷ Union density among women now almost equals that of men, middle aged male factory workers no longer being the typical union member

²⁸Density dropped to 29% in Q2, 2013 (CSO, QNHS).

for migrant workers and young people. In sectors where migrant workers were most concentrated, such as construction, union density stood at 23% in 2007 and in the hospitality sector it stood at a mere 8% (CSO 2010)²⁹.

Figure 7: Irish trade union density, 1999 – 2010 (in percentages)

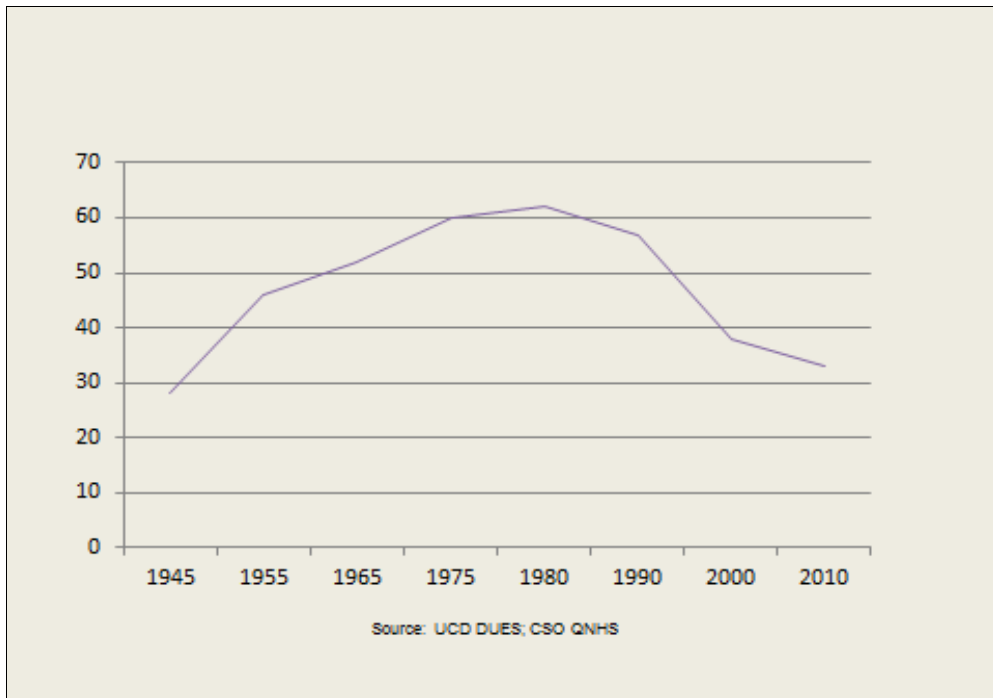


Donaghey and Teague contend that, despite declining organisational strength, unions were relatively strong in political, economic and institutional terms through the partnership period. The unions were consulted over economic policy, unemployment was at an all-time low, real wages were increasing and the labour movement was becoming increasingly solidified (2006). While that argument can be made, the value of it is undermined by the other indicators of decline outlined above, and by the events which followed the economic collapse, which indicate that it was primarily the very positive economic environment and

²⁹ The trade union movement argues that CSO data underestimates trade union membership and does not constitute a comprehensive census of membership or density levels. It considers the CSO household survey provides a 'snapshot' sample of workers and insists its own data on actual 'paying members' is a more accurate reflection of union density. But union density figures from union records are not precise either. Unions collect the information in different ways, some do not publish detailed figures or published figures include union members who are not actual workers, (e.g. retired persons, students and the unemployed (Barrett and Kelly, 2008; Roche, 2007)). Also, many unions do not collect information on membership breakdown in terms of sex, age or nationality. So, while statistical information contained herein provides good indicators of trade union density and migrant worker membership, its absolute accuracy cannot be presumed upon.

political opportunism within it that led to low-unemployment and increasing take-home pay during that time.

Figure 8: Long-run trend of trade union density, 1945 – 2010³⁰



The economic crisis was not the specific cause of trade union decline but it did have a negative impact on Irish industrial relations, exacerbating the fault lines and further decentralising and fragmenting the industrial relations system. As discussed above, it led directly to the collapse of the 21-year social partnership process in 2009 with the failure of the partners to reach agreement. While this may not have been seen as a negative outcome by all, it did have the effect of reducing the trade union movement’s access to the power structure. Allen writing after the collapse observes what he refers to as “a particular paradox / a contradiction at the heart of social partnership” which is that while partnership structures were built around a rhetoric of shared problem-solving and common interest, the reality is that major employers in the private sector were using the period of social peace to create non-union workplaces (Allen 2010: 31). It was also a period which saw the

³⁰ Data for the period 1945 – 1995 is drawn from UCD DUES Data Series on Trade Unions in Ireland, 1925 – 1995. Data for the period from 1996 onwards is drawn from the CSO QNHS, (2005, 2007; 2010). While the figures differ, as discussed earlier in the chapter, there is a similar trajectory, meaning that the issue of membership decline is not in dispute.

emergence of some vocal anti-union employers' organisations representing, small firms – the Irish Small and Medium Enterprises Association (ISME) and the Small Firms Association (SFA). Thus the trade union movement emerged from social partnership weakened in terms of density, collective bargaining capacity, mobilisation capacity and political influence. And the critics of it are not necessarily bemoaning its passing, “Irish trade unions partnership may well turn out to have been a Faustian bargain” (D’Art and Turner 2011: 168).

Nor can the decline in trade unionism in Ireland be laid at the door of the partnership process. Unionism is in decline all over, so the causes are more nuanced and multivariate than just relinquishing collective bargaining to partnership. Yet, perhaps the focus on the social partnership system, combined with the increased use of legislative processes as a primary strategy and the consequent shift of focus away from more traditional collective bargaining approaches had an impact. But a range of other factors led to the growth of both decollectivisation (Hastings 2008) and individualisation which played critical roles – factors that profoundly altered the industrial relations environment.

4.6. Conclusion

This chapter has outlined the factors that are considered to have impacted on the Irish trade union movement response to labour migration. These are the character of the immigration, which, as can be seen, changed and evolved over the period considered; the economic and labour market conditions that directly influenced and affected the evolution of the immigration; the political and legislative context through which labour migration was managed and the industrial relations context.

As is evident, while immigration came late to Ireland, it came at an extraordinary speed. The challenge to the trade union movement cannot be underestimated that was created by the newly expanded and diverse labour force which, was not only diverse in terms of ethnic make-up but also in terms of new forms of employment leading to new issues not previously encountered by Irish trade unions. Up to 2004 the majority of labour migrants to Ireland came under a work permit system, targeted at unskilled occupations. Following EU accession of the ten new member states in 2004, the picture changed, with the overwhelming majority of migrants coming from those new states.

The Irish government had given little consideration to the development of a formal immigration policy in advance of the explosion in labour immigration. While there were certainly push factors in operation, market driven employer demand was the most significant factor in Ireland's transition to a country of immigration. In the 1990s as immigration grew exponentially, Ireland was found to be the second least regulated country after the UK out of 16 European countries (Sweeney 1999; Koedijk and Kremers 1996; OECD Jobs Study 1994). The fact that that immigration regime was lightly regulated and that there were impediments to migrants changing employment, most particularly for those working under the work permit scheme, meant that the environment was ripe for unscrupulous employers to engage in exploitative practices. As evidence of such practices emerged the Government came under pressure from trade unions and NGOs both to provide new legislation and greater enforcement of existing legislation to protect migrant workers, and to maintain labour standards. In response, the Government introduced a variety of legislative measures and the enforcement regime was strengthened. However, the legislative measures were enacted on a piecemeal basis and the actual strengthening of the enforcement regime fell below the original Government commitment.

Chapter Five to follow now narrows the focus to describe and thematically analyse the initial response of the Irish trade union movement to inward labour migration and the issues arising from it.

CHAPTER FIVE: MIGRANT WORKER UNIONISATION

The previous chapter presented in some detail the four explanatory factors being considered as possible influences on the Irish trade union response to labour migration. It outlined the history of immigration and its character, considered the economic and labour market conditions that pertained from the advent of significant labour migration in the mid-1990s to its peak in 2007 and the subsequent fall-off in immigration from 2008 onwards, as the economic downturn took hold and unemployment grew. It discussed the political context in which migration took place and laid out the political and legislative framework that applied and developed and within which migration took place. It then narrowed the focus to consider in some detail the industrial relations system in Ireland and the trade union position, model and identity. It discussed the erosion of the trade union membership base and the continuing trade union decline as labour migration became a growing feature of Irish society and labour migrants a significant presence in the labour force. Having outlined the possible explanatory factors, this chapter now moves on to build upon the European comparative information presented in Chapter Three to describe and interrogate the initial response of the Irish trade union movement to the prospect and the reality of significant inward labour migration and the issues arising from it. Using the analytic framework as modified in the previous chapter, it analyses the response thematically.

5.1. Context

In Ireland the issue of migrant workers was historically a non-issue for trade unions due to the extent to which it was characterised by emigration rather than immigration. The rapidity of the country's transition from one to the other took the Irish trade union movement by surprise. The marketplace demand for migrant workers, combined with a grossly underdeveloped legislative and regulatory framework, created a significant challenge to the Irish trade union movement (Mac Éinrí 2008; Turner et al 2008b Krings 2007; 2009b; Donaghey and Teague 2006; IOM 2006) While the trade unions endeavoured from early on to rise to the challenge, there is little doubt but that the initial response, while ideologically driven, was essentially and inevitably reactive.

As already discussed the presence of migrant workers in the labour market brings new issues to the industrial relations table and research has shown that migrant and ethnic

minority workers traditionally face particular problems not generally faced by native workers. Historically, throughout Europe and beyond, unions have been concerned about the consequences of labour migration on the indigenous employment market, the concern being that the import of foreign labour will undermine union bargaining power and employment standards (Krings 2007). And there was reason for concern as is evidenced already from Chapter Four, as these new workers were vulnerable to discrimination and willing to accept lower wages and poorer conditions of employment in many cases. The Irish trade union movement was already under substantial pressure when it was confronted by labour migration and the issues around it, in the mid-1990s. Irish unions were faced with that long standing dilemma within trade union movements, already discussed in Chapter Three, namely how to balance the commitment to its existing membership with efforts to protect, and accommodate the needs of these vulnerable new workers and potential new members, the reality being, to quote Mark James (2013)³¹, an ex-Service Employees International Union (SEIU) official, “trade unions are run by the members we have, not the ones we don’t have yet or the ones we wish we had”. This dilemma was played out in relation to women as they entered the labour market in increasing numbers from the 1970s and it was not one that was dealt with particularly effectively in that case. While the proportion of women trade union members has increased exponentially over the past forty years, their representation at branch level and decision-making level generally remains very low.

5.2. Policies and Rhetoric

From the earliest days of migration the ICTU and many of its affiliated unions argued on the basis of a legally framed rights-based approach to the issues raised by the increasing presence of migrants in the workforce. They adopted the same approach to migrant worker employment as they did to employment of Irish nationals, and from early on in the migration process, ICTU called consistently in both public pronouncements and policy documents, for equal rights and entitlements for all. While this policy position was ideologically driven, it was also pragmatic as articulated in the ICTU migration policy document of 2005, which stated that:

³¹ He was speaking a Global Labour University seminar in Johannesburg, Tuesday, May 14th, 2013).

The philosophy of trade unionism is that all people are born equal, are endowed with certain fundamental rights and that their labour cannot be treated as a mere commodity in the market system... Justice for immigrant workers should be the concern of all fair minded people. Even from the standpoint of enlightened self-interest, exploitation of a vulnerable group undermines pay and conditions of indigenous workers' (ICTU 2005, p3).

SIPTU also spelt out its approach in a number of policy documents over the period. A guide for union representatives produced in 2003 stated "Remember: once a person has a right to work in Ireland, then they are entitled to the protection of all our labour laws and the laws covering equality and non-discrimination" (2003: 2). Later it outlined its perceived role as being to ensure that "migrant workers have the same rights and protections as Irish workers" (SIPTU 2006: 21). It went on to state that "the recruitment and organising of migrant workers into the Union is the first step to protecting workers' rights, both Irish and non-Irish, and helping to create workplaces which respect diversity and are based on equal treatment for all" (Krings 2007: 51). Equally other unions operating in sectors with substantial numbers of migrant workers such as the INMO, Mandate, BATU and Unite articulated very positive messages of equality.

In fact the initial response of the Irish trade union movement from both a rhetorical and a policy perspective was universally positive, though the actual organisation and inclusion of migrant workers did not quite live up to the rhetoric. But it is important to note that there was no ambiguity around this articulated position of welcome, openness and equality; no voices within the trade union movement were publicly calling for any form of resistance to migration or for any exclusionary practices to be adopted. This is consistently evident from all of the trade union policy documents, position papers, press statements and newspaper coverage accessed in the course of this research. A former SIPTU Regional Secretary says:

'I never came across any opposition of any significance other than the odd person at the back of the room at general meetings who would be heckling the top table. Other than that I never came across any opposition to devoting attention to what people saw as a big moral and ethical problem. And for me, I was by then over 25 years working as a trade union official and it was the time that I felt the trade union movement lived up to its ideals best. I was very, very proud of it' (Interview, 2013).

A former SIPTU National Organiser spoke of what he saw as the reasoning within the Irish trade union movement for welcoming migrant workers:

We weren't born fully formed to deal with it but we did try to respond as best we could. We did it not just out of self-interest but for altruistic reasons as well. We felt that exploitation on the scale in which it was happening was an insult to any kind of decency and just couldn't be tolerated. But we also did it in the realisation that migrant workers had contributed to the revitalisation of trade unionism in Australia, in America, in Canada and we thought that, in time, those workers coming here could bring something to the movement, that it wouldn't be just one way traffic (Interview, 2013).

From early on ICTU was a partner in the Anti-Racist Workplace initiative, a social partnership public awareness raising initiative which ran from 2000 to 2007³² and which also involved the Irish Business and Employers' Confederation (IBEC), the Construction Industry Federation (CIF), Chambers Ireland, the Small Firms Association, the Department of Justice, Equality and Law Reform and the Equality Authority. Participants in the initiative committed themselves to working in partnership 'to promote anti-racist workplaces ... and within their own sphere of influence to promote a positive approach to diversity and interculturalism' (EEA 2005). ICTU also had a North-South Anti-Racist Taskforce and set up a trade union advisory group on immigration (ICTU 2005; Fulton 2003).

I remember one of the first things we did was to get involved in the anti-racist workplace week. That wasn't, if you like, something that was a response to a groundswell from shop floors or anything. That was a leadership initiative (Interview, ICTU Officer, 2012).

However, despite the articulated commitment to inclusion and the lack of any racist, xenophobic or exclusionary rhetoric or policies, many of those interviewed for this research took quite a negative view of the initial trade union response. It breaks down with about 50 per cent having a positive perspective and 50 per cent negative and there is no discernible pattern in terms of union affiliation or level within the union. For instance of those current and former SIPTU staff interviewed, three considered that the trade union movement had responded very well, while six considered the trade union movement to have responded poorly. This variation in responses applied right across the board in terms of people at all levels and people with differing levels of involvement with migrant

³² In 2008, it was replaced by a government-sponsored Action Strategy for Integrated Workplaces.

workers. At a leadership level while David Begg of ICTU and Brendan O’Sullivan of BATU thought unions responded positively, Jack O’Connor of SIPTU described the response as “lethargic” and Liam Doran of the INMO considered that the unions were too slow in their response. At ‘middle management’ level, one SIPTU representative considered that, “Jack O’Connor and David Begg showed exemplary leadership... being very clear and neither ambivalent nor protectionist” while a colleague described the response as well-intentioned but poorly thought out. The criticisms generally related to a lack of planning and preparedness on the part of the trade union movement as opposed to any perception of resistance or actual hostility to migrant workers, Mandate Official, “I don’t think there was any strategic thinking around it at all” (Interview Mandate Official 1, 2013).

5.2.1. Opening of the labour market

The Irish government decision to open its labour market in 2004 to workers from the new EU10 member states was, according to Begg, at the behest of, and on the basis of representations by, the business community and did not involve consultation with ICTU. David Begg:

There was no consultation with us about that decision, none, none at all, absolutely none. That seemed to us to be quite extraordinary in a way cos this was done largely at the behest of business... No, we weren’t aware that we wouldn’t be availing of a derogation or that we would take any first moves or kind of steps in the whole thing...So we felt that that was not quite cricket, to say the least of it in terms of what the Irish government did (Interview, 2012).

Added to the unhappiness at the lack of consultation was the fact that the trade union movement had actively supported the Government’s two campaigns on the Nice referendum on EU enlargement in 2001 and 2002 respectively, on the basis that, despite fear mongering, on the part of some referendum opponents, they did not believe that “all these foreigners were going to come here and take our jobs”. However, as Begg explained, that perspective had been predicated on “a uniform approach to the opening of labour markets across Europe, not on the basis of Ireland leaping ahead of the others”. But, despite the misgivings about the process, the unions did not actively oppose the decision and like most other political actors, they did not anticipate the scale of migration that ensued (Begg 2007; Doyle *et al.* 2006) as David Begg explained:

Whether we could have predicted that it (the opening of the labour market) would involve such an inflow of people is another question. Probably not, on the scale of it. And, if we did know, what would we have done? We would have tried to do what we subsequently did anyway, that's tried to regulate it. We would have used it as a case, a case that had already been made, for strengthening the regulation (Interview, 2012).

This was a perspective echoed by others, many of whom actually felt at the time that the opening up of the labour market would be positive in that it would dramatically reduce the number of workers employed under the work permit scheme and therefore, hopefully, reduce the opportunities for exploitation. SIPTU's Jack O' Connor made it clear that despite the behaviour of the Government, he wouldn't have supported any kind of union resistance to the opening of labour markets but pointed out that he did argue at the time that it could create problems unless the employment rights infrastructure and the enforcement of it was radically overhauled. In discussing this he observed that there was no support for any such overhaul in the mid-term review of the partnership agreement, Sustaining Progress (2003-2005) because the prevailing view was that the review was simply about the second phase of the pay deal and didn't relate to anything else and this was the view not just of the employers' and Government, but of the trade unions as well. 'We failed to make the employment rights agenda an issue in those talks because of that but also because we failed to make it an issue within the trade union movement and we failed to make it an issue within our own union' (Interview, Jack O'Connor, 2012).

Some also saw it as an opportunity lost, it being the ideal time for unions to reach out proactively to migrant workers, the majority of whom were now free to move employment. SIPTU activist: 'I felt that post-accession the unions had a great chance to get out there because they were no longer fighting against work permits and I don't think they even considered what they should do.' This view was echoed by a Mandate Official: "The whole situation with accession and the opening up of the Irish labour market didn't see any real strategy being developed at Congress level or even at union level" (Interview, Mandate Senior Official, 2013)

The trade union approach to the opening of the labour market to workers from Romania and Bulgaria in 2006 was quite different and strongly influenced by the fall-out from the high profile Irish Ferries and Gama disputes of 2005 (see Chapter Six). It led the unions to support transitional restrictions on labour at the time; Congress described its core concern

at that time as being “to ensure that the movement of workers from poorer to richer regions was beneficial for all concerned, that it did not give rise to the exploitation of migrant workers nor undermine Ireland’s labour market standards” (ICTU 2006: 3). Former SIPTU Regional Secretary:

By then we were dealing with what we hadn’t dealt with in the past, issues of displacement. Employers right across the sector were recognising the exploitative potential of migrant labour. So, nothing against Bulgarians or Romanians, but I think they were unlucky that they came further down the line when we had seen a generosity within Irish society and particularly within the Irish labour movement being exploited. Do I have to mention Irish Ferries? (Interview, 2013).

And so the unions became more cautious in their approach to immigration at a policy level at this stage and saw a managed migration regime as the only way forward. Whether this move by the trade unions was a wise one is questionable in that yes it restricted formal access to the labour market but did not, and could not limit freedom of movement which had the potential to just feed the informal economy and contribute further to exploitation (Krings 2007).

5.3. Attitudes and perceptions

There were certain expectations within the trade union movement, and voiced by many of the interviewees, of anti-migrant attitudes from union staff, particularly officials on the ground, but these were not evident to any great extent in this study. There was, certainly, some negative reaction but most interviewees would see this as relating to increased workload or demand for new approaches rather than anything specifically anti-migrant: “I don’t think we ever did descend to the levels of racism that maybe some other countries had. You know no political movements emerged and there were no significant splits between or within unions over migrant issues. So I think that was handled pretty well” (Interview, ICTU Officer, 2012). In the interviews conducted for this research no single trade union interviewee expressed any anti-migrant sentiment of any description. All saw labour migration as being positive and welcomed the cultural diversity that it brought and many also expressed the belief that the presence of these workers re-energised the union movement in many cases, particularly because so many of the workers were young. An INMO official was emphatic: “I have never witnessed or encountered any type of discrimination on the part of the trade union movement to provide a lesser service or to

engage in behaviours such as ‘maybe people will put up with less’ or ‘we don’t have to give as good a service’ (Interview, INMO Officer, 2013).

But there were pockets of resistance when unions were initially confronted with issues of migrant workers. That resistance manifested itself in different ways, with inertia being the primary one. A SIPTU activist gave an example of when the union first produced leaflets such as ‘Know your Rights’ in a number of languages. They were widely distributed to SIPTU offices throughout the country but sat in boxes in most of those offices and were never distributed to workplaces. A further example of that inertia and one of the most frequent criticisms from interviewees was of officials using inability to communicate and apparent lack of interest on the part of the migrant workers as a reason for not dealing with migrant issues. In many cases what was happening at branch level was that when officials were presented with issues relating to migrant workers they immediately referred them on to those few activists who were already identified with the issue or to MRCI or, in some cases to Citizens Advice Centres. “I found I was getting calls from all corners of the country, from organisers and branch secretaries and all who were basically passing on the problems rather than dealing with them themselves” (Interview, former SIPTU Executive Member, 2013). But there was also a recognition that the arrival of migrant workers and the issues they brought created new demands on union staff which, in many cases, were difficult to meet, “most trade union officials find it very hard to meet their week to week demands from paid up members so it’s hard to reach out beyond that” (Interview, Former SIPTU Regional Secretary, 2013).

We are fortunate, I think, that the impact of this transition (to being a country of immigration) was softened by two significant factors: a booming economy and an influx of people from Europe who were culturally similar to the indigenous population. Had these conditions not existed I doubt that such a rapid change could have been accommodated with so little social dislocation (Begg, 2007: 182).

While others within the trade union movement have echoed this view, both interviewees and survey respondents have identified racism and discrimination as issues in the workplace despite the existence, in most cases, of cultural similarities. The situation regarding activists at shop-floor level is significantly more complex than that of paid officials and all interviewees agreed that in cases where there is a racially mixed workforce, issues of racism and xenophobia can emerge and Irish shop stewards have been

party to such. These situations are particularly challenging for union officials. One interviewee told of a meat factory in Cork where the Irish shop stewards and existing members didn't even want their Brazilian colleagues in the union. They wanted them to remain unrepresented, to see them exploited and given all the dirty work and they had no compunction about articulating this to the union official. While the situation was negotiated, and the Brazilians joined, there were ongoing tensions. Another incident was recounted of a hotel in Killarney where the shop stewards and existing union members threatened to leave the union if their Polish colleagues were allowed join. In that case the union, SIPTU, took a firm stand and the protestors backed down. But this is a risky strategy for the union and can involve alienating the existing active union members without necessarily succeeding in recruiting the new ones. Ideally what is required in these situations is training and support both from the union and from the employer in order to break down prejudice and suspicion, but that is a process which requires time and a set of skills which the union official may not necessarily have. A SIPTU organiser gave an example of dealing with an older Irish woman who was a shop steward in the cleaning industry and didn't like and didn't want to represent migrant workers. This case exemplifies the fact that it's overly simplistic to just dismiss someone like this as racist without duly recognising and acknowledging her situation and her feelings:

‘This particular inner-city Irish woman finds her community has changed completely, her workplace has changed completely and almost no-one she works with speaks English as their first language. You can't work with her on the racist thing without acknowledging that. She's in the eye of the storm of the migration trends that the rest of us talk and read about’ (Interview, SIPTU Senior Organiser 1, 2012).

5.4. Initial Organisation

While the unions adopted an inclusive approach to migrant worker organisation from the outset, it was initially largely a passive welcoming approach - they were welcome to join if they wished but there was no specific coordinated mobilisation as evidenced in other countries (Gonzalez-Perez *et al.* 2009; Krings 2007). It was, as Dundon *et al.* describe it, a ‘soft organising’ approach involving awareness raising campaigns, anti-racist initiatives and information and literature distribution, as opposed to ‘hard organising’ which involves active mobilisation and direct union action such as demonstrations, marches and strikes (2007). Mandate organiser:

We didn't have anything approaching a cohesive strategy to reach them. It's a case of it's there for them if they want it but there were barriers there – the structures within sections, not working to communicate in their languages, not understanding them culturally (Interview, Mandate Senior Organiser, 2013).

In general, as indicated in Chapter Four, Irish unions' organising attempts have been seen as secondary to traditional union concerns, such as protecting wages and working conditions and particularly during the era of social partnership, it was not a priority, despite the political commitments. The arrival of migrant workers did little to divert this focus in the first instance. While there were concerns around possible exploitation and undermining of pay and conditions, active organisation of these workers, was not seen as a particular priority, and the view was that a clear and publically articulated pro-migrant policy position combined with negotiated strong legislative protection and enforcement was enough. This was not a view shared by all, however, as those officials and activists who were engaging directly with migrant workers could see that the existing industrial relations and legal framework was insufficient and that there was a need for more active recruitment and organisation. A SIPTU activist felt that a much more strategic approach should have been taken by the unions:

We should have been there at the start. We should have taken it sector by sector instead of this haphazard way we did it. At that time we were spending our time crucifying employers whose employments were organised but we were totally ignoring those employments where we were needed. There was a time where 34,000 and 36,000 permits were being issued and, over those years, we only got a small fraction of membership out of that. These people were coming into employments that weren't traditionally organised so the attitude seemed to be 'why should we be putting energies into those areas' (Interview, SIPTU Former National Executive Member, 2013).

This view was indicative of a more widely held belief that, while ICTU and its member unions adopted positive policy positions, there was no plan. A SIPTU organiser: "I think a practical guide would have been more effective as opposed to a policy. That did not exist". A senior ICTU official who had responsibility for migration issues within ICTU recognised the organisational deficit but viewed it more sympathetically: "I don't think unions were equipped to organise them. They were simply overwhelmed by numbers in many cases and also they had never organised such a diverse workforce before either so there were challenges presented by that". It would seem that the issue was not just one of migrant worker organisation but one of organisation more generally, and the fact that migrant workers were largely concentrated in previously non-organised sectors contributed

to the focus on them as a vulnerable unorganised constituency. A former MRCI staff member says: “It wasn’t just the migrants that weren’t being addressed, no one was being addressed. The restaurant sector only had unionisation rates of eight or nine per cent. So whether they were Irish or not, they weren’t organised” (Interview, MRCI Officer 2, 2013).

In essence the issue comes back to the inherent conflict between a service model of trade unionism, primarily committed to servicing existing constituencies, and the needs of vulnerable groups of workers, located outside the traditionally organised sectors. SIPTU’s Jack O’Connor:

I don’t think that it’s entirely possible to separate the question of our response to inward migration from the other question around the kind of character of the trade union movement in the country because it had become by the late ’90s, and had been for a long time much more in the nature of a kind of a number of institutions which provided services, more than institutions which organised workers, or saw themselves as instruments for social change. Labour migration presented itself to a movement that, to a very large extent, was not focused on organising workers anyway and the response to the issue of inward migration was characterised by the nature of the trade union movement as it had become (Interview, 2012).

5.4.1. Role of the individual activist

“The transformation of a set of individuals into a collective actor is normally the work of a small but critical mass of activists whose role in industrial relations has been seriously understated” (Kelly, 1998: 127).

A particular finding of this research has been the critical role played by individual activists during the first wave of labour migration in providing support to migrant workers; getting migrant specific issues on the agendas of their individual unions and bringing the issues of migrant worker exploitation to public attention. Hickey et al. interrogated the perspective of those who, in emphasising the critical role of rank-and-file activism in union renewal efforts, suggest that a major barrier to these efforts can be “the bureaucratic inertia of entrenched union officials” (2010: 2). They found that, in fact, the support and expertise of union staff were explicitly critical for ensuring success in the majority of organising campaigns which they examined. Moody (1997) emphasises the transformative power of the rank-and-file in terms of union renewal but as Schiavone (2007) suggests, he downplays and frequently ignores the contribution of the professional organiser as

highlighted by others (Findlay and McKinley 2003; Kelly 1998). McBride and Greenwood (2009) too see the presence of the assiduous union activist as being key to any organising success and observe that activists can be both lay and professional, the distinguishing characteristic being a belief in the cause and a wish to effect change. Doherty (2007) in his research on trade union membership in Ireland during partnership found the role of the local representative (shop steward and/or local official) critical.

Irish trade union involvement with issues arising from migration operated very much on an ad hoc basis at the very early stages in the late 1990s and early 2000s and the level of actual engagement, particularly in cases of non-unionised workplaces, was largely dependent on individual trade unionists' interest and commitment. The role of the individual (both professional and lay) has been highlighted again and again throughout the empirical research process for this thesis - in interviews, in reports, in meetings and in the literature. It was primarily SIPTU representatives who were in the vanguard in terms of this type of engagement and the fact that it was a large, general, geographically widely spread and well-resourced union was a significant factor in this regard. Unite too was involved, but primarily with migrant workers in Northern Ireland and in the border counties. The INMO was actively involved at a very early stage with migrant workers but this was in a much more structured way in that nurses were being recruited in the main, though not exclusively, into the public service which was already highly unionised. BATU also encountered migrant workers at a very early stage but as a small and powerful craft union, this did not cause any particular issues as union membership was an agreed condition of employment.

The reality for union officials generally was that to attempt to respond to and organise new constituencies spread across many unorganised sectors such as migrants was something that had to be done largely outside of 'the day job'. And this is what was happening as, at a local level, individual union officials and activists were coming across serious issues of exploitation in areas of the economy such as horticulture, construction and hospitality as well as domestic service (MRCI 2006a, 2006b; 2007; Hyland 2005; ICTU 2005). These issues were coming to union attention generally informally, through one-to-one contacts with individual officials and activists who were becoming identified as knowledgeable in the area. Jack O'Connor confirmed that within SIPTU it was "all down to a number of individuals within the organisation as far back as the late 1990s who had been

championing the issue of migrants”, not specifically in terms of organising at that stage but more responding to what they saw as an evident need (Interview, 2012).

It takes an individual or a group of individuals, especially within a large organisation, to pursue something like this. The duty of the organisation is to provide the challenger with the space and the resources to go out and try out their idea and sometimes it fails but that’s alright (Interview, Unite Officer, 2013)

Whether SIPTU provided the space and resources needed at that point is somewhat contested. Some would say that neither the issue nor the work of the individuals was acknowledged, “It wasn’t discussed around the table at any level within SIPTU. It wasn’t featuring at all” (Interview, National Executive Member, 2013). It does appear to be the case that issues relating to migrant workers were not featuring to any great extent on SIPTU’s National Executive agenda, certainly not in relation to resourcing active engagement. But some interviewees maintain that there was support at management level for the work that was happening:

There was never any reluctance to take out the chequebook. Now we didn’t want major resources but in terms of redeployment of staff and staff participating in committees and printing of materials – none of that was a problem. Leaflets, materials and paying translators to translate union leaflets into other languages, eight originally and I think 13 subsequently – none of that was ever an issue. We were never asked what’s this costing or where’s the cost benefit? (Interview, Former SIPTU Regional Secretary, 2013)

A striking feature of the individual engagement with migrant worker exploitation is the speed with which these individuals became identified with the issue, thus leading to further referral of and engagement with such cases. SIPTU activist and Former National Executive member, Anton McCabe encountered his first report of migrant exploitation in 1998 when a young Latvian man walked into his office in Navan and recounted the abuse he and his colleagues were being subjected to on a mushroom farm in the Midlands. McCabe dealt with that case and that was the beginning of the snowball effect: “I didn’t realise that night the domino effect that encounter was going to have”. Within weeks he was handling two or three cases per week and was being contacted by migrant workers, SIPTU union officials, officials from other unions, Community Information Centres, NGOs and concerned members of the public from all over the country. McCabe tells of

meeting terrified migrant workers at all hours of the day and night in a variety of locations, including car parks, river banks, cemeteries and cafes but never workplaces.

Mike Jennings, Ex SIPTU Regional Secretary tells of a similar phenomenon as he recounts the story of how he first became involved:

‘It was around 2000. I got a phone call from one of the branch secretaries in my region, Seamus McNamee. He had arranged for the meat factory in Roosky to put up safety notices in Hungarian because there were a significant number of Hungarian workers working in the meat plant and I thought that was a fantastic initiative. So we issued a press statement and it must have been a slow news day as the press statement got picked up pretty widely and, from that point onwards, anytime there was an issue about migrant workers, the first person people contacted was Mike Jennings, the view being he knows about that and so it became a self-fulfilling prophecy. It started out as a media thing but then spread to people within SIPTU and within the wider trade union movement (Interview, 2013).

These individuals, and a few others within SIPTU who took up the cause of migrant workers, formed relationships with individuals within NGOs, particularly with the Director and a number of other staff of the MRCI. They also developed relationships with individuals within the agencies that had responsibility in the area. These included the head of the Garda National Immigration Bureau (GNIB) and some senior staff within the Work Permit section of the Department of Enterprise, Trade and Employment (DETE):

We built a good relationship with the head of the GNIB at the time who was a good man and very sympathetic to our position. We also managed to get some changes in the work permit system. Any changes to the work permit system were achieved by a handful of people such as Kevin Glackin, Mike Jennings, Christy McQuillan, myself and MRCI people (Interview, Former National Executive Member, 2013).

Jennings, McCabe and other interviewees made the point repeatedly that much of their efforts were directed towards people who were not members of the union and unlikely to become members of the union. But they perceived it as an ethical trade union position and one of a duty to defend and protect the oppressed. They suggest that there was sympathy and outrage among their colleagues too about what was going on, that they made connections with the Irish history of immigration and the experiences of ‘the Irish navy’ in the UK. But, despite this there was also a very strong tendency to pass the problem on to those they now identified as being the experts in the field.

These two accounts are indicative of the critical role of the individual activist in the early stages of migration and also of the role of the individual in driving an agenda. The individual initiatives gave the bureaucratic organisation time to catch up. Another factor that may apply in the way particular individuals were identified with migrant worker issues could be connected to the nature of Ireland as a small, very interconnected society where there aren't even 'six degrees of separation'. The situation began to change from circa 2002, and even more so following accession in 2004 and the opening up of the labour market when Irish trade unions began to take a much more pro-active and strategic position in their approach to migrant workers.

5.4.2. Migrant worker unionisation

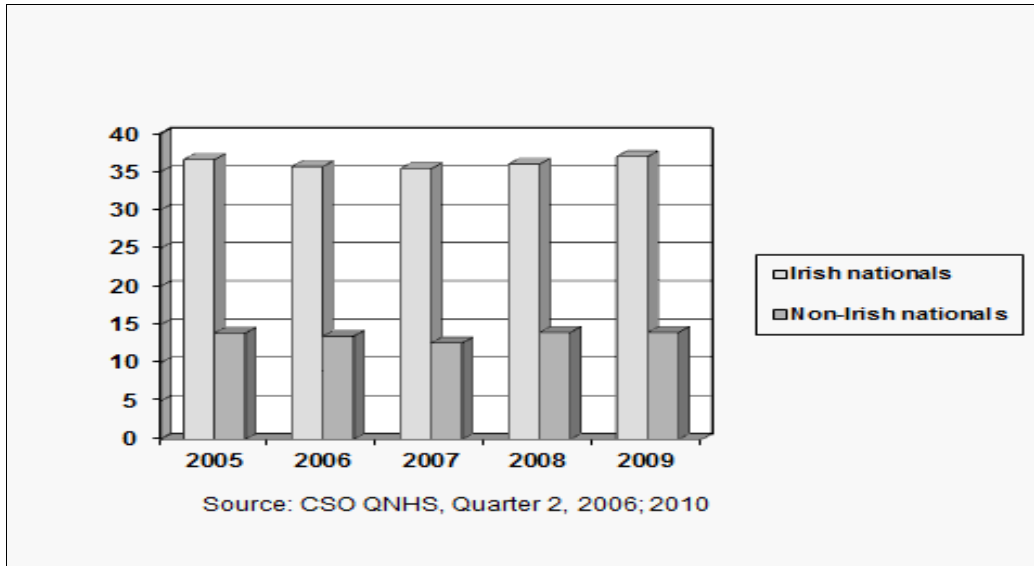
The trade union bargaining position is inevitably undermined when any section of the workforce remains outside of its remit and, despite the policy positions articulated by the trade union movement in relation to migrant workers, the majority of migrant workers did not join unions on taking up employment in Ireland. Nor did the efforts of individual activists, as described above, result in any significant increase in membership. The ad hoc and 'firefighting' nature of it could never contribute in any substantial way to recruitment.

In 2004, when the information was first collected, the rate of unionisation among migrant workers was 15%, compared to a density rate for Irish workers of 36% (Barrett *et al.* 2005) and, as can be seen, it had minor fluctuations, moving between 13% and 15% over the period 2004-2009, standing at 14% versus 37% for Irish workers in 2009, when collection of the information ceased³³. Irish nationals are more than twice as likely as their non-Irish counterparts to be union members, although it is necessary to bear in mind that migrants generally work in the least unionised sectors of the economy and that the most highly unionised sector is the public service sector, where negligible numbers of migrant workers are employed. Between 1995 and 2007, union membership grew by 11% but union density actually declined by 40%. This apparent contradiction is explained by the fact that the

³³ Ireland's Central Statistics Office (CSO) only began to collect information on the trade union membership levels of non-Irish nationals in 2004 and ceased to collect it after 2009. This means that it is impossible to know the current levels of migrant worker union membership as so few unions collect the information and, even in the cases where they do; there are issues around accuracy as discussed previously.

employed labour force increased by 77% with much of the growth concentrated in the private sector, particularly in the construction and services areas, where the decline in union membership was sharpest and the presence of migrant workers was highest.

Figure 9: Irish trade union density, Irish nationals & non-Irish nationals, 2005-2009 (in percentages)



The survey of Irish trade unions conducted for this thesis in 2010, found that only 10 per cent of Irish unions collect specific, detailed information on members' nationality. While 42 per cent of unions hold some information, it is poorly collected and frequently completely unanalysed³⁴. SIPTU's non-Irish national membership had dropped from 10 per cent in 2007 to eight per cent in 2010, but the proportion of migrants in the workforce had also dropped (from 15 per cent to 13 per cent). Among the other unions that collect information, the Irish Medical Organisation (IMO) had a non-Irish national membership of 20 per cent; Mandate had levels between 11 and 15 per cent; the Irish Nurses and Midwives Organisation (INMO) had 10 per cent; and Unison and the Guinness Staff Union had levels below five per cent. In 2007 officials from two other unions, ATGWU (the Amalgamated Transport and General Workers Union which joined with Amicus in 2008 to become Unite) and the Technical Engineering and Electrical Union (TEEU) estimated that they had about 1,000 members each while officials from Mandate estimated 'a few thousand' (Krings 2007). BATU's migrant worker membership peaked at about 25 per

³⁴ Many of the unions surveyed have insignificant numbers of migrant workers within their membership so the collection of such information is of less importance.

cent at the height of the boom according to General Secretary, Brendan O’Sullivan. It dropped back to around 10 per cent with the onset of the recession and, as O’Sullivan pointed out that is 10 per cent of a much smaller total as overall BATU membership had dropped from 10,000 to 2,000.

It is evident that while these figures provide an indication of the level of unionisation of non-Irish nationals in the Irish workforce, there are unusual discrepancies in that the survey information indicates a lower level of migrant worker membership than does the CSO data. So, in examining both sets of data, all we can extrapolate with certainty is that migrant worker unionisation rates are on a spectrum of between 10 and 14 per cent.

5.5. Barriers to unionisation

It is clear that, in those early days of significant labour migration, Irish trade unions were ill prepared for the challenges it presented. Individuals within the movement were responding as best they could and largely without structured organisational support. But the situation of labour migration and unionisation suffers from greater complexity than simply being an issue of weak organisation on the part of the trade unions. Migrants are not a homogeneous group and come to their host countries with a variety of abilities, experiences, perspectives, fears and prejudices. In a series of studies in 2006 and 2007, Dundon et al. (2007) and Turner et al. (2008a; 2008b) identified a range of factors inhibiting unionisation of migrants in Ireland including employer exploitation and intimidation; social exclusion and a lack of knowledge and awareness about unions. Turner et al. (2008a) focus on the issue of union availability, with migrants more likely to work in low skilled jobs in the services sector and in smaller firms in the retail and construction sectors where union availability is lowest. This reflects the situation as outlined in the literature more generally whereby migrants are over-represented in sectors of the economy where union support is traditionally weak, such as hospitality and agriculture; their stay is frequently only temporary; subcontracting is common; and many migrants work in irregular situations (Wills 2006).

Issues such as language and communication generally, resistance to unionisation, nature of employment and union lack of resources were identified as factors contributing to difficulty in recruitment by both survey respondents and interviewees in the empirical research carried out for this thesis. There were however differences of emphasis. Survey

respondents identified the nature of employment - whereby the majority of migrant workers are employed in small numbers in largely unorganised workplaces - and migrant resistance to unionisation as the major impediments. These were followed by lack of resources, both financial and human, with language barriers cited by only 21% as being a major difficulty. The INMO referred to the particular difficulty of recruiting within the private nursing home sector which is an area that employs significant numbers of migrant nurses. The picture was somewhat different when it came to interviews, with union officials in particular citing language issues as the major barrier to both recruitment and representation.

5.5.1. Employers

Hostility to trade unions

Employer hostility is seen as being a major factor in resistance to trade unionism among vulnerable workers. In some cases what is seen as resistance is further complicated by the fact that quite often that resistance is born out of fear where the employer is particularly hostile to the trade union. SIPTU Organiser: “I think, it is the key reason why workers don’t join unions in the private sector. People are afraid to join because of the possible implications for them with their employer”. This comes back to the issue of the nature of employments in which the majority of migrants are concentrated. They are generally smaller firms in the services, retail and construction sectors which have traditionally been unorganised and where employer hostility has been a feature (Turner *et al.* 2008a; Dundon *et al.* 2007).

I think the main inhibitor is the fact that they operate mainly in areas where there is no trade union and the reason there’s no trade union is because there has been hostility by the employer, either explicitly or implicitly, for years, which also acted as a barrier to Irish workers joining trade unions in the past (Interview, Former SIPTU Regional Secretary, 2013).

The issue of employer hostility is particularly striking in the case of the INMO where the majority of their constituency work in the public hospital sector where union availability and recognition are unquestioned but the situation is markedly different in the private nursing home sector where “there would generally be a hostile view of trade unions from the employer” (INMO Official). This is also the situation in a number of the private hospitals such as the Blackrock and the Beacon Clinics. In many cases the nurses will join the union but representation can only be provided on an individual basis.

Employer hostility was also raised in relation to the issue of those workers employed indirectly through employment agencies. Unite Official: “It is difficult to reach them because such workers feel vulnerable and afraid of victimisation by agencies if they approach unions”. Despite this SIPTU counselled against a practice of (unions) not recruiting agency or contract workers because of an apparent conflict of interest with permanent, non-contract employees (SIPTU 2006).

A SIPTU official considered the issue of employer hostility to be the single most frustrating one from his point of view and felt the only solution was legislative change around collective bargaining, though he wasn’t optimistic of it happening:

But it’s the key to everything. Without that, the employers can put two fingers up to the trade union movement - and they do - and all you’re reduced to is representing individual members. And if that individual stands up on an individual case, they’re leaving themselves open to intimidation and being let go. And we know it happens, we see it time and time again. And then also a case can take two years or more before a hearing which is not much use to a migrant worker who, in many cases, has returned to their home country (Interview, SIPTU Industrial Organiser 1, 2013).

While the issue of the right to collective bargaining is one that applies to workers other than migrant workers, it has particular application and the situation is particularly acute for migrant workers due to their concentration in unorganised employments.

5.5.2 Unions

Union structures

As outlined in Chapter Four Irish trade unions have, for some time, operated a servicing model of trade unionism. Operating a service model calls for bureaucratic and hierarchical structures to support delivery of a range of professional services to a geographically widespread and, frequently, diverse, membership within existing constituencies. It is hugely demanding on paid officials and targets financial resources into maintenance of services. It’s a hierarchical structure that “isn’t fit for purpose, doesn’t connect with the community and voluntary sector or with communities themselves, that isn’t viewed by communities as having anything to do with them” (Mandate Organiser). As migrant workers arrived in ever increasing numbers into the labour force Irish trade unions were not structured, nor did they have the resources, either financial or human, in place, to adopt

any kind of strategic organisational approach. So for any Irish union to change direction and incorporate active organising into its approach was not something that could be done overnight. Jack O'Connor:

Unions are highly, democratic bureaucratic structures where, unlike activist NGOs which can respond quickly to circumstances, attempting to change direction is comparable to trying to turn the Queen Mary in the Grand Canal. But some unions, including our own, did try to address the issue but rather haphazardly (Interview, 2012).

One SIPTU organiser agreed on the haphazard nature of the approach and pointed out that even if SIPTU had a plan in place in relation to dealing with migrant workers, it's hard to see how effective it could have been, given the structures under which people were operating, where they "were fire-fighting constantly and servicing within an inch of their lives. Some of us went out and did it ourselves on a wing and a prayer and hoped for the best" (Interview, SIPTU Senior Organiser 2, 2012)

It was also the case that prior to the mid '2000s there was little or no collaboration between trade unions or with NGOs. Jack O'Connor described the situation prior to that as a "culture of considerable aggravation, even to the point of animosity, around competition for members who were already organised, not even competition for new ones". There was a view expressed by interviewees that ICTU should have played a greater role in fostering co-operation and greater co-ordination between unions on migration issues at that stage in terms of shared recruitment drives, lobbying on legislation and fostering integration. SIPTU activist: "They should have been bringing in the leaders of all the unions and saying we have a new challenge here and we have a vast membership. Let's plan for it. That didn't happen".

As already indicated there was some informal collaboration between individuals within unions and NGOs. A number of SIPTU individuals began to work with the MRCI and Citizen Information Centres and also formed relationships with the Garda National Immigration Bureau (GNIB) and the Department of Enterprise, Trade and Employment (DETE). They set up the SIPTU Anti-Racist Group (SARG).

Access to unions

A critical factor in determining union density levels identified by Turner *et al.* (2008b) and alluded to above, appears to be that of union availability and in that employment in the public or private sector assumes greater importance than nationality in determining union membership. That view was supported by this research where nature of employment, as in, if the employment had a union presence or not, was identified as being a major factor. In 2007, immigrants employed in the public sector had a unionisation rate of 36.6 per cent – close to three times the overall unionisation rate of immigrants generally and comparable to the unionisation rate of Irish workers. The single most important factor determining the probability of being a union member is “whether or not an individual is employed in a workplace with a recognised union” (Bryson and Gomez 2005: 87). Turner *et al.*, in their studies on migrant workers in Ireland and union membership, largely supported this view. They found that the chief determinants of union availability in Ireland are union recognition, management strategies and, to a lesser extent structural factors such as establishment size and industrial sector. They point to the fact that union availability is extensive in the public sector where unions are accorded a high level of legitimacy and opposition is negligible; more extensive in industry than services and more often in large firms than small firms. Migrants are more likely to work in low skilled jobs in the services sector and in smaller firms in the retail and construction sectors. Consequently, they are less likely than Irish nationals to work in organisations with a union presence and hence, union availability is likely to be lower for immigrant workers than for Irish nationals (Turner *et al.*, 2008a; 2008b).

While there was general support for this perspective, some felt that is somewhat simplistic and implies veracity in the axiom that the reason people aren't in unions is because they were never asked, creating a sense that all that is needed is a good old fashioned recruitment campaign, delivered in a number of languages. All the evidence points to the fact that the issue of availability is a great deal more complex than that, and that the range of barriers to unionisation, as detailed here, are actually inter-linked with union availability being dependant on union structures, on employer attitudes, on the personal circumstances of the individuals and on how the message of unionisation is communicated to them and how they, in turn, hear it.

5.5.3. Workforce

Language and communication

Language issues were identified by almost all interviewees as the single greatest obstacle to recruitment, organising and representing migrant workers. A SIPTU official said: “The main difficulty I personally have with the whole thing is the communication issue around language. It’s a huge barrier”. Also, a Mandate official: “There’s still a significant language barrier so maybe communication with our migrant workers is not as good as it should be”. People speak of 'language' but what they mean in most cases is, more broadly, 'communication' which is not just an issue of the facility to speak English but also an issue of modes of communication, the use of trade union rhetoric and historical references and the need to address the issues of the particular group of workers. A SIPTU organiser spoke of her belief that the message of trade unionism, of collectivism and fairness and justice at work is so compelling, that if one can find the language to communicate it effectively, people get it:

Maybe we just need to change how we communicate it and the images we communicate it with. So this image that SIPTU holds very dear of Larkin’s outstretched hands meaning to convey solidarity and our glorious past and worker power, doesn’t convey anything to someone from the Philippines or to a young middle-class Irish woman either (Interview, SIPTU Senior Organiser 1, 2013).

The point being made here and also by others who were critical of the use of language barriers as a reason for not engaging, was that unions cannot resort to traditional forms of communication and iconography when trying to appeal to new constituencies. The argument made is that the right of all workers to be treated fairly and the strength of workers unity are fundamental messages that have been tried and tested and carry across all cultures when communicated in a manner focused on the interests and needs of the audience. In the case of migrant workers very many of them were working on minimum wage at best and often working more than one job in order to feed their families and possibly send some money home so trade union messages around permanency, pension, and sick pay became irrelevant,

But it is not possible to completely dismiss the issue of language as a difficulty as both the literature and the evidence indicates that it has an impact not only on union joining outcomes but on employment and employment progression also. A major issue is that of the isolation caused by the lack of the language. Interviewees described some of the situations they had come across where vulnerability to exploitation was increased due to

lack of English. One SIPTU official described the situation in a meat factory in the midlands where the workers, all of whom were from outside the EU, worked long hours, lived together in housing close to the meat factory and did not encounter Irish people in their day to day lives other than the employer, the senior management, the drivers and, perhaps, the local supermarket staff. While these workers were not subject to especially exploitative practices they were very much dependant on, and under the control of, their employer as the interpreter of their rights and entitlements. Another described a situation on a mushroom farm in the North West where the workforce was equally isolated and where members of the all-female Latvian mushroom pickers approached the employer about parental leave, to be told that parental leave didn't apply to the pickers; it only applied to the other workers on the farm.

‘And you see without a common language and without a knowledge of the circumstances of the people you’re dealing with, we in the union can just miss that because they may take what the employer said as fact and never come to us about it. This was in a company which recognises SIPTU and is a prominent member of the JIC³⁵ but it’s still the case that if they can get away with it, they will’ (Interview, SIPTU Industrial Organiser 2, 2013).

As well as difficulty in direct communication there is also the issue of interpretation and misinterpretation. An INMO official gave an example of meeting with a group of Filipino nurses shortly after their arrival in Dublin. They told him that they thought they weren't eligible to join the ‘Irish Nurses and Midwives’ Organisation’ as it was a union for ‘Irish’ nurses and midwives as opposed to being one for nurses and midwives of all nationalities.

What is clear is that language can be an issue but it is only part of the broader communication problem. This was something recognised by the majority of interviewees, many of whom agreed that it took some time for them to understand that there were cultural and communication differences as well as language differences and that even in cases where migrant workers were in a union, routine meetings with them in workplace settings were not enough. “They nodded their heads and told us everything was rosy but of

³⁵ Joint Industrial Council, defined in the Industrial Relations Act, 1946 as an association of persons which is substantially representative of workers of a particular class, type or group and their employers

course we knew after the fact that it wasn't" (Interview, SIPTU Industrial Organiser 2, 2013).

Resistance to unionisation

It is noteworthy that, while there is a growing body of research which indicates that there is little evidence that migrants are particularly resistant to unionisation, the majority of survey respondents for this thesis saw resistance to unionisation as being one of the two main barriers to recruitment of migrant workers (nature of employment being the other). However, interviewees did not report this to be the case, although a certain reluctance was identified within particular national groups. These findings would largely support the findings of Turner et al. in their study on Polish workers in Ireland which found there to be a largely positive attitude toward unions among the workers surveyed. A majority of them reported believing that unions are good for workers, can improve wages and conditions, and can protect workers from being exploited (2008a). This contradicts the frequently argued theory that one of the reasons for low unionisation among migrant workers from former Soviet countries is a perception of unions as an arm of the state and thus to be feared (Donaghey & Teague, 2006; Penninx and Roosblad, 2000).

The criticism of migrants in relation to their propensity to join and become active in trade unions might suggest that Irish workers are very positively disposed and eager to participate. Interviewees again contradicted this and observed that in the majority of cases Irish workers are no more or less eager to join unions. SIPTU Organiser: "Yes migrant workers bring all sorts of baggage to the notion of joining a union but then Irish people do too, middle class Irish people have a different view to working class Irish people, men have a different view to women, younger people to older people".

There was quite a deal of agreement on the nationalities considered to be difficult to organise. They were Chinese in the first instance, followed by Asians more generally. Interviewees' general view was that the situation with the Chinese related to a cultural gap and perhaps the nature of the labour movement in China and the fact that it is state controlled. One interviewee also suggested that perhaps many of them are here on student visas, connected to language schools, and are working illegally and therefore apprehensive about attracting attention. The situation is seen as more nuanced when considering Asian migrants more generally. The issue of finance is seen to be the main barrier, the motivation

is to save every penny in order to make remittances to family back home. This also applies in the case of Filipinos, who are not seen to be resistant for any cultural or political reasons and indeed many, particularly in the INMO, are quite active. But there is a level of resistance. INMO Official: “I don’t think it’s a fear of any sort of joining a union. It’s the cost. They would prioritise that €300³⁶ per year in a different way”. The interviewee points out that he has frequently been approached by Filipino nurses who want to know if there’s any way they can avoid paying superannuation. The issue of finance was also seen to be a barrier for Mandate, whose constituency would be largely made up of low paid retail workers. Mandate Senior Organiser:

‘We get a lot of questions from migrant workers about the value of union membership. One conversation I had was about how €3.80 would buy a bag of rice or could feed a family for a day’ (Interview, 2013).

While Eastern Europeans were not identified as being particularly resistant to trade unions, there was a general belief that peoples’ experience or view of trade unions prior to coming to Ireland has an impact on their willingness to get involved in collective action. The Polish and Russians were seen as being reasonably open to unionisation while the Latvians, Lithuanians, Ukrainians and Romanians much less so. They were perceived to be much more sceptical about the concept, more individualistic and concerned about what they personally would get for their money. If these responses are considered in the context of the more legalistic industrial relations framework that applies in these countries, then the response is more understandable. The expectation is that there should be a law to cover everything and that if one has a legal entitlement to something, one should get it automatically.

The issue of union resistance was one that, more than others, showed up the still quite powerful position of the closed craft union. The response of BATU General Secretary, Brendan O’Sullivan, to the question of any resistance to unionisation was simply “it doesn’t really arise in BATU, it’s a case of no union card, no job” (Interview, 2013).

Workplace racism

³⁶ INMO union dues

While there are many cases of Irish workers displaying racist attitudes as outlined earlier, what was identified as a greater issue was that of ‘inter-minority’ racism in the workplace whereby there are inter-racial tensions and cultural conflict between groups of migrant workers e.g. Poles vs Romanians, Latvians vs Lithuanians, Brazilians vs Poles etc. and a tendency to operate along country of origin lines. This feature has also been identified in previous research (see Güell and Jubany 2012):

‘There’s a lot of inter-nationality racism going around, not just Irish people. There are a number of different Eastern European nationalities that have very strong views of each other. In the early days we started out thinking we needed to beat racism out of Irish workers. I think we’re now a lot more nuanced in our approach’ (Interview, SIPTU Senior Organiser 1, 2013).

She went on to describe a situation where an Eastern European cleaner approached a union official and told him that he would “join the union but only if the niggers didn’t join”. Difficulty around workers communicating in their native languages is a complex one for trade union representatives. There is the straightforward issue of Irish workers objecting to their colleagues speaking Polish, for example, on the basis that they might be talking about them. Some interviewees considered this to be a non-issue and a case of blatant racism and that people should be free to speak in whatever language they wished. Others considered it to be a workplace issue but one that should be managed by the employer through a diversity policy. The issue becomes more complex where there is a workplace with a number of nationalities, dividing into their national and language groups:

They tend to stay within their groups – the Brazilians stick together, the Ukrainians likewise. So, in the companies you’ll have Lithuanian groups, Latvian groups, Czech etc. so they work together, they live together, they socialise together. They don’t integrate to the level that they need to. They all come from different cultures and are different nationalities. Not only have they to integrate with the Irish, they also have to integrate with the others (Interview, SIPTU Industrial Organiser 2, 2013).

A number of interviewees described a phenomenon whereby employers exploit racial division for their own ends. A SIPTU organiser describing the situation in the meat industry explained that, in her experience, there is animosity, the Polish don’t like the Brazilians and Brazilians don’t like the Slovaks and there is a hierarchy in all of this. Management trade on this and create pockets of power e.g. they will appoint a supervisor of a particular nationality and then top-load that line with another nationality and that

supervisor will then harangue and bully those workers under him, frequently using racist language and stereotyping. This approach was confirmed by the UCD academic who witnessed incidents in meat factories during her research. She described how the supervisors frequently drive production to the point of danger, one example was where workers have been injured by being kicked by cattle that weren't properly sedated. The workers blame the supervisor rather than the manager (Interview, 2013). It's a sophisticated way of fostering racial division to increase productivity. Another SIPTU official also commented on the meat industry:

There's huge animosity between Eastern Europeans and Brazilians in the red meat industry and the employers tend to play one against the other. I don't know the source of it; maybe it's just a cultural thing. One thing I do know is that the employers do certainly exploit it' (Interview, SIPTU Industrial Organiser 1, 2013).

Another case, involving similar issues, was that of workers employed on a cleaning contract in a university where there were five different nationalities employed. The supervisor was Brazilian so when it came to selecting workers for preferred shifts or overtime she always selected Brazilians and, in turn, gave the worst shifts to the Romanians because she didn't like them. However, an ex MRCI member argued that it is more complex than just race: "There are those kinds of tensions but it's not as clear as one might think. There's messiness around race. It's not always about racism, it's a lot about friends and family and connections. So, I don't see straight racism all that much" (Interview, MRCI Officer 2, 2013).

There is also the issue of what one interviewee described as "colour coding of the labour force" whereby a restaurant will have a mixture of staff but the Asian workers are in the kitchens on washing-up, the young Eastern European women are waiting tables and the Irish are the managers and the Front of House staff. So while there are a number of nationalities employed, they are segregated. Nor is this just a feature of the hospitality industry. In the mushroom industry the pickers will be from a range of Eastern European countries while the office staff and the drivers will be Irish. SIPTU activist and former mushroom picker: "I never met an Irish mushroom picker in all of my time and I have been involved for more than eight years now" (Interview, SIPTU Shop Steward, 2013).

Despite the very evident issues, BATU's Brendan O'Sullivan placed it in what he saw as its historical context: "There were kind of different tensions, not racism, with the people who came and communication was the problem. But I think I heard more back in the '70s and '80s about 'culchies'³⁷ and people from the North than I've ever heard about migrants" (Interview, 2013).

5.6. Conclusion

The Irish trade union movement was already under significant pressure when it was confronted by the issue of labour migration in the mid-1990s. Though still part of the tripartite partnership process with some political influence, it was suffering a decline in membership and bargaining coverage, an erosion of traditional union structures and a growth in employer hostility to trade unionism from both the FDI and the small firms sector. Despite this, and unlike many of their European counterparts, while Irish trade unions did not actively support the 'importation' of foreign workers, they did not seek restrictive immigration policies either. However, they did become increasingly concerned about the possible ramifications of unregulated labour migration as the numbers grew. They co-operated with government, employers and non-governmental organisations in facilitating the arrival of foreign workers and adopted a rights-based and inclusive policy approach in terms of welcoming them as members and arguing for equivalence in terms and conditions of employment.

However, at that early stage they were not pro-active in recruitment and organisation of migrant workers and, any organisation that was undertaken was, more in the nature of 'soft organising' (Dundon *et al.* 2007) and involved initiatives such as awareness raising, literature distribution and anti-racist campaigns. Also, the response was very much dependent on the commitment and willingness to innovate on the part of individual activists who were primarily engaged in a fire-fighting type exercise. These activists thus dealt with the issue of migrant worker exploitation on the basis of it being a moral and fundamental trade union issue, but did not have the resources or organisational support to engage with these workers in any strategic developmental way.

³⁷ The word 'culchie' is a slang term sometimes used by Dublin natives to describe a person from rural Ireland.

There were many barriers to the organisation and unionisation of migrant workers, some of which could also have applied to native Irish workers but others, such as language and communication were specific to migrant workers. The particular issue of location of employment was probably the over-riding barrier, in that migrant workers were employed largely in smaller firms in the services, retail and construction sectors which were non-unionised, thus contributing to other issues such as lack of union availability and employer hostility to trade unions.

CHAPTER SIX: FARMS, FERRIES AND BUILDING SITES

We asked for workers, we got people instead (Max Frisch, 1972)³⁸

The following chapter takes a diachronic comparative approach to the examination of trade union engagement with migrant labour by considering three case studies involving exploitation of migrant workers which are identified as tipping points within the development of the Irish trade union response. It starts with an exposition of a case within the horticulture sector where there was no union presence, or knowledge thereof, and where the perception would be, as discussed in the previous chapter, that this was a major contributory factor to the exploitation. It moves to the case of GAMA Construction, which had a union presence and where, yet, continued exploitation of migrant workers went undiscovered over a substantial period of time. It then outlines the case of the unionised Irish Ferries, which first brought the issue of displacement onto the union agenda and which also brought both it and the issue of migrant worker exploitation into public discourse. It concludes with an analysis of the three disputes in terms of the trade union role.

6.1. Introduction

Labour immigration to Ireland continued to be market led and poorly regulated and policed up to 2005 and issues of irregular employment, ‘bogus’ self-employment and an increasing use of agency workers were growing phenomena and of increasing concern within the trade union movement. While there were some rumblings about displacement of Irish workers and depression of wages there was no body of evidence to indicate a need for concern (Beggs and Pollock 2006; Doyle *et al.* 2006). Indeed, a number of studies found that “the evidence of any form of social dumping is neither strong nor persuasive” (Donaghey and Teague 2006: 665). A study of non-Irish workers in the labour market based on an analysis of the third quarter 2005 Quarterly National Household Survey concluded that “the case regarding displacement remains unproven” (CSO 2005). Meanwhile, the IOM report, *Managing Migration in Ireland*, acknowledged the existence of some exploitation of migrant workers as an issue of concern, but went on to say that

³⁸ Max Frisch was a Swiss writer and philosopher and was speaking here of the post-war guest-worker programme in Switzerland

overall “to date, there has not been much evidence of the negative effects to which migration can give rise” (IOM 2006: 22).

Yet there was substantial anecdotal evidence and evidence from small scale research projects of exploitation of immigrant workers. This included evidence of abuse of the work permit system, payment below JLC agreed rates of pay and below the national minimum wage, non-payment for hours worked, non-payment of overtime and holiday pay, working excessive hours as well as incidents of bullying and intimidation (MRCI, 2006a; 2006b; 2007; Hyland, 2005; Conroy and Brennan, 2003). As Krings points out “the aggregate results of relatively small-scale research on migrants clearly suggests that, at least some migrants have had to endure exploitative and abusive work conditions” (2007: 47). Also, individual union officials at a local level and representatives from relevant NGOs were regularly dealing with issues of exploitation in areas such as horticulture, hospitality and retail as well as, generally informally, domestic service (ICTU 2005; MRCI 2004; 2006a; 2006b). While some information on these permeated through, they largely remained beneath the radar. The majority of them were happening in non-unionised employments and were being dealt with by officials and activists outside of regular trade union structures. But there was a growing belief, particularly among activists within both unions and NGOs, that if some such incidents of exploitation were emerging, the lack of regulation, enforcement and oversight most likely meant there were many more that had not yet been identified. This view was compounded by the fact that, despite reports of increasing abuses, the level of workplace inspections by Department of Trade and Employment Labour Inspectors had dropped from 8,323 in 2002 to 5,160 in 2004. In the same year only 14 successful prosecutions of offending employers were carried out, with typical fines ranging from €500 to €2,000 (Allen 2007).

6.2. Migrant workers in the mushroom industry

From early in the migration cycle there was some concern about exploitation within the horticulture sector, most particularly in the mushroom industry which was a substantial employer of migrant workers. By 2001, migrant workers constituted 70 per cent of all mushroom farm workers (Bord Glas 2002) and that figure continued to rise with MRCI estimating that, by 2007, it stood at approximately 95 per cent. The typical profile of a mushroom picker at that point was that of a woman in her 40s, employed under the work

permit scheme, from Eastern Europe, primarily Lithuania or Latvia, and with little or no knowledge of the English language.

The mushroom industry in Ireland had traditionally been characterised by a predominantly female workforce with poor wages and working conditions. In the early years of the industry when there were large numbers of small mushroom operations, the majority of the workforce consisted of local part-time pickers, mainly housewives and others in need of extra income. Even in those early days, the industry operated informal and poorly regulated work practices including payment on the basis of quantity of mushrooms picked as opposed to a set hourly rate. As the industry developed so did the size and scale of most of the farm operations and the part-time nature of mushroom picking changed with greater numbers of full-time workers required. As this growth in the industry coincided with the early days of the Celtic Tiger, mushroom growers found it increasingly difficult to locate an ample supply of cheap labour to meet the new demands on the scaled-up farms. Thus, from 1999 they looked to recruit mainly non-EU workers and used recruitment agencies to source them. Within a period of two to three years the majority of workers in the industry were migrant workers brought in on work permits (Arqueros-Fernández 2009; 2011; MRCI 2007; Department of Agriculture and Food 2004)

The rumblings with regard to exploitation and abuse of migrant workers in the mushroom industry were very difficult to substantiate as mushroom plants, by their nature, were located in rural and isolated areas; workers were largely non-English speaking; they were employed under the work permit scheme which tied them to the specific employment and employer and the sector was almost entirely non-unionised. However, some cases did come to light and to the attention of the state's dispute resolution services, largely through the efforts of individual trade union activists, community workers, Citizen Information Centres (CICs) and NGOs, most particularly the MRCI. Many such cases are outlined in reports such as MRCI 2006b; Hyland 2005 and Conroy and Brennan, 2003

6.2.1. Western Mushrooms

The specific case history detailed here is pre-EU enlargement and exemplifies the vulnerability of migrant workers employed on work permits in the horticulture sector and the scope for exploitative employers to take advantage during the initial wave of immigration when the state was ill prepared to identify, monitor and penalise such

employers and when trade unions had little or no presence in the sector. The facts of this case are taken from the very detailed records of the MRCI which dealt with it on behalf of the workers but it has been necessary to remove any identifying information as the final resolution of the case required the workers and their MRCI representative to sign a confidentiality agreement. All names and geographical details have been changed. Information has also been sourced from the *Irish Times* and the *Farmers' Journal* but specific dates and names of journalists withheld for the same reason.

The case concerned a mushroom plant, Western Mushrooms, located in the west of Ireland, which in 2000 entered into a collaborative venture with another mushroom plant. The venture proposed to create 80 jobs in the area, which was an unemployment black spot, and also to provide opportunities for local farmers to develop their own satellite mushroom ventures. It received a funding investment of over £3 million in 2000, which included substantial funding from Údarás na Gaeltachta and the EU as well as some private investment (*Farmers' Journal*, 2000). However, as early as 2001 the plant was importing labour from Eastern Europe and, indeed, at a Rights Commissioner hearing in 2005, the barrister representing the company, in an effort to show its positive employment credentials, stated that it had employed 242 workers from Eastern Europe since 2000 (*Irish Times*, 2005). It is understood that there were approximately 50 migrant workers employed there at any one time.

Official claims of exploitation first came to light in 2004 when a group of thirteen Latvian and Ukrainian workers, most of whom were women, approached the local CIC for help. The majority of them had been working in the mushroom plant for less than two years, though one worker had been there since 2001. At this point they were no longer employed there, having either left voluntarily or been let go. All were undocumented and in great fear about their illegal status in the country. The CIC put them in touch with MRCI, which supported them to find accommodation and acquire temporary work permits while they sought work. MRCI also provided them with legal support and began to put together a case on their behalf. The workers' stories were of working days of 16 and 17 hours, six and seven day weeks, without overtime or holiday pay, receiving average hourly wages of between €2.20 and €2.50, being exposed to chemicals without information or protective clothing being provided and a being subjected to a tyrannical work regime. "It was like a penitentiary" said one woman. The workers had been accommodated by their employer in

a house that had a total of 17 occupants, all of whom were employed in the mushroom plant. There was one shower, and a small kitchen and living area. Deductions were made from their wages for utilities. The accommodation was located five miles from the nearest town and the closest shop was an hour's walk away. They were bussed to and from their work. This gave the employer substantial social control over every aspect of their lives, far beyond the workplace. All had been recruited in their home country either directly by the employer or through an employment agency. It became clear that when initially recruiting the workers, the employer routinely only applied for work permits for a four to six month period. The workers, who were recruited on the basis of a year's employment, were largely unaware of this and only discovered it when their permits lapsed. The employer then sought payment of €500 from the individual workers to have their permits renewed and the renewal process was very unclear, leaving the workers generally uncertain as to whether or not they had a work permit and therefore very concerned about their legal status.

This ambiguity around work permits was the greatest contributory factor to the workers' sense of vulnerability and gave the employer a great deal of power over them. The majority of them spoke no English and, though they had been promised English language lessons when they were contracted, these had never happened. "The employer feared us learning English in case we said anything to outsiders about our working conditions" was one woman's observation. Thus it was very difficult for them to get information on their status and their rights and entitlements as their only source of information was their employer. They had never heard of the concept of a 'bank holiday' until after they had left the farm. PRSI was deducted from their wages every week but when they contacted the tax office after leaving the mushroom plant, they discovered that there was no record of any payments made. There were some Irish workers on the farm with whom they had little or no contact, and who were treated differently, as in they generally worked regular hours, did not do overtime and got every second weekend off.

Western Mushrooms had been inspected by the Labour Inspectorate three times between 2001 and 2003 on foot of receipt of complaints (no details of source of complaints). It is clear from correspondence seen between the labour inspector and the employer that a number of serious irregularities were found in relation to record keeping and health and safety (e.g. poor employee records, incomplete work permit records, payslips not itemising deductions, no health and safety statement). The Labour Inspectorate requested that these

matters be dealt with but there were no penalties and Inspectors filed positive reports on the employment on all three occasions, stating that the company was in compliance with regulations. While it is not clear what level of investigation was carried out, it is MRCI's understanding that the approach taken by the inspectors was to inspect the premises, examine the records and interview the employer but that no migrant workers were ever approached or interviewed.

6.2.2 The industrial relations process

In July 2004 the thirteen former workers took cases through MRCI against Western Mushrooms to the Labour Relations Commission, the Employment Appeals Tribunal and the Equality Tribunal. These were thirteen individual cases with claims of a total of seventeen breaches of employment law, many of which applied to all claimants. They covered:

- Discrimination
- Harassment and victimisation
- Breach of equal remuneration for work of equal value
- Requirement to work excessive hours
- Denial of basic entitlements under employment protection
- Refusal to furnish copies of work permits or information on work permits
- Breach of health and safety
- No contracts
- Unlawful deductions from wages including payment for work permits
- No overtime
- No Sunday premium
- Unfair dismissal
- Constructive dismissal arising out of victimisation
- Payment below statutory minimum wage
- No holiday pay
- No annual leave

- No sick pay

Western Mushrooms vigorously fought the cases over a period of eighteen months which involved a number of hearings and adjournments with barristers representing both sides. All thirteen cases were eventually settled out of court in November 2005 and a confidentiality agreement was signed by both sides in relation to the facts and terms of the settlement. While the terms of the settlement could not be revealed, it was the case that the thirteen appellants were happy with the outcome though disappointed that they had not got public vindication. As one woman said “I’m not a mushroom picker now but a human being”. This was the first collective case ever taken within the mushroom industry and was central to MRCI’s continued engagement with migrant workers. It was also central to its establishment of a Mushroom Workers Support Group and to its subsequent collaboration with SIPTU in establishing support structures. These developments will be discussed further in Chapter Seven.

6.2.3. Where were the unions?

As previously stated, this was not an isolated case of exploitation but was instead indicative of practices within the horticulture sector, particularly the mushroom industry, which were coming to the attention of Citizen Information Centres, individual union officials and activists and NGO representatives at local level but were not yet impacting at national level. But trade unions had no presence in the horticulture sector, so in so far as these types of cases of exploitation were coming to the attention of trade unions, it was through informal contacts with individual activists, on a fire fighting basis as opposed to any concentrated organising initiative. Many officials did not want to know; they did not have the scope to take on this type of labour intensive work on top of their existing work schedules, so it is not altogether surprising that an NGO such as the MRCI ultimately became involved.

The MRCI, because it was a small organisation, could respond to things very quickly. A union, however, has to question if it can divert resources to this issue when it’s fighting other battles. It has to ask – are we really going to succeed in organising restaurant workers or agriculture workers if we do divert resources? Those are tougher questions for unions than for the MRCI because that’s what our mission was, at least initially (Interview, MRCI Officer 2, 2013)

It also appears to indicate that the state took little interest in ensuring good employment practices and conditions within employments in which it was investing substantial amounts of public monies. Indeed, a reading of the Department of Agriculture & Food's *Mushroom Taskforce Report* (2004) taken alongside the fact that the fourteen member mushroom taskforce did not have a single worker representative on it, would seem to support the view that the employees within the industry were seen as mere units of labour.

6.3. The GAMA dispute: exploitation reaches unionised employment

One could possibly have surmised, and many within the trade union movement did, that individual cases of exploitation of migrant workers, such as that described above, arose primarily because of the isolation of the workers involved and the atypical nature of the employment and that if it were a more mainstream employment with unionised workers it couldn't happen. However, in 2005 two high-profile industrial relations disputes, concerning GAMA Construction Ireland and Irish Ferries respectively and involving migrant workers, made it clear that this was not the case and that exploitative practices were also happening in unionised employments. These two disputes, more than any other, brought the issues of abuse and exploitation to the fore and mobilised the unions and the general public. While they involved exploitation and potential exploitation of migrant workers, there were also other factors at play which gave them a national prominence that the previous case did not have. One factor was the numbers of workers involved but the more significant factors was the presence of trade unions in the companies and the fact that the disputes attracted political attention.

The first of these, the GAMA dispute, involved the 'posting of workers', a form of labour migration which really only emerged in the 1990s, as a response to the EU freedom to provide services. What distinguished this new form of migration was that the employment of these workers involved a level of legal ambivalence with regard to whether their employment was governed by the labour laws of the host country or of the country of origin of the service provider. The ruling in 1991 by the European Court of Justice in the *Rush Portuguesa* case, which concerned a Portuguese firm 'posting' workers to its French based construction site, formed the basis of the European Union Posting of Workers Directive (PWD) in 1996 which theoretically applied the principle of equal treatment to a core of employment standards. Posted workers are only temporarily working in another member state, remaining employed in their home state, and thus are 'mobile' in the sense

that transnational arrangements apply. The Directive stipulates that ‘workers ‘posted’ by an employer to perform work in another EU state should be guaranteed the minimum provisions as laid down by law or collective agreement in the host country’. However, the national implementation and enforcement of the directive was weak and there was a lack of cooperation between member states (Cremers *et al.* 2007).

6.3.1. The GAMA case

GAMA Construction Ireland was an Irish subsidiary of a Turkish construction company, which employed more than 10,000 people across Europe, the Middle East and Asia. The Irish subsidiary employed over 1,000 workers in Ireland, two thirds of whom were Turkish and one third Irish. In early 2000, the then Minister for Trade, Mary Harney had led a trade delegation to Turkey (Dooley 2005a) and subsequently GAMA had been invited to tender for Irish contracts. Since then the company had won a number of sought after public project contracts, including power plants, major road developments and local authority housing estates.

In February 2005 it came to light that GAMA was employing the Turkish workers on rates below both the industry agreed minimum and, indeed, below the national minimum wage. These workers were accommodated off site by their employers and spoke little or no English and so were highly vulnerable to social isolation and exploitation. It was Socialist Party TD, Joe Higgins, who brought the issue to public attention when he raised it in the Dáil³⁹. He claimed that workers were made to work “grotesque hours” and were paid between €2 and €3 per hour when the minimum wage was €7 and the employment agreement minimum in construction was €12.96 (Parliamentary Debates 2005a). The company rejected the allegations and also pointed to the fact that all of their workers were members of the ‘appropriate trade unions in the Irish markets’ which indeed they were. These unions were SIPTU, TEEU, UCATT (Union of Construction, Allied Trades and Technicians), OPATSI (Operative, Plasterers & Allied Trades Society of Ireland) and BATU. And indeed ICTU and its member unions generally had good relations with GAMA which was also a member of the Construction Industry Federation (CIF) (Dooley 2005a).

³⁹ The Dáil, (Dáil Éireann) is the lower house, but principal chamber, of the Oireachtas (the Irish parliament).

A former SIPTU National Executive Member was critical of the unions and of SIPTU specifically: “In the Gama dispute, SIPTU and the other unions definitely sat on their laurels” (Interview, 2013). He went to describe how he first came across issues at a GAMA site in Fingal in 2000, five years prior to Joe Higgins raising it in the Dáil, when he got a call from an Irish girl about Turkish workers sleeping in sheds on the site. He and a colleague went to the site and posed as representatives of the Construction Industry Monitoring Agency. Their appearance seemed to cause total panic with workers dropping tools and running into buildings. When they began to talk about Registered Employment Agreements (REAs) and sick pay and pensions, they were told to get off the site immediately and to contact the head office. They went immediately to the SIPTU Construction Section and reported the situation and handed the matter over to it, “I believed for years that this was sorted. And the next I knew of it was when Joe Higgins brought it up in the Dáil five years later” (Interview 2013). It would appear that this 2000 report was neither documented nor pursued as no SIPTU interviewees knew anything of it and nor did it appear in any documentation.

Following Higgins’ claims, the Labour Inspectorate of the DETE began an immediate investigation. It emerged that this was not the first complaint about GAMA, or the first investigation. In 2003 there had been complaints from the trade union, BATU to both Minister Harney and the Labour Inspectorate and complaints from another construction company directly to Minister Harney in 2002. The Inspectorate had investigated the BATU complaint and reached the conclusion that it was without substance. Brendan O’Sullivan, BATU: “We couldn’t produce any hard evidence. We couldn’t produce the individuals, they would have been sacked” (Interview 2013). Minister Harney and her officials had also rejected a claim from the competing construction company which claimed that it couldn’t compete with GAMA tender rates which was paying its construction workers rates of €5 an hour. The complainant was informed by the Secretary General of the Department that GAMA had co-operated with requests for documents and that “there are no further issues which we wish to pursue” (Dooley 2005b; 2005c). This begs a number of questions to which answers never became public, as to what level of investigations were carried out, why alarm bells did not ring when there were complaints coming from different sources? Was there any question of the state not wanting to find transgressions?

The case is illustrative of both the challenge for trade unions in catering for a migrant worker membership and the shortcomings in their ability to identify and respond to fundamental labour relations issues particular to such workers. The fact that the GAMA workers were not directly employed by an Irish company but were posted by a foreign subcontractor, a practice widespread in the European construction industry, (Balch *et al.* 2004 in Krings 2009a), that there were language barriers and that accommodation was provided by the employer contributed to the trade unions' inability to identify the issues sooner. A former SIPTU Regional Secretary observed that, as Gama workers were coming into what were mainstream employment projects which recognised trade unions, there was a certain presumption on the part of the trade union movement that they would be treated equally. But he also told of an official in his region, who contacted him following an encounter with GAMA in 2004. The official had requested a meeting and it was originally suggested that he be accompanied by a member of management. He refused and insisted on meeting the workers on his own. The official found that there was something 'not quite right' and he was uncomfortable with it:

What he described to me was that the whole thing had an air of the 'white mansions' about it. It was a bit like going on to a farm in Alabama and interviewing the workers and they were all saying "yes boss, everything is fine boss" and he just knew that everything wasn't fine but they weren't telling him anything and all he could confide to me was his frustration. And subsequently the whole thing came out but people like him and others had been trying to get to the heart of it but they were being told over and over again by the members themselves that everything was fine (Interview, Former SIPTU Regional Secretary, 2013).

SIPTU officials had in fact held numerous meetings with both the company and the workers while Price Waterhouse Coopers had examined the books and found no evidence of wrongdoing. The workers said subsequently that these visits involved meetings of numbers of workers and they were afraid to speak frankly, in case colleagues informed on them.

The unions had become more actively and visibly involved in the dispute as the facts came to light. SIPTU, in particular, adopted a fuller role in representation and negotiation on behalf of the 600 plus workers involved. It also brought in staff from its new organising division to facilitate meetings with the migrant members and intervene on their behalf (Flynn 2006). Former SIPTU National Organiser:

It was after Joe Higgins made his public pronouncement in the Dáil that Jack O'Connor asked me to go in and see what I could find out. But I had nothing to do with construction. I was from the organising department. I started asking questions. I started going out the sites and having general meetings on the sites (Interview, 2013)

6.3.2. Beyond the media story

Following the commencement of the Labour Inspectorate investigation, GAMA announced an internal review and in March admitted to having uncovered underpayments. It said errors involving underpayments of between €50 and €3500 had been uncovered. It suspended three staff based in Turkey while an enquiry took place into “how the breach of the company’s policies and normal procedures took place”. The company said the underpayment was in the order of 96 cent per hour with workers receiving €12 as opposed to €12.96 an hour and they again denied making payments of €3 per hour (Dooley 2005d).

On further investigation by the Labour Inspectorate, Higgins and the unions, a complex tale of destroyed work records and workers’ money being paid into Irish, Turkish and Dutch bank accounts emerged. In fact, according to former SIPTU National Organiser, the inspectorate asked Joe Higgins and SIPTU if they could follow the money trail because it just didn’t have the resources. What they established was that each worker before leaving Turkey was given a document in English to sign which said that their money, apart from their small allowance in Ireland, would be paid through Finance Bank in Holland and would then be transferred to a company called Ryder Investment which was a registered company in the Bahamas and from there would go back directly into GAMA accounts. “So when we checked it out we saw a payment made to John X at Finance Bank and then transferred out the same day to Ryder Investment...and that money was never to be paid to those workers” (Interview, 2013). As much as €23,000 was found to be in some of the Dutch accounts of which the workers claimed to have known nothing while the company insisted that this was an agreed method of payment. The inspectors found that while GAMA did pay workers less than the minimum construction rate, the rates were probably not as low as alleged by Joe Higgins (Dooley 2005e). The inspectors recommended a further more detailed investigation be carried out, going back some years and that the Director of Corporate Enforcement be asked to carry out an investigation of GAMA’s accounts.

On the political front, it came to light that GAMA had benefited substantially from a scheme whereby exemption from payment of social insurance for a period not exceeding 52 weeks can be granted in respect of the temporary employment of people who are not ordinarily resident in the state. The Department of Social and Family Affairs (DSFA) confirmed that 1,867 workers had been covered by the scheme since it began in 2003 and, of those, 1,324 had been employed by GAMA (Dooley 2005f). In addition, nearly 1,000 work permits had been issued to GAMA since January 2004 despite there being a ban in place on the issuing of such permits, because it was considered that there were sufficient building workers available within the expanded EU. A department spokesperson said that GAMA was facilitated under a scheme whereby teams of employees could be brought to Ireland to work on major infrastructural projects for a specified period of time. The *Irish Times* was unable to find any information on such a scheme (Dooley 2005g). In March, Minister for Employment, Micheál Martin revealed that he had stopped the issuing of work permits to GAMA until the DETE investigation was complete (Dooley 2005h). The fact that GAMA appears to have been in a somewhat privileged position with regard to access to schemes that were not available to all, calls into serious question the role of the state and the statutory agencies in all of this. To what extent was it the result of failure of regulation or a deliberate decision on the part of agencies and individuals to facilitate circumnavigation of regulation in order to meet budgetary targets and achieve deadlines?

While all parties awaited the outcome of a GAMA challenge to the publication of the Labour Inspector's report, the workers took industrial action in pursuit of their outstanding monies. Some began an occupation of a GAMA construction site in Dublin as SIPTU met with GAMA. Meanwhile, the company announced that 140 work permits were soon to expire and these workers would then be repatriated to Turkey. As well as this threat there were claims by the workers of other forms of intimidation. The Government intervened with the Minister for Enterprise, Trade and Employment, Micheal Martin, counselling GAMA against any threatening or intimidatory tactics (Dooley 2005i). Despite this, only two weeks later, GAMA informed the 230 workers engaged in the dispute that they would be removed from the payroll and be asked to vacate their accommodation and that those whose work permits had expired were being repatriated.

This move came hours after the High Court ruled that the Labour Inspector's report into GAMA, which was now complete, could not be released, pending further proceedings. In

court the barrister pointed out that the Turkish workers were on secondment from the Turkish parent company and that they were employed under Turkish contracts of employment governed by Turkish law. The judge granted an injunction and leave to seek a judicial review. Subsequently, the Court found that the powers of the Inspectorate under the relevant Acts did not permit it to produce a general report on a particular workplace (including matters outside of those relating to minimum wages or working time), which could be circulated or published generally. Thus the preparation of the report *was ultra vires* (beyond the powers) and could not be published (Higgins 2005). The Supreme Court did subsequently rule that it could be released to the relevant statutory authorities, i.e. those State bodies with a prosecutorial function in relation to the matters identified in the report, those being the Garda Fraud Squad, the DPP, the Revenue Commissioners, the Director of Corporate Enforcement, the Competition Authority and the GNIB. In an ironic twist, the Court awarded half of GAMA's costs against the Minister for Enterprise, Trade and Employment (Carolan 2005). Despite contributing substantially to the investigation process that led to the report, it was never seen by either Joe Higgins or SIPTU.

6.3.3. Migrant worker issues on the national agenda

The issue of migrant worker rights was now very much to the fore in both trade union activity and discourse. 'Rights and entitlements for migrant workers' was the theme of the trade union May Day rally in Dublin in 2005. The event was organised by the Dublin Council of Trade Unions and co-ordinated by SIPTU Branch secretary, Eric Fleming, who said that the treatment of migrant workers had become a national issue, "there is now growing public awareness of very high levels of exploitation of migrant workers in construction, services, and other sectors" (Dooley 2005j). In June, the ICTU conference voted to place the rights of migrant workers at the top of the agenda in any talks on a new partnership deal. The conference also passed motions calling for the establishment of an ombudsman or commissioner for migrant workers (Dooley 2005k).

The GAMA dispute, which eventually involved three trade unions and a protracted series of unofficial and official action, was finally resolved through the Labour Relations Commission in August 2005, six months after first coming to public attention. GAMA agreed to pay all its Turkish employees €8,000 per year of service to cover overtime worked. SIPTU confirmed that all GAMA employees were now receiving the legally binding registered employment agreement rates and being issued with proper wage slips.

All of the Turkish employees received the monies from the Dutch bank accounts and were paid substantial sums to cover underpayments. At this point almost all of the original 600 workers had returned to Turkey, with only approximately 83 remaining in Ireland.⁴⁰

The dispute marked a turning point for the trade union movement in its approach to organising and representing migrant workers. It brought the issues around exploitation on to the national stage. It introduced the concept of posted workers and the complex problems such posting brings into the Irish situation for the first time. It also pointed up the fact that despite beliefs to the contrary, unionisation per-se does not automatically ensure against exploitation and that there are other factors at play. These factors include language barriers, isolation, complex employment relations, the employer being non-Irish based, weak legislative implementation, a weak labour inspectorate and weak, or complacent unions, operating on the basis of membership as all. It became clear that the traditional service model of trade unionism as had been operating in Ireland, was failing to address the needs of migrant workers such as those in GAMA, and that a more pro-active, and diversified, organisational model was required. The factors described above created fertile ground for exploitative employers and concomitant new challenges to trade unions to identify such situations and to provide imaginative and effective solutions. While some individual trade unions looked to structural and organisational change, the dispute primarily became a catalyst for a trade union campaign to improve labour standards with calls for further legislation and greater enforcement. ICTU made a submission to the Minister for Enterprise, Trade and Employment calling for a range of improvements in legislation and enforcement including putting the burden of proof of compliance with labour law on employers; a requirement that companies competing for public contracts furnish the equivalent of a tax clearance certificate in respect of the employment conditions of their workers; that accredited union officials be given certain limited legal powers of access to employment records of companies in a supporting role to the Labour Inspectorate; and that there be a further increase in the Labour Inspectorate to 75 (ICTU 2005). Other than the appointment of 11 new labour inspectors, these calls went unheeded.

⁴⁰ Subsequently, 491 of the Gama workers sought to bring actions against their employers for some €40.3 million compensation over alleged underpayment of wages and benefits while working in Ireland. They have been seeking to bring the actions in Ireland, rather than in Turkey and the case is currently before the Irish courts.

Finally, the GAMA case, as a transnational dispute involving posted workers, needs to be considered alongside other such disputes and their outcomes. Most significant in this respect was the Laval case in Sweden in 2004 when the refusal of a Latvian construction company to pay its workers the local rates prompted a union blockade of the building site in Vaxholm, Stockholm, followed shortly afterwards by a blockade on all the company's sites in the Stockholm region. The workers were Latvian and had been posted to Sweden in much the same way as the GAMA workers were to Ireland. In 2007, this case went as far as the European Court of Justice which, in what was seen to be a very significant ruling, found in favour of the company. In short, the ECJ held that the trade unions were precluded from attempting to force, by means of collective action, a provider of services established in another Member State to enter into negotiations on rates of pay constituting *more favourable conditions* than those resulting from relevant domestic legislative minimum provisions (Bell 2008; Woolfson and Sommers 2006). It was the Laval dispute that first exposed weaknesses in the protective floor of minimum standards offered by the Posting of Workers' Directive.

6.4. Irish Ferries, exploitation and displacement: trade unions say 'Stop!'

If the GAMA dispute marked a turning point in trade union consciousness, it was the Irish Ferries dispute that pointed the unions to the need for stronger legislation and greater enforcement to protect jobs and secure equal pay and conditions for both indigenous and migrant workers. It was the dispute that turned the term 'displacement' into more than union rhetoric. But, perhaps as significantly, it was also the Irish Ferries dispute that impacted on public consciousness and introduced concepts such as migrant worker exploitation, depression of wages, social dumping and race to the bottom into general discourse.

While the Irish Ferries debacle only reached the public consciousness towards the end of 2005, it had its roots in a dispute that began a year earlier. In late 2004 Irish Ferries, part of the Irish Continental Group (ICG) had reflagged one of its ships, the MV *Normandy* in the Bahamas and attempted to replace the Irish crew with agency workers from the Baltic States at significantly lower rates of pay. This led to a dispute with SIPTU, one of the unions representing the existing workforce. The dispute escalated when Irish Ferries dismissed 600 of its staff. SIPTU balloted for industrial action but, before any such action

began, the Labour Relations Commission (LRC), and subsequently the National Implementation Body (NIB) intervened. There was agreement on a range of cuts and the 600 members of staff were reinstated. It was agreed to defer decisions on outsourcing, pending an independent evaluation of Irish Ferries and its financial position.

Irish Ferries was not the first European-based ferry company to endeavour to go this route. In 2003 Viking Ferries, a Finnish-based ferry company announced its intention to re-flag a passenger ferry, *Rosella*, which travelled a route from Helsinki to Tallinn, Estonia. The company intended to re-flag the ship under the Estonian flag and replace the Finnish crew with a lower cost Estonian crew, and, one of the more remarkable features of the case, it intended to make a collective agreement with the Estonian Seamen's Union. The action was challenged by the Finnish Seamen's Union (FSU) and by the International Transport Federation (ITF) and, after some negotiation, they initiated industrial action. Viking took legal action through the English courts (as ITF was London based) who found in its favour on the basis that the actions of the FSU and the ITF were in breach of Article 43EC (freedom of establishment; now Article 49TFEU) and article 49EC (freedom to provide services; now Article 56TFEU). This was challenged by the unions and the case was referred to the European Court of Justice (ECJ) which delivered its findings on this case also in 2007 when it found that the right to take collective action, including the right to strike, is a fundamental right. However, the central consequence of the challenge was to make it clear that where a trade union takes collective action which seeks to obstruct the relocation of a business to elsewhere in the EU, this will be potentially in breach of Article 43. The ECJ went on to find that if it is clear that the collective action is because jobs or working conditions are 'jeopardised or under serious threat' then it should remain lawful. While there are positive elements to the findings for trade unions, it is thought to be problematic that it will be for the courts (rather than trade unions) to determine when and if recourse to collective action is justified. In particular, the Court of Justice's requirement that unions exhaust all alternative options before engaging in collective action threatens the autonomy of unions to make their own decision on what is the appropriate strategy to defend their members' interests (Bell 2008; Donaghey and Teague 2006).

6.4.1. The Dispute

In Ireland, Irish Ferries' plan was deferred but not abandoned and re-emerged in September 2005 when the company wrote to 543 Irish staff offering them a choice between

voluntary redundancy and continued employment at a lower rate of pay. Those who took redundancy were to be replaced by agency workers, primarily from Latvia, who were to be paid €3.57 per hour, less than half the Irish minimum wage. The company intended re-flagging all its ships on the Irish Sea, most likely in Cyprus, it being one of the small number of EU countries without a statutory minimum wage. The workers were given two weeks in which to decide to accept the redundancy, after which they would be paid the lower rate of pay. The company's action was roundly condemned by trade unions, by all sides in both the *Dáil* and *Seanad* and by the vast majority of media commentators. Taoiseach, Bertie Ahern, was highly critical of Irish Ferries, referring to the manner in which the matter was conducted as “deplorable and totally unacceptable in the Irish labour context” (Parliamentary Debates 2005b).

SIPTU, representing officers and a minority of crew members, reacted with anger to the company's actions. SIPTU branch secretary, Paul Smith described it as “a lesson in corporate greed” and said that his union was left with no choice but to issue strike notice. He pointed out that “we have already agreed to €3.5 million in cuts and the company is holding its market share but it seems intent on using loopholes in the labour laws created by flags of convenience to recruit cheap labour abroad”. Irish Ferries claimed it needed to cut costs in order to increase competitiveness or it would be loss making by 2007. It said it needed to reduce its cost base by €15 million per year (Dooley and O'Sullivan 2005). The leadership of the Seamen's Union of Ireland (SUI), the other union in the company which represented the majority of ordinary crew members (‘ratings’), though unhappy with the company's actions, advised its members to accept the redundancy package. This contributed to the already strained inter-union relations between SIPTU and the SUI which had existed for some time prior to this (Dobbins 2005).

Controversially, the Irish Ferries action was supported by the Irish Business and Employers' Confederation (IBEC) of which it was a member. IBEC Director General, Turlough O'Sullivan asserted that Irish Ferries was highly uncompetitive vis-à-vis other carriers on the Irish Sea and that “most reasonable people would agree that it would be better to have several hundred moderately paid jobs than no jobs” (Keena 2005). Jack O'Connor of SIPTU referred to the IBEC position as “the most daunting aspect of all of this”. The fact that its Director General refused to rule out similar approaches by other

employers, citing competition as the reason was an issue of great concern to the unions and a substantial contributory factor to the threat to social partnership (Beesley 2005a).

Irish Ferries refused to attend talks at the Labour Court, despite calls from Government to do so and, in October, on the application of SIPTU, the High Court imposed an interim injunction on the company preventing it from terminating any jobs. Meanwhile, the Attorney General advised the Government that the severance deal put forward by Irish Ferries did not meet the criteria of the Redundancy Payments legislation. He found that the company could not legally claim that the workers were being made redundant because it proposed to replace them with new staff on less pay. If confirmed, such a finding would increase the cost of the scheme to the company. It would mean that departing staff would not be entitled to state redundancy payments, would have to pay tax on any payments from the company and would have delayed access to social welfare after they leave (Beesley 2005b). Subsequent to the Attorney General's information, SIPTU members in Irish Ferries held a meeting where they voted unanimously to reject the company's offer. Many at the meeting had already signed acceptances which they now wished to rescind. They claimed that in signing they had acted out of fear (Wall 2005).

The dispute was now "threatening to destabilise the much proclaimed Irish social partnership agreement" (Woolfson 2007). While Irish Ferries was not the first company to seek to replace well paid staff with outsourced agency workers, for a number of reasons, not least the public support of IBEC, it had now become a watershed dispute. The trade union movement perceived the actions of the company and IBEC's support of them as having profound implications throughout the Irish economy if it went ahead. At the SIPTU annual conference in October, a number of speakers described the battle with Irish Ferries as seminal and one which the union had to win in order to stem a wider trend towards outsourcing jobs and depressing wages (Dooley 2005l). Following the SIPTU conference, ICTU, at SIPTU's request, decided to postpone the decision to enter partnership talks which were due to commence in November. This decision was taken despite personal assurances from the Taoiseach of the day that his government would do all that it could to ensure the maintenance of employment standards. Speaking about the decision, ICTU's David Begg commented that the light touch labour market regulation currently in place was no longer sustainable in the context of the opening of the Irish labour market to citizens of the new EU states (Dooley 2005m). At this time, according to

a major study of flexibility of employment and working time, Ireland was the third least regulated country out of 16 European countries with Irish firms having some of the least regulated labour legislation covering working time, temporary employment, dismissals, notice and severance pay (Sweeney 1999). The unions wanted this situation to be tightened up and sought specific commitments to measures to prevent exploitation of workers in advance of the commencement of formal talks.

6.4.2. The Services Directive

These high profile disputes in Ireland coincided with a Europe-wide trade union campaign against the introduction of the EU Services Directive, a piece of legislation being spear headed by Irish Commissioner, Charlie McGreevy⁴¹, the purpose of which was to create a free market across Europe for the services sector. It aimed to remove legal and administrative barriers for businesses based in one country offering their services in another, and to encourage cross-border competition. Trade union concerns at the Directive centred largely on the ‘country of origin’ principle which stated that a company offering its services in another country would operate according to the rules and regulations of its home country. For example, a construction company based in Poland could offer its services in Ireland, but would operate under Polish regulations. This was a fundamental change in the situation that pertained under the Posted Workers Directive, as discussed earlier in relation to GAMA, whereby workers ‘posted’ by an employer to perform work in another EU state were guaranteed the minimum provisions laid down by law or collective agreement in the host country. Trade unions feared the Services Directive as drafted would lead to a ‘race to the bottom’, with firms relocating to countries with lower wages and the weakest consumer, environmental protection, employment and health and safety rules. They claimed that, under the proposed directive, companies would be able to move their headquarters to member states with minimal protections for workers and treat their employees according to these minimal standards, regardless of where they actually worked. (Erne, 2008; Cremers *et al.* 2007; SIPTU 2005)

Despite the existence and articulation of some resentment towards immigrant workers from some sections of the indigenous workforce sparked by the Irish Ferries dispute, the leadership of the trade union movement endeavoured to take an inclusive approach to any

⁴¹ European Commissioner for Internal Market and Services, 2004 - 2010

protests. They focused primarily on the need to uphold employment standards. They insisted that they were not simply defending the interests of long standing Irish workers but that they also wished to protect from exploitation the many newer foreign workers who are open to such exploitation by unscrupulous employers (Krings 2007; Begg 2007). Meanwhile, there was a growing consciousness that this was about more than industrial relations. Mark Brennock writing in the *Irish Times* commented:

If the idea takes hold that foreign labour represents a threat to Irish workers' standard of living it could have much broader implications in a state still accommodating itself to its growing multicultural nature. Private companies turning migrant workers into the enemies of Irish workers is the last thing the Government needs (2005).

At a SIPTU march in support of the Irish Ferries workers Jack O'Connor concentrated his attention on the services directive, saying it would allow employers "to transport workers from one end of the EU to the other and impose the going rate in the member state with the poorest conditions". He stated that the Irish Ferries dispute was symptomatic of a trend where workers on agreed national terms of employment were being replaced by migrant workers on half the rate. "Irish Ferries is providing us with a glimpse of the future labour market if neo-liberal zealots succeed in pushing through their services directive" (O'Halloran 2005). Following widespread union protest at a European level, which Erne (2008: 43) defines as 'Euro-Democratisation', the original services directive was rejected by the European Parliament in February 2006 and a new version, minus the controversial 'country of origin' principle brought before the Parliament later that year.

In November Irish Ferries, SIPTU and the Seaman's Union of Ireland agreed to go to the Labour Court which found in favour of SIPTU and recommended that Irish Ferries should honour a three year agreement on pay and conditions agreed with the union in June 2004. In a second recommendation the court found in favour of a Seamen's Union of Ireland claim that members who wished to remain with the company should do so on their existing terms and conditions. Despite the Taoiseach calling on both parties to respect the decision of the Labour Court, Irish Ferries rejected the recommendation as being "incapable of acceptance and implementation" (Dooley 2005n).

6.4.3. Irish Ferries replace Irish workers

At the end of November the dispute escalated dramatically when Irish Ferries began the implementation of its programme to replace Irish crews with cheaper agency staff from Eastern Europe. They brought agency staff on to the ferries accompanied by security personnel. The Government condemned the action of Irish Ferries. Meanwhile, four ships officers barricaded themselves into the boiler room on one of the ships, the *Isle of Inishmore* and the company suspended sailings between the UK and Ireland.

The Taoiseach again voiced concern about the possible serious damage the Irish Ferries dispute was doing to industrial relations and both he and Tánaiste, Mary Harney, again urged the company to abide by the Labour Court recommendation. The trade union movement was unhappy with the Government's proclaimed inability to intervene in any meaningful way to prevent the company from pursuing its intended course of action. SIPTU's Jack O'Connor said that while he acknowledged that one dispute could not decide the future of partnership, it was difficult to see how the process could survive "if the Government cannot bring itself to address these issues (job displacement, exploitation, the protection of employment standards) in this high profile situation" (Dooley 2005o). Meanwhile, IBEC, in a somewhat conciliatory approach and a softening of its previous position, called for a new partnership deal despite the escalating dispute. It said the circumstances of the dispute were "unique to the shipping industry and have no direct relevance to companies operating in and employing people in this jurisdiction". It added "extension of the Irish Ferries model into the broader economy, ignoring standards and involving direct replacement of Irish workers by cheaper foreign labour is therefore not something that is desirable or practicable" (Humphries and Reid 2005).

In early December there were further efforts to resolve the dispute through the LRC and the NIB. Meanwhile, on December 9th up to 100,000⁴² people took to the streets in an ICTU organised national day of protest at Irish Ferries behaviour. This was the largest trade union demonstration seen in Ireland since the tax marches of 1979. David Begg said the march was a "message to every employer in the country, that there is a threshold of decency below which the Irish people will not accept anybody being dragged, no matter

⁴² Estimates vary between those of the Garda Síochána of 60,000 to those of ICTU of 100,000

where they come from". ICTU Chairperson, Peter McLoone welcomed migrant workers. He said "we are saying loud and clear that it is not migrant workers who are depressing wages and conditions of employment, it is employers who are prepared to exploit. We want that rooted out and ended" (Dooley 2005p). The trade union leadership was clear that it wanted to minimise any possibility of fostering social tensions or pitching Irish workers against migrant workers (Krings 2007; Begg 2007).

6.4.4. The resolution

The dispute was finally resolved in mid-December through the intervention of the NIB. The agreement reached allowed Irish Ferries to proceed with the outsourcing of labour, replacing more than 500 seafarers with cheaper migrant labour hired through an employment agency. It also allowed the company to re-flag its vessels to another state. However, all new crew were to be paid, at least, the Irish minimum wage and work fewer hours than originally proposed. The terms and conditions of existing staff were protected, and all crew members had the right to join a trade union. The agreement, which also guaranteed industrial peace, was legally binding for three years (Dooley 2005q).

Just a year later, Irish cabin crew accounted for a mere 1% of the workforce on board Irish Ferries ships. None of the predominantly Latvian, Lithuanian and Polish staff had joined a union. According to SIPTU branch secretary Paul Smyth this was because the union was not able to gain access to the ships to recruit workers and the workers themselves were not coming ashore. "The problem is that the company has worked stringently to ensure those people do not become members", Mr Smyth said. The legally binding agreement expired in 2008, at which point, Irish Ferries was free to pay the outsourced workers whatever rates it chose (Brennan 2006). Irish Ferries' ships currently sail under the Cypriot flag and are not legally bound by Irish employment legislation. They are managed on a contract basis by Dobson Fleet Management, a shipping agency based in Cyprus. All agency crew are employees of Dobson's (Dobbins 2006). Postscript:

Hello, All, Just to let you know the last Irish ferries ratings directly employed by the company left on the 31st. August 2006. Myself, Anto Murphy, Seamus Collins, and Tommy Kirwan were the last. We put up a good fight but the time had come to bow out gracefully. Thanks to everyone who supported us along the way. It was a good job, the best, but now is only a part of Irish maritime history
(Tony Hayden --- 6th.September, 2006, www.irishships.com)

The Irish Ferries dispute was, without doubt, a watershed dispute in Irish industrial relations. It garnered an extraordinary level of media coverage and *Dáil* debate. Over the three month period from when it began at the end of September to its resolution in December, there were 309 newspapers articles on the subject, 29 editorials and opinion columns, 25 letters and numerous radio and TV reports. The issue was debated / discussed in the Dail on six separate occasions between October 11th and November 29th.

Figure 10: Newspaper headlines on Irish Ferries dispute



The trade union movement saw it as a sharp demonstration of the need for greater legislative provision and implementation. It awakened the Irish consciousness of right and wrong, resulting in large numbers of people on the streets. The unions became more bullish than they had been for many years. The fact that IBEC expressed support for the Irish Ferries position and action was remarkable and was a significant factor in the undermining of social partnership, that and the Government's apparent inability to prevent the action, despite being condemnatory of it.

6.5. Partnership resumes with 'Towards 2016'

The resolution of the Irish Ferries dispute in December 2005 removed a major obstacle to partnership talks getting underway. Before entering the talks the unions secured personal guarantees from Taoiseach Bertie Ahern that their concerns about displacement of jobs and exploitation would be given priority attention. But the GAMA and Irish Ferries disputes had brought into sharp focus the complex set of labour relations issues that now existed in

an Ireland of open borders. The unions made the issues of employment standards, compliance and enforcement in the labour market the central demand in the negotiations.

While there was a common thread of exploitation of vulnerable migrant workers connecting the cases featured here, there was a particular commonality between the Irish Ferries case and Laval and Viking in that employers were seeking to use EU law to help them replace EU-15 workers with lower-paid EU-10 workers. It has been argued that it was the peculiarities of maritime law which enabled the action of the employers in two of these cases and the peculiarities of the Nordic countries' collective bargaining arrangements in the other. Thus, some would argue that these cases in isolation, do not necessarily herald the beginning of widespread social dumping (Donaghey and Teague 2006). However the Irish trade unions believed that they did do just that and observed that:

they [the unions]... had to make a working assumption that, if not addressed, it was only a matter of time before we had another Irish Ferries situation, albeit on land. Without a robust legal and enforcement architecture to deal with it our evaluation was that such a dispute would release very damaging racial and social tensions (Begg 2007).

Following the decision to re-enter partnership talks, formal negotiations began in February 2006. The outcome of these negotiations, *Towards 2016*, in June of that year was seen at the time, particularly within the trade union movement, as a ground breaking development in trade union effectiveness within social partnership, incorporating government commitments to embrace a robust legislative framework, increased standards for employment protection and a new designated enforcement agency

The key employment protection provisions of *Towards 2016* were:

- The establishment of the National Employment Rights Authority (NERA) with an increase to 90 in the number of Labour Inspectors
- NERA to work with unions through agreed Memoranda of Understanding to tackle problems of non-compliance;
- The Revenue Commissioners, Social Welfare and NERA to collaborate in joint investigation units to target serious abuses of employment standards;

- The tax system to be reformed to prevent workers from being forced into bogus self-employed status to allow employers to avoid pension contributions etc.;
- Employers to be obliged to keep accurate employment records in a prescribed format for inspection by the Labour Inspectors;
- The Minister for Enterprise, Trade and Employment to have new legislative powers to allow him to publish the outcome of investigations like the GAMA case;
- A new Employment Rights procedure to be established to allow easier access to Dispute Resolution Services and with the facility to award compensation where rights are denied.
- Penalties for non-compliance in all areas of employment to be increased as follows:
 - On summary conviction - €5000 in the District Court and/or imprisonment,
 - On indictment – penalties up to €250,000 and/or imprisonment.

The Irish trade union movement saw the successful negotiation of these measures as representing “the single biggest leap forward in social policy initiated in Ireland” (Begg 2007). The Employment Law Compliance Bill, 2008 was published in March 2008 and was to provide the legislative framework for the implementation of the provisions of *Towards 2016*. In introducing it, Micheal Martin, Minister for Enterprise, Trade and Employment said: “this is the most significant single piece of legislation introduced in the employment rights area in recent years. It is a comprehensive package and a firm indication of this government’s commitment to the principles of social partnership” (DETE 2008). However, in the end, the Employment Law Compliance Bill as agreed, was never enacted, despite a commitment to do so by the end of 2008. It lapsed on the dissolution of *Dáil Éireann* on the 1st of February 2011. NERA was established and eventually had its complement of 90 staff, but it was never placed on a statutory footing and other than that, to quote SIPTU’s Jack O’Connor: “There were nine legislative changes committed to (under *Towards 2016*) and all of them, without exception, were reneged upon” (Interview, 2012). MRCI’s Siobhán O’Donoghue (while very much of the view that there was little that happened within social partnership to benefit migrant workers) believed that: “The thing that would really have made a huge difference was the Employment Law

Compliance Bill. We campaigned very hard on that but nothing happened and it's gone now, we know it's gone" (Interview 2012).

The issue of temporary agency workers (TAWs) was not covered by *Towards 2016* and was one of major concern to the unions. In the first quarter of 2005 the CSO estimated that there were 27,000 TAWs employed in Ireland, 2% of the total workforce. SIPTU believed this to be a significant underestimation and stated that employment agencies were proliferating and agency personnel continued to be used by employers, thus circumventing the conditions of the direct employment contract that the new agreement required. It pointed out that there were "as many as 520 employment agencies currently licensed to operate in Ireland, as well as unlicensed operators and off shore agencies" (SIPTU 2007; Ruhs, 2005). The formal review of *Towards 2016* provided for the introduction of the Employment Agency Regulation Bill (to replace the 1971 Employment Agency Act) before the end of 2008. It proposed that employment agencies located in Ireland, or operating within Ireland, be licensed in Ireland, abide by a code of practice and be liable for prosecution for transgression. This Bill also lapsed on the dissolution of the Dáil in February 2011 and agencies continue to be regulated under the 1971 Act. The review also committed to the transposition into national law of the new EU Directive on Equality of Treatment for Temporary Agency Workers, which was to take place by the end of 2011. It was actually transposed into Irish law in May, 2012. Under the Directive agency workers are entitled to pay and conditions equal to those of direct employees from day one of starting work. A flexibility clause is included in the legislation for some industrial sectors which enables employers in those sectors to negotiate with trade unions to try to introduce a phase-in period before full rights are received.

6.6. Conclusion

Having described in some detail the three selected case studies of migrant worker exploitation and the outcomes of same, what then is their significance in the context of this study and what was the learning for the trade union movement from them?

The case of Western Mushrooms is indicative of exploitative practices that were happening beneath the radar at the early stages of significant labour migration and the absence of trade unions in these environments. That absence is seen to be the result of a number of factors, chief among them being the nature and location of these employments. In this case,

and in the case of much of the horticulture sector, not only did it involve a small, locally established and run business which would never have had any dealings with unions, the business was also rurally based and its employment arrangements would traditionally have been 'informal' at best. In addition, historically the mushroom industry provided part-time employment to atypical workers who were seen as an unlikely trade union constituency. These then were very significant obstacles for trade unions to overcome, but as pointed out by many of the interviewees in this research, there was a moral imperative for them to do so. In spite of this, other than individual union activists operating on a 'fire-fighting' basis, as described earlier, unions had no strategically organised engagement with this sector at this time. With regard to professional union representatives, the majority saw their brief as to service their existing membership, and they had neither the scope, nor the imprimatur nor the structural support to take on this extra work. As can be seen from the discussion of the case the professional input from the MRCI, in terms of both time and resources, was enormous. But, as Holgate (2009) would contend, a relatively small, leader led, community organisation such as MRCI had the flexibility to respond in the intensive manner required which a large, professional and bureaucratic representative trade union did not. This case indicates the limitations of the traditional service model of trade unionism and its inability to be effective in dealing with workers in these types of employment situations which are highly labour and resource intensive and which demand flexibility and creative approaches to organising and representation.

While the Western Mushrooms case was resolved to the satisfaction of the workers the length of time it took, the fact that there were a number of hearings and the legalistic nature of the hearings point up the difficulties that many migrant workers have when dealing with the Dispute Resolution Services of the State. These services, which have evolved over time, are really not fit for purpose when it comes to meeting the needs of any cases other than those involving regular native Irish workers employed in unionised workplaces. In very many cases involving migrant workers, particularly in cases of gross exploitation and intimidation, the Dispute Resolution Services fail to meet the six month time limit for lodging a claim; claimants are unable to remain in Ireland for the length of time it takes to process a case; if they are now undocumented they are afraid to take a case; there are language barriers both in completing the application process and in participating in hearings; and they are intimidated by the legalistic nature of the process and the increasing involvement of barristers (Hyland 2005)

By the time the case of GAMA emerged in 2005, Irish trade unions were much more aware of exploitation of vulnerable workers and they were endeavouring to engage with many of the areas where informal practices were the norm and where exploitation was a regular feature, areas such as agriculture, hospitality and the cleaning industry. While most unions were still operating within traditional structures, some had set up specialist units, employed specialist organisers and were working with NGOs in efforts to reach such workers. The union movement had taken some comfort from the fact that the worst cases of exploitation that came to light, such as that of Western Mushrooms, occurred in employments and sectors where there was no union presence or knowledge thereof. The perception was as discussed in Chapter Five, that this lack of union availability was the major contributory factor. Thus, the theory was that, in situations where there was a union presence and particularly where the migrant workers were actual members of the union, no such exploitation could happen. However, the GAMA dispute threw up a new dilemma and indicated once again, albeit from a different perspective, that the traditional union structures and the service model were no longer fit for purpose as a one-size-fits-all approach. The unions in this case were found wanting. Concerns had been raised and passed on, there was awareness from a number of sources that there were issues and yet the case had failed to register and be dealt with at any official level within the trade union movement, other than through BATU's once-off efforts which came to naught. In spite of evidence to the contrary, there appears to have been a complacency based on the belief that the company's being apparently pro-union meant workers were protected. Even Brendan O'Sullivan of BATU, commenting subsequently on the attitude of its members displayed a level of cynicism:

All the bricklayers in Gama were Irish. They were the highest paid bricklayers in Ireland at the time, they earned around €150,000 - €160,000 a year, massive money. To be blunt about the thing, they (GAMA) obviously kind of bought off our people, they paid them extremely well so they wouldn't have any hassle (Interview, 2013).

It is clear that there was great difficulty in getting at the truth and addressing the situation. As one interviewee pointed out not everyone had access to the Dáil chamber and Dáil privilege to bring their concerns to political and public attention (Interview, SIPTU Official 1, 2013). But if the unions had a more active presence on the ground, made greater

use of interpreters and engagement off-site, had the back-up of stronger support structures and greater inter-union co-operation, they may have been more effective earlier.

The Irish Ferries dispute which came hot on the heels of GAMA probably presented the biggest test for the Irish trade union movement that it had encountered since the 1913 Lockout. It involved what had been feared and predicted by some – displacement, gross exploitation, and a race to the bottom – a perfect storm! It was the pivotal historical moment that determined the positioning of the Irish trade union movement on the issue of migrant labour. Irish unions could well have taken the approach of many other trade union movements, not least some British unions in 2009, of ‘Irish jobs for Irish workers’ and there was certainly an element of support for that position. But the unions did not go down that road. Instead they took a nuanced approach presenting the issue of the ill treatment of the Irish workers alongside the proposed exploitation of the migrant workers. The call was for fairness for all. It was pivotal in terms of the development of public opinion and served to diminish the possibility of an anti-immigrant political movement gaining traction. It could so easily have gone the other way. The result of the dispute from the trade union movement perspective was more mixed. Yes, it had some level of success in the short term with the positions of unionised Irish workers being maintained, minimum wage for the agency workers agreed and negotiation of stronger legislative protections for migrant workers achieved in the partnership agreement. But ultimately there was a failure to maintain a union presence in Irish Ferries and to have the agreed legislative reform implemented.

So, what’s the legacy? Ultimately, I’d say I doubt there is one. So, could GAMA or Irish Ferries happen again? Maybe not in the same way but there’s scope for similar. The truth of the matter is that the state was not fit for purpose; it was not fit to ensure that workers that were brought in here were treated properly and, in many ways, that’s as true today as it was then (Interview, Former National Organiser, 2013).

What is clear from the trade union response to all three case histories featured here is that the hierarchy of the Irish trade union movement saw social partnership, legislative provision and enforcement and its role within that structure as central to the maintenance and enforcement of labour standards for workers, both migrant and native Irish. This was most evident in the Irish Ferries case where, despite the massive mobilisation of both union members and of the general public, the trade union concentration was on negotiated

national agreement with no evidence of an attempt to build upon the mobilisation. There is no doubting that such a policy drive was required to improve labour standards to complement the policy of labour market openness so that migrant workers could be successfully integrated into national labour markets in a manner that avoided job displacement and wage dumping. However, the increased focus on negotiated legislative provision and enforcement was concomitant with a decreasing focus on industrial action and participation, and probably inevitably so. Turner et al. point to a possible weakening of union organisation at shop floor level, particularly in the private sector, in recent years as a consequence of the fact that bargaining was taking place at national level (2008b). ICTU's David Begg sees the process happening the other way around:

I see it differently in that if we were strong enough as unions to organise them all (migrants) we wouldn't need this type of (legal) protection. It's only because we can't solve these problems by collective bargaining that we look for more structured legal remedies (Interview, 2012).

It is argued generally in the literature that no one measure in itself is sufficient to ensure that migrant workers are accorded their employment entitlements and that, instead, a combination of active unionisation, regulation and enforcement offer the best prospect for ensuring that migrant workers are protected from exploitation (Turner *et al.* 2008b; Donaghey and Teague 2006). Increasingly, following these landmark disputes, Irish trade unions began to recognise that the traditional service model, even when coupled with greater legislative provision and enforcement, was insufficient to reach, and provide protection to, vulnerable workers while maintaining and enhancing employment standards and ensuring against depression of wages, job displacement and the possibility of labour market migration introducing a new social dumping dynamic into the Irish economy. Unions were becoming aware of the need to adapt that traditional model to a more proactive organisational model which involves making community links, co-operating with NGOs and connecting with workers, particularly low-skilled ones, across occupations and outside, as well as inside, formal structures.

CHAPTER SEVEN: TRADE UNION REVITALISATION STRATEGIES AND NEW ORGANISATIONAL APPROACHES

Chapters Five and Six have outlined the position of the trade union movement from the outset of labour migration to Ireland, they examined the challenges the unions faced and the approaches unions took in dealing with migrant workers as workers, as union members and as potential members. Chapter Five discussed the trade union policy response, union attitudes to migration and migrant workers and initial migrant worker organising efforts and barriers to same. The case studies presented in Chapter Six, in particular, illuminate the shortcomings in the union response and it was primarily the issues that emerged in those cases, coupled with the decreasing influence of the union movement, that prompted ICTU and the trade unions involved with migrant workers to re-evaluate their strategies. That process of re-evaluation had actually begun before the GAMA and Irish Ferries disputes occurred but it was those disputes which, while upping demands for greater legislative provision and enforcement, also prompted unions to move more quickly towards the development of those new strategies.

This chapter will now consider union organisational approaches to migrant workers in the context of union revitalisation and the identification of migrant workers as a particular focus in terms of that revitalisation. It will discuss the variety of union approaches, present examples of organising strategies and detail the inclusion measures adopted by unions to encourage migrant participation.

7.1. Trade union revitalisation

There was a gradual growing recognition among elements within the trade union movement, as labour migration reached its peak in the mid-2000s, that the combination of the established workplace-centred service model of trade unionism coupled with the social partnership process was not sufficient to meet the needs of a potential new membership within the migrant workforce. But it was not this recognition in and of itself that prompted unions to consider new approaches but rather it was the confluence of circumstances that led to internal debates and a re-focusing. Unions were in decline, seeing a decrease in membership, participation and political influence, migrants were arriving in large numbers, they were working in non-unionised sectors, they were low-paid and they were open to exploitation. *Ipsa facto* any union revitalisation strategies had to take account of migrant

workers and recognise the difficulty in reaching them through the traditional union servicing model with its focus on workplaces and employers. As Lucio and Perrett (2009a) observed, the crisis of trade unionism in terms of membership means that renewal is attached increasingly to questions of broader representation and coalition-building.

That recognition on the part of Irish trade unions reflects, to some extent, the findings of Janice Fine who has written of what she refers to as the “mismatch between traditional union models and the structure of low-wage work”. She suggests that the craft and industrial union models, characteristic of the 19th and 20th centuries, are no longer appropriate as workers lack the long-term relationship to an occupation that lies at the core of craft unionism; and they often lack the long-term relationship to a firm or industry that lies at the core of industrial unionism (2005: 158). While Fine was making the argument in favour of the development of community unionism specifically, the argument also holds true for traditional trade unions to re-invent themselves. Unions must develop additional and alternative, more participatory, types of collective activity if they are to appeal to a more diverse constituency with cultural backgrounds very different from those of the traditional trade union member (Donaghey and Teague 2006; Hyman 2004; Frege and Kelly 2003).

As identified in Chapter One there is a growing academic literature on trade union revitalisation which points up advances in the strategic areas of organising new sectors, greater political actions, reform of trade union structures, coalition building and international solidarity. Turner (2010) sees the crisis in trade unionism as having positive elements in that it presents opportunities for unions to engage in new strategies such as the organisation of new constituencies, while Donaghey (2008) outlines what he considers the six central strategies for potential union revitalisation - organising, social partnership, political action, coalition building, union restructuring and international linkages. While revitalisation debates inevitably focus on new models of trade unionism, it is important to remember that union revitalisation does not necessarily lead to new models, but is a specific debate about the labour movement and the need for, and possibilities of, renewal. Johnston makes the very important point that trade union renewal, social movement unionism, community unionism, labour as a citizenship movement, and organising versus servicing are all contested concepts (2001: 35). Union movements adopt and adapt as they see fit. Ruth Milkman (2014) in writing of the US trade union movement, observed that the

decision by US unions to reach out to vulnerable workers, such as migrants, is a combination of pragmatism and social solidarity in that it is born out of a recognition that the only way unions can survive is by reaching out to broader constituencies and building alliances. Recruiting, organising and mobilising migrant workers can have an impact in terms of integrating the migrants in society but also increasingly serve to revitalise the trade unions.

7.2. New organisational approaches

As the debates took place within the Irish trade union movement around the need for revitalisation, a variety of perspectives emerged, with ICTU opposed to the organising model, and member unions, SIPTU and Mandate, seeing a more pro-active organisational approach which involved making community links, co-operating with NGOs and connecting with workers (particularly low-skilled ones) across occupations as the way forward. Others, such as BATU, which went through a protracted internal leadership crisis from 2006 to 2008, adopted a ‘business as usual’ approach while the largely public service INMO didn’t look to change its organisational strategy but moved towards a policy of special measures as a way of including migrant members within its structures. ICTU endeavoured to provide leadership both in the debates and in the forging of links with employer bodies, NGOs and Government but the focus was largely a policy based one around awareness raising and promotion of anti-racism. Many within the union movement were critical of ICTU’s inability to lead in terms of bringing unions together to organise and to mobilise low paid workers. Interviewees and survey respondents both put forward the view that ICTU should have played a far greater role:

I think the public sector influence in Congress was too strong and it has effectively created a two tier Congress where the private sector unions just don’t get much of a look in. There should really have been a heck of a lot more emphasis on organising and doing the basics (Interview, Unite Officer, 2013).

In discussing the debates on the way forward for the trade union movement, ICTU’s David Begg acknowledged that when those discussions took place at Congress level in 2005/2006 he certainly saw a need for a new joint trade union approach, but as he said “we’ve never been able to agree on the right one” (interview, 2012). Begg described what he saw as the unions in Ireland becoming ‘enthralled by the SEIU (Service Employees International Union)’ and by its ‘charismatic leader’, Andy Stern and buying into the organising model

which SEIU had pioneered and promoted. SIPTU in particular bought into it and began to invest heavily in it. But Begg considers that to have been a mistake:

‘(It’s) because I think it’s predicated on the idea that people want to be activists and I think they’re going [in] the precisely opposite direction. They don’t want to be activists. You only just look around, look at any kind of organisation and, in fact, people are less and less involved – in politics, in the churches, whatever. It’s not the trend, it’s quite the opposite. And you know, if you think of it that in most organisations that people might be actively involved in as kind of active citizens, that’s to say politics, churches, charities all that stuff, it’s benign enough. But if you ask someone to get involved in this you’re putting them in harm’s way, straight away, particularly migrant workers who are so much more exposed. So, it’s difficult to do, very difficult to do (Interview, 2012).

Instead ICTU was proposing a centralised telephone helpline system with a coalition of five or six unions who were agreeable in principle. The idea was that the helpline would deal with the migrant worker’s query giving advice and direction in the first instance. Where further support was required, the caller would be referred on to the relevant union. The initial thinking was to effectively create a new separate entity for the recruitment of what would be primarily migrant workers, but the member unions were totally opposed to this proposal. However, developing a system whereby callers could be referred on to the relevant union in a timely fashion became an insurmountable obstacle. It was administratively very complex and would have required the allocation by the unions of considerable resources:

‘Ultimately the unions weren’t prepared to make the leap, they didn’t believe in it enough, that’s the truth of it. They went along with it for a very long way, they committed money and so on but at the point where it got really serious they wouldn’t go down that road because the truth was they were wedded to the organising model ...and weren’t comfortable trying to run the two models side by side’ (Interview, Begg, 2012).

While the centralised helpline never materialised, ICTU did establish *UnionConnect*, which provides online information about rights and entitlements and access to specific support through a confidential email service, and which has the support of all affiliated unions. ICTU established the Commission on the Irish Trade Union Movement, which recommended strategic organising as an important element in a new strategic plan, and established a Strategic Organising Group in 2011 to consider this. It also developed a strategy specifically for the inclusion of migrant workers and it too recommended applying

organising approaches but it would still appear to be the case that the ICTU leadership remains sceptical about the organising model and considers the focus should be more on recruitment, servicing and increasing political influence (Interview, UCD Academic, 2013).

7.3. Irish trade union approaches

A number of unions - Unite, Mandate, the CWU, the TEEU and chiefly, SIPTU - did actively engage with the organising model. While SIPTU was not the first Irish union to consider an organising approach, as the largest union, it was the first to debate it significantly internally, to commit substantial resources to its investigation, and ultimately to completely restructure the organisation to implement it. The level of engagement and success of other unions was mixed and there is certainly an issue around what constitutes 'organisation' and what is merely a recruitment drive. David Begg commenting on SIPTU's approach: "Yes, I think other unions tried to do organising initiatives but, apart from Mandate and Unite, I don't think there's very much evidence that any of them went much further than employing one or two organisers and that becomes about recruitment, rather than organising" (Interview, 2012).

7.3.1. SIPTU leads the way

In the period from 2004 to 2008 SIPTU had been trying to build dedicated organising capacity and, according to Jack O'Connor, "making a lot of mistakes in doing so" (Interview, 2012). SIPTU looked to the SEIU in the first instance with many of its staff spending time training and working in SEIU local branches in the United States. It developed relations with some unions globally that were trying to introduce change, particularly the SEIU in the US and the LHMU in Australia (now 'United Voice'). As reported by SIPTU's Noel Dowling, one of their legendary organisers, Tom Woodruff developed a very close relationship with SIPTU and particularly with Jack O'Connor. Unions across a number of countries set up a kind of global network of organising unions, meeting several times a year in various European capitals. The network included unions from the United States, Britain, Germany, the Netherlands, Australia and Canada. Individual organisers from both the United States and Australia spent a number of months working with SIPTU in Ireland. Former SIPTU National Organiser:

'It was a very interesting time in the union. It was new work; we looked at what the SEIU were doing in the US. I went to Washington, New York and

then later to the west coast, to San Francisco. I saw the techniques that they used organising there. We learned some good techniques from them about how to organise and basically they drew a big distinction between the servicing model and the organising model. The SEIU underlying philosophy was ‘never do for anybody what they can do for themselves’. You work with them to give them the skills and supports to do it for themselves. Otherwise you’re just creating a dependency culture. It was a different model altogether to the one we would have traditionally used here’ (Interview 2013).

In 2006 SIPTU established a commission on trade union renewal, chaired by an Australian trade unionist who had pioneered union restructuring in a number of unions in Australia. The commission report, which provided for organisational re-structuring was endorsed by the delegate conference in 2008. That then led to a process of rule change, leading eventually to the implementation of a radical new structure in 2010. SIPTU now operates on the basis of divisions and sectors, rather than regions and branches with all industrial staff described as organisers. It has a strategic organising department which is charged with “the design and implementation of strategic organising campaigns across specific sectors and to work with shop stewards, activists and members in building union organisation and strength” (SIPTU 2011).

7.3.2. The Unite approach

The UK-based TGWU moved towards organising very early on and established a National Organising Strategy in 2004. When Amicus and the TGWU amalgamated to become Unite in 2007, the new General Secretary, Tony Woodley, put more than five million pounds into radical re-structuring, resulting in a change of model into an organising one. He subsequently retired as General Secretary but remained on as Head of Organising:

We were actually the first movers to the organisation model. In fact, SIPTU sent over people to our schools. This would have been about the early 2000s. Discussions about it began as far back as the 1990s (Interview, Unite Officer, 2013)

However, as the Unite Officer, points out, the nature of an organising model is targeting specific sectors, which, in the case of Unite in Ireland, are building sites and the poultry sector, both in border areas. Unite is not organised countrywide as SIPTU is which means it is not really possible for the union to take a wider industrial strategic approach in the Irish situation. The organising approach adopted is primarily on a site by site basis. This is in contrast to previous recruitment approaches such as publicity campaigns involving advertising and leafleting on a broader basis:

It's a lot slower but it's deeper and more sustainable and carries itself for the long term. At the end of the day, you need to get two or three people to come on board whom you can then teach to organise, which is the whole principle of the organising model. If you just sign up everybody and they wait to be served then they'll be out of the union (Interview, Unite Officer, 2013).

Unite organisers do make connections at community level in cases where site access is difficult due to employer hostility or the nature of the employment, such as with Brazilian workers employed in the poultry sector in the border region, but the focus is more generally on connecting with workers on the employment site itself.

7.3.3. Mandate attempts transformation

Mandate took quite a revolutionary approach to organising from the mid '2000s. It was the first Irish union to do so, but it went for an immediate transformational approach without putting in place the necessary structures and back up (Interview, UCD Academic, 2013). It established an organising unit, geographically separated from the rest of the organisation and moved existing staff into organising roles. It also followed earlier aspects of the SEIU model and recruited younger activists on fixed term contracts, marking them out as separate from the main union staff: "There would have been resistance from within, there was a lack of resources, there was the inexperience of the individuals involved" (Interview, Mandate Senior Organiser, 2013). Then the economic crisis struck, with its effects on Mandate membership and income. Serving staff had to be moved back into more traditional roles and many of the fixed term contracts terminated.

The speed and lack of properly embedded resources were factors in the failure of its early organising campaigns in companies such as IKEA and the fashion chain, H&M. A great deal of time and effort was invested in engaging with the workers but Mandate failed to make any impact. They were unable to overcome employer opposition and the workers' fear and the campaigns were abandoned. In more recent times the situation in Mandate has changed. In 2010 it appointed a new Lead Organiser who previously worked with the SEIU as an Organiser and subsequently its National Executive Committee voted to place the organising department on a permanent footing with a full-time permanent staff. This is seen to be a huge step forward in terms of the status of organising within the union:

'Before, the staff there (in the organising department) were on temporary employment contracts and if people are on temporary contracts, are they really vested? So the rest of the union can take the view that 'if I don't want

to make change they're going to go away'. It's not altogether about whether we have permanent staff but it's about the signal that organising is valued as much as the servicing side is (Interview, Mandate Lead Organiser, 2013)

Mandate has since begun to focus its organising strategies on the Dublin branches of the German supermarket chains, Lidl and Aldi where the vast majority of the staff is migrant. The approach here has been slower and more collaborative, involving working with MRCI and with members of Dublin's Polish community. However, there are still problems to be overcome. The Organising Department's communication with Mandate staff throughout the country is poor. One southern-based official described being aware of it and thinking it was positive but knowing little about it and having no engagement. She described how some members of the Organising Department came to her area:

'Unfortunately, they came down and we didn't even realise that they were down which, if you want a joined up organisation, shouldn't happen. We would have absolutely no problem with them coming and would have helped in whatever way we could but it was just a bit disjointed. We believe they were at B&Q. I think we all have to work hand in hand. We work for the same organisation and it needs to be joined up' (Interview, Mandate Official 2, 2013).

This would seem to indicate that despite the words of Mandate Lead Organiser that: "the knowledge officials have of their membership and the problems in the different stores and the successes is so valuable to us in organising" (Interview 2012) they are not accessing that knowledge as a matter of course.

7.3.4. INMO maintains service model

With regard to the other unions, studied, the INMO, (which has a substantial number of migrant worker members) while pro-active in its approach to this section of its membership, does not take an organising approach. In fact, if anything, it has consolidated its service model approach and uses it to some extent as a carrot to encourage nursing home employers to engage with the union. INMO members have free access to a number of INMO sponsored training courses in areas such as safe practice and elderly care which it has been developing. Also, where nurses are members of INMO they automatically have indemnity insurance:

We have met with Nursing Homes Ireland and we have pointed out to them the benefits of membership. The only reason private nursing homes exist is to

make money ...So we point out all the advantages. That whole area (training) is very important to nursing homes because it affects their insurance, it affects patients' outcomes and all of those things and we provide that free of charge...So those are ways that we're drilling down and trying to get into nursing homes (Interview, INMO Officer 2013).

INMO is the only Irish union that developed a dedicated migrant unit and, in 2002, it established the Overseas Nurses Section (subsequently re-named the International Nurses Section), having identified what it saw as particular challenges for this group of nurses, including language difficulties, lack of access to promotion and tension between the employment of newly qualified Irish graduates and migrant nurses. There was also an issue around the dynamic of 'high density employment areas' e.g. the Mater hospital had 80% migrant nurses at one stage while they would have made up over 50% of the nursing workforce overall (Doran 2008). It has a full-time non-Irish organiser, four elected officers and a representative on the national executive. The INMO was the only Irish union to establish a specific migrant worker section though it seems to focus more on political and social issues such as family reunification and access to education rather than industrial issues which are generally dealt with through the traditional branch structure. Its mission is "to support the integration of overseas nurses into the Irish health service thus facilitating social, cultural and political integration and to ensure equality of treatment and industrial harmony" (Doran 2008: 13). The INMO overseas nurses section won a MAMA Award (Metro Éireann Media and Multicultural Award) in 2006 in recognition of its success in integrating mainly non-EU nurses and midwives into the Irish healthcare system.

7.3.5. Other unions' efforts

While CWU's structures are still very much service oriented and it has made no significant moves towards developing an organising approach, it does claim to have an organising perspective as in this from its Mission Statement: "we will build an organising union that prospers through excellence in service and commitment to recruitment" (CWU 2013). It is also actively involved in a number of collaborative ventures with other unions and NGOs such as the campaign for the low paid, "Yes we would have an organising perspective though we don't have a huge migrant population" (Interview, CWU Officer, 2012).

BATU, as a long established craft union, still operates on a closed shop basis providing services to its relatively small membership. Despite the presence of large numbers of migrants in the building industry and in the union, BATU has made no effort to change

that approach and has made no moves towards developing an organising approach⁴³. Brendan O’Sullivan of BATU points out that its history goes back a very long time:

‘(It goes) as far back as 1670 so there’s a huge long tradition of being organised that a lot of other trades and crafts wouldn’t have. A lot of the other trades – mechanics, fitters, electricians etc. – have only been around for the last hundred years or so’ (Interview, 2013).

One other union, the TEEU (which did not feature directly in my research), also moved towards organising but, according to senior UCD academic “it was a disaster” (Interview, 2013). In the midst of an internal power struggle, the organisation established the post of Head of Organising and appointed a former SIPTU female activist. The UCD interviewee believed that this appointment during a period of friction, combined with the fact that she perceives the TEEU to be ‘a very misogynistic organisation’ meant that the Head of Organising met huge resistance and lasted in the position less than a year. The organisation still purports to place organising as one of its key strategies and has charged specific officials within the organisation with responsibility for developing recruitment and organising campaigns. But it no longer has a Head of Organising and the designated officials also have other regional and national responsibilities. The UCD academic maintains that: “organising is now dead in the TEEU” (Interview 2013).

7.4. Irish organising campaigns

This section focuses on the follow-up by SIPTU, in association with MRCI on the mushroom farming sector, and on their success in ‘cleaning up’ the industry. That sectoral approach was then used as a model by SIPTU for further campaigns such as the red meat campaign, the hotels campaign and others. Indeed, the sectoral approach as was followed here defined the union restructuring that happened subsequently. SIPTU senior Organiser 1 describes the approach in general:

‘I identify which company we’re going after and from there then we could have six or seven sites located all over the country and we plan it like a military operation. Each campaign is different depending on what the target is but the basic principles of campaign planning should theoretically be the

⁴³ That situation is likely to change when, and if, BATU merges with SIPTU, consideration of which has been on the agenda of both unions since 2011 but had still not taken place at the end of 2014.

same. And you have to bring the divisional people along with you in this as well as your own teams' (Interview, 2013).

She describes the starting point as imagining the world where the campaign has succeeded, the workers are organised, terms and conditions have improved and the union has got leverage within the industry. The planning is then about how to get there, about devising a multi-faceted plan, detailing resource requirements and setting out short- medium - and long-term targets with realistic timelines.

7.4.1 Mushroom industry

Subsequent to the resolution of the mushroom case study dispute, and in light of the existence of extensive evidence of abuse of mushroom pickers in other parts of the country, SIPTU put together a special group of full-time organisers from all over the country to co-ordinate the Union's efforts to improve pay and working conditions in the mushroom picking industry. In 2009 it embarked on a collaborative project with the MRCI and ran a very successful information, recruitment and lobbying campaign in the sector. During the early stages of the campaign some claimed that it could not effect any substantial change because (a) SIPTU did not put in sufficient resources to support meaningful recruitment and organising at local level and (b) it continued to focus primarily on making changes and improving conditions through negotiation and lobbying of state agencies, government and employers' organisations (Allen 2010; Arqueros-Fernandez, 2009; 20011). In fact, the joint campaign was ultimately very successful. It attracted the support of the Irish Farmers' Association (IFA) which was unhappy at the damage being done to the industry through the exploitative practices of some firms. It resulted in the creation of a Joint Labour Committee (JLC) for the mushroom industry, SIPTU and MRCI being given access to workers in mushroom farms all over the country, the recruitment by SIPTU of 1,700 mushroom farm workers and the almost total eradication of employment rights abuses in the sector. The Mushroom Industry campaign was subsequently used by SIPTU as a model of good practice and the campaign formed the basis of an approach to be rolled out more widely.

7.4.2. Red Meat Campaign

SIPTU is also currently engaged in an organising campaign similar to the Mushroom Industry campaign in the Red Meat sector, a sector with an 80 per cent non-Irish workforce composed almost entirely of Polish and Brazilian workers. The campaign began in 2009

and the overall timescale for completion was given as five years. The red meat campaign was the first pre-planned sectoral campaign by SIPTU and the sector was targeted for a number of reasons. Firstly, there was knowledge of substantial exploitation within it, secondly it had had been substantially organised in the past and thirdly, the meat industry is a major element of the Irish economy with both a strong home and export market. The campaign has involved five organisers working full-time, travelling throughout the country. While an entirely SIPTU initiative, it is based on a community unionism model, with the SIPTU organisers working closely with the migrant workers on the ground and identifying and developing leaders at local level:

We don't go into factories. We do this in people's homes. We engage with their families, with their community leaders and we get the priests and the religious leaders involved. For the Brazilian community I would work with a lot of former missionary priests or current missionary priests (Interview, SIPTU Senior Organiser 2, 2013).

A SIPTU Polish Organiser described the process as an organic approach, which involves working slowly from the ground up, identifying leaders, creating organising committees and collectively identifying the issues, with SIPTU staying in the background as much as possible. It is the leaders, rather than the SIPTU organiser, who sign up their colleagues. The local SIPTU officials are also included in the campaign from an early stage. The process of confidence building among the leaders and within the group is a critical piece and involves leadership training:

We provide training, not in the finer points of the industrial relations act, but in how to communicate, in how to progress an issue at a grievance and disciplinary level, how to identify an issue, how to collectivise that issue if needs be. You put a support structure around them, you train the workers to go in and talk to management. They're invested in their own terms and conditions and they start taking ownership of it. Their instinct is not to pick up the phone and say I need you in here now. Their instinct is to pick up the phone and say 'I was thinking of doing it this way, what do you reckon?' (Interview, SIPTU Senior Organiser 2, 2013)

7.4.3. Fair Hotels' Campaign

During the years of the Celtic Tiger the hotel industry had a higher proportion of migrant workers within it than did any other sector and was also ethnically diverse. Also, during that time the hotel industry became increasingly de-unionised through a process of de-recognition. SIPTU had lost close to 1,000 members in the industry during the peak of the

economic boom. The de-unionisation process happened largely through re-development of hotel properties where the hotel would close for a period, existing staff would be offered redundancy packages and the hotel would re-open with a largely migrant, non-unionised workforce. SIPTU did not have a strategy to respond to that and needed to develop one, so the fair hotels strategy was born. The goals of the strategy were to stem the tide of de-unionisation by using a process of client leverage, which involved encouraging targeted consumers to choose unionised hotels which were designated as ‘fair hotels’.

‘So, it is this client leverage strategy really, informed by ethical consumption which I’m interested in. I’m interested in why that seems to be on the rise when trade unionism is on the wane internationally. I’m interested why younger people get that but they don’t get unions. So, I was trying to figure out was there a way to bring those two together here in the developed world. The trade union strategy heretofore is boycott and boycott clearly doesn’t work for unions. If boycott worked for unions, there wouldn’t be anyone flying Ryanair. But now it’s about encouraging consumers to do the right thing, not trying to stop them from doing the wrong thing.’ (Interview, SIPTU Senior Organiser 1, 2012).

Research into the industry showed that, though the hotel industry was hit by the recession, the area of business tourism – conferences, seminars etc. - was holding up. And so the idea of recruiting the trade union movement to support a campaign around union conferences emerged, a campaign based on combined purchasing power whereby unions would commit to bringing their conference business over a three year period to hotels who signed up to the ‘fair hotels’ agreement. With the backing of ICTU and the individual trade unions, SIPTU launched the campaign in May 2010 with the support of a small number of hoteliers and Fair Trade Ireland. At the launch David Begg announced that the trade union movement and its allies were moving 56,000 bed nights out of non-union hotels and into unionised hotels and hotels had a window of opportunity to compete for that business. This was very novel territory for the movement and some people were very uncomfortable with it:

‘I don’t see it that way and the vindication of it is that not a single hotel has de-recognised the union since that date and, as of yesterday, we have 12 new unionised hotels. Our approach is to say to the hotels, that’s the business you can compete for and the conditionality around it is that you sign the fair hotels agreement (Interview, SIPTU Senior Organiser 1, 2012).

The agreement provides for collective bargaining rights for the hotel staff. It requires that the employers acknowledge publicly that they recognise the right of staff to be in a union, that the general manager write to each staff member informing them that SIPTU will be coming to the hotel to present its case for unionisation that the hotel management is neutral on the issue and that should any/all staff choose to join, the hotel will bargain collectively with SIPTU. Then at the meeting with SIPTU the union representative is introduced by the management: “what we’re trying to do there is to neutralise that fear and allow workers to make a free decision” (SIPTU Senior Organiser 1, 2012).

7.4.4. Mandate’s IKEA Campaign

Prior to the placing of the Organising Department on a permanent footing, Mandate attempted an organising initiative in IKEA which has, according to the Mandate Senior Organiser: “some very bad and bizarre industrial relations practices” (Interview, 2013). It employs large number of migrant workers, primarily Eastern European and operates on the basis of pockets of nationalities working in different departments, for example the kitchen department might be staffed with all Latvians working under a Latvian supervisor while the bedroom department might have Polish staff and the customer service area is Irish. It leads to a very bad atmosphere and lots of suspicion. Part of the planning permission for IKEA was that 40 per cent of the employees would be local but in fact less than 10 per cent of the workforce is local. The main reason for this is that almost all of the jobs are part-time, with fixed term contracts of nine months duration. The Belfast branch of IKEA recognises the union and facilitates it but this is not the case in Dublin. The Mandate organiser described the union’s attempts to access the workers including working through community groups and local women’s networks and getting support from local politicians but to no avail.

‘While we worked hard on the IKEA campaign we ended up having to abandon it. The workers were so frightened of the company and of the message being delivered to them and the negativity being communicated about unions, that even though they were having real and substantial difficulties in their workplace, we couldn’t get to them’ (Interview, Mandate Senior Organiser, 2013).

IKEA then banned Mandate organisers from the site, including from the car parks which made it almost impossible to access the workers, particularly because of the isolated location of the site. Though the union was forced to abandon that campaign, since then its

organising department has been trying to develop new approaches to overcome the obstacles and communicate with IKEA workers but without any great success: “the best I can say is that we’ve learned from it” (Interview, Mandate Senior Organiser, 2013).

As can be seen the approach to organising varies quite substantially not just from one union to another but from one campaign to another. And it is also the case that just because an approach is called organising doesn’t mean it is. For it to be anything other than a recruitment drive demands a developed strategic approach.

7.5. Inclusion measures

Whatever model of trade unionism ICTU and individual trade unions have committed to they have all adopted, at some stage and to a greater or lesser extent, specific strategies targeted at migrant worker inclusion. Generally unions are considered to be suspicious of special policies for certain groups at a service level and are more comfortable with the philosophy of ‘a worker is a worker is a worker’ (Interview, Brendan O’Sullivan, BATU, 2013). But in Ireland, as elsewhere, when it became apparent that migrant workers were ‘here to stay’, most Irish trade unions adopted some specific migrant worker targeted measures, supporting Penninx and Roosblad’s theory that “in the course of time but at different points in time” most national trade union organisations come around to the view that the specific situation and characteristics of migrant workers require special attention and policies (2000: 198).

As well as pursuing its telephone helpline strategy, as previously referred to in Chapter Five, ICTU was actively involved at a policy level in awareness-raising and anti-racism and discrimination initiatives, it engaged with employer organisations to draw up guidelines for the employment of migrant workers and it produced many policy papers on migrant and migrant worker related issues. It also made a comprehensive submission to Government on the 2010 Immigration Bill and, of course, lobbied extensively on migrant issues in the wake of the GAMA and Irish Ferries disputes. With regard to individual trade unions, some migrant recruitment and organisation strategies were put in place very early on in the immigration cycle such as targeted forms of assistance and language interpretation in the case of some unions. Other strategies evolved and developed over time, such as recruitment of migrant organisers and the promotion of migrant worker

representatives within union structures. Many unions also organised diversity training and awareness-raising for the broader membership.

7.5.1. Interpretation, translation and language training

Some of the first moves taken in reaching out to migrants by trade unions were the use of interpreters in meetings with migrant workers and the translation of union promotional and information materials, including the translation of website material. By 2003, SIPTU was providing information and recruitment material in a number of languages including Czech, French, Polish, Portuguese, Russian and Spanish. It currently translates its information leaflets into 14 different languages. BATU too provided material in up to four different languages and provided interpreters where required. SIPTU has a Polish language website while the INMO nursing union supports a Filipino language section on its website. A number of other Irish unions provide targeted online information and Mandate uses and promotes google translator on its website.

Of the unions who responded to the survey, nine say they publish some materials in other languages but, in most cases, it is generic information materials. The issue is a barrier for some of the smaller and less well-resourced unions. Mandate Officer:

We do it but it's very costly. We did a ballot in Tesco a year or so ago and we printed the actual proposal document in six different languages. It's something we'd like to do more of but it's very, very expensive (Interview, 2013).

Ironically, the Southern based Mandate official in discussing the issue of Mandate information materials identified the issue of their being available only in English as a particular problem for her because of the presence of so many migrant workers in her area. She observed that when balloting for a pay increase in Tesco, the information was in English and many of the workers didn't understand it and were wary about what might be involved. She summed up by saying: "so, and I'll be shot for saying it, but maybe we should look at having notices and materials translated into other languages" (Interview, 2013). She expressed amazement when told that Mandate was already doing exactly that. "A case of the right hand and the left hand" she concluded.

Most of the unions use interpreters and try to use union members rather than professional interpreters where possible. It is generally seen to be more effective:

‘While there may be times you need to use professional interpreters, in a perfect world you bring in someone who’s like them – same job, same nationality. Who better to reach out to a number of Somalian nursing home workers than another Somalian nursing home worker or other Somalian union member’ (Interview, Mandate Lead Organiser, 2013)

There has been significantly less emphasis on language training as a strategy for engagement within Irish trade unions than in the UK, although provision was negotiated under *Towards 2016* for a very substantial increase in the numbers of language support teachers in the education system as a general integration measure⁴⁴. Only three Irish unions, (SIPTU, Mandate and the Bakers, Food and Allied Workers Union) have engaged in language training as a measure to increase involvement of migrant workers. SIPTU has an active English Literacy Scheme, which is available to SIPTU members and operated from its head office in Dublin. This programme began in 1990 as a literacy scheme for Irish members but since 2006 it has primarily been providing English language training to members whose first language is not English.

7.5.2. Migrant organisers

The recruitment of migrants as organisers has become a feature of many unions who operate in sectors where migrants are strongly represented such as agriculture, meat processing, hospitality and nursing. Wrench and Virdee (1996) refer to this as ‘like for like’ recruitment, or recruitment through shared identities. It involves using an organiser with similar characteristics to those he or she is trying to recruit in terms of, for example, ethnicity, languages spoken, religion, social class, age, gender or sexual orientation. This, it is argued, is likely to have a positive effect on membership because the union may be perceived as understanding, and better able to represent, their specific interests. There are also the very practical benefits in terms of overcoming language barriers.

At an early stage SIPTU toyed with the idea of setting up a dedicated Migrant Unit but this encountered some opposition from those who were active on migrant issues. The view was that this would marginalise migrant workers and that the approach to take was to employ foreign nationals as organisers within sections and integrate the workers into union

⁴⁴ The recession impacted on the implementation of this provision and numbers of language support teachers were subsequently reduced.

branches. In 2005 it appointed two specialist organisers with a range of language skills, including Polish, Russian and Lithuanian. These appointments were considered crucial in building contacts with migrant workers through social networks as well as through workplaces and encouraging membership. The following year it formed a special group of full-time organisers to coordinate the union's efforts to improve pay and working conditions in the mushroom industry. (Turner et al 2008a). It now has a stand-alone organising department which employs more than 20 full-time staff.

Of the other unions studied, the INMO has a full-time Filipino official who is attached to the International Nurses Section. Unite has two Brazilian organisers who are based in the North but who organise on both sides of the border. Mandate had two Eastern European organisers up to 2010 but now has only one, who is Lithuanian and who also speaks Russian and Polish. As pointed out earlier, in 2010 Mandate also brought in a former SEIU official from the US to head up its organising department. Neither BATU, the CWU, nor any of the other survey respondents, has any migrant organisers or officials.

7.5.3. Co-operation and collaboration

As discussed in Chapter One, a central element in these new organisational approaches and in the overall logic of trade union renewal is broad based coalition building (Frege and Kelly, 2004; Wills, 2001; Heery, 1998; Tarrow, 1998). Coalition building with other social movements and relevant NGOs such as MRCI and migrant and community representative groups can help unions gain access to individuals and networks within specific communities who can contribute to union organising campaigns (Frege and Kelly 2003). Such links can serve to broaden the range of interests and the agendas that unions seek to represent, and thus broaden their appeal to poorly represented segments of the labour force, such as migrants (Hyman 2001). However, in many cases unions have proved reluctant to collaborate with social movement and other such bodies, considering themselves to be the most appropriate bodies to represent workers. Hyman (2001) suggests that it is only when unions have been forced to come to terms with the decline in their autonomous influence that they are inclined to contemplate broader alliances.

In general Irish trade union collaborative initiatives seem to fit this pattern, though there was some co-operation on a policy level between the ICTU, its constituent unions and partnership bodies and NGOs in support of migrant workers from early on in the migration

cycle. From this engagement, initiatives such as the Anti-Racist Workplace as discussed earlier and the joint initiative with employer organisations to draw up guidelines for the employment of migrant workers were developed. ICTU also actively engaged with migrant support NGOs such as the NCCRI on which it was represented and had bi-lateral relations with the MRCI, and the Immigrant Council.

A number of interviewees were critical of ICTU on the issue of collaboration and felt it adopted an unhelpful superior position:

If I went to ICTU I'd say don't worry that working with small groups and that NGOs might undermine your position. It won't. Work with them as equals and when you all sit down together you'll be first among equals. Now collaboration is not easy, it's very difficult when you've got lots of groups represented to get agreement on stuff but you know democracy means a lot of meetings, it means a lot of debate; a lot of arguments. If you don't want that, then don't claim to be engaged in democracy (Interview, Unite Officer, 2013).

At a union affiliate level, unions have increasingly been engaged in co-operative and collaborative initiatives as the challenges around migrant labour grew. As far back as 2004, SIPTU joined with ICTU and the MRCI to campaign for a Joint Labour Committee for domestic workers that would formally set out terms and conditions for this previously unregulated sector (ICTU 2005; MRCI 2004). The joint activity resulted in the introduction in 2007 of a Department of Enterprise, Trade and Employment Code of Practice, which set out minimum standards for the employment of domestic workers and gained the support of ICTU and IBEC. They also took a similar co-operative approach in relation to mushroom workers, as outlined earlier:

We co-operated with migrant workers, we co-operated with FLAC, with the Law Society, with NCCRI, with African women's groups in Co Louth. We were constantly looking for people that we could link up with at all levels, local regional and national. I shared platforms with everyone and anyone, including Bernadette McAliskey. We would do anything to try and make as many inroads into the migrant community as we possibly could and that included people who were not active in the workforce (Interview, Former SIPTU regional Secretary, 2013).

At an organising level, representatives from individual unions and from NGOs have collaborated on joint campaigns and, in some cases have undertaken joint training and organising initiatives. For example SIPTU and Unite worked closely together over a period

on a joint campaign in the meat industry with SIPTU providing training to Unite organisers and SIPTU and Unite staff subsequently working side by side:

There's still a lot of scepticism about dealing with them [Unite] within this organisation but I disagree with those attitudes. They're hangovers from the past but we have to park them and move on (SIPTU Senior Organiser 2).

The Heads of Organising from a number of unions came together in 2011 to form an organising group of unions. It included representative of SIPTU, Mandate, the CWU, the TEEU and Impact and they come together a few times a year. The purpose is co-operation, sharing of information, undertaking joint training, all with a view to spreading strategic organisational capacity and skills. The group has relationships with the international organisation, Change-to-Win which provides assistance to unions going through a change process. It also has ongoing relationships with the SEIU in the US, UNI Global Union and Global Alliance. Representatives of a number of unions and NGOs also work closely together and support one another in the 'coalition to protect the lowest paid', a campaign which now consists of SIPTU, Mandate, Unite, MRCI, the National Women's Council and Community Platform. This is a group actually chaired by MRCI. However, this campaign has not involved the ICTU: "They were invited but they just haven't participated" (Interview, Siobhan O'Donoghue, MRCI, 2012). There's also an ethical trade initiative which involves a similar grouping. When asked about the perspective of MRCI on these types of collaborations Siobhan O'Donoghue was very clear:

We have to think about the long term. We're MRCI, an NGO, where are we going, are we going to exist in a couple of years? I don't really know. But also the issues are important and they should be the future burning issues for the labour movement in Ireland. It's not about us developing expertise and being precious and being separate from everything else. Success really is working with trade unions so that these are the issues that they're also concerned with (Interview, 2012).

SIPTU actually has a signed memorandum of understanding with MRCI, agreed at National Executive level which sets out an undertaking to work and collaborate on areas that are of mutual concern, to support each other's policy positions where relevant and to meet on a regular basis to agree strategic issues and actions. On a day to day basis the two collaborate on a restaurant and catering forum and on the agricultural one as well as supporting each other on their various campaigns.

At an international level, ICTU forged links with confederations across Europe and was represented on the ETUC Migration Working Group from 2007 to 2011. ICTU and SIPTU were also participants in the ETUC Workplace Europe Project which commenced in 2009, the aim of which was to develop ways to inform and train trade union representatives to support and organise transnational ‘mobile’ workers. The project concluded in September 2010. Thirty three per cent of unions surveyed have made links with unions in countries from which migrants originally came. SIPTU, in particular, established linkages with trade unions and trade union congresses in a number of countries in Eastern Europe from which large number of migrant workers were coming, initially Poland and Hungary and latterly, Latvia and Lithuania. It negotiated bi-lateral agreements for the distribution of materials about Ireland and the Irish trade union movement through the unions and through advice centres to distribute to people before they left their home country:

And there was anecdotal evidence that it was working. There was a bus stop outside Liberty Hall where a bus coming directly from Poland parked and many people came straight from that bus into Liberty Hall because they already knew of it (Interview, Former SIPTU Regional Secretary, 2013).

7.5.4. Migrant worker representation in trade union structures

The literature would suggest that of all the indicators of migrant engagement with trade unions, the low level of representation of migrants in elected positions within the structures is a particular problem. In the survey carried out for this research it was identified as an issue, though the views on the reasons for it varied. Some saw the problem as a lack of willingness on the part of migrants to get involved, either through lack of interest or because of the employers placing barriers, (such as open hostility or unwillingness to facilitate time off), in the way of union activity. Other barriers were seen to be the nature of union structures; colleague hostility; fear and uncertainty about immigration status; language barriers, lack of access to information; and fluidity of the migrant workforce. Indeed it is clear that the barriers to representation in the structures are very similar to the barriers to unionisation in the first place.

At the time of the survey, only three unions had migrant worker representation on their national executives, six had some representation on branch committees, 73 per cent had migrants as delegates to annual conferences, though in most cases the level of representation was as low as one or two individuals. And many didn’t know the level of migrant representation. As the Mandate Senior Organiser points out: “If there are 40 per

cent migrant members as in the case of Mandate, then there should be 40 per cent migrant workers at our conference and there's not" (Interview, 2013). He surmised that there was actually an average of four or five individuals.

Of the unions surveyed, 13 now have some migrant shop stewards, particularly in the sectors which have been the focus of intensive organisation campaigns. However, these tend only to emerge in workplaces where the vast majority of the workforce is non-Irish. For example, Mandate has around eight non-Irish shop stewards, mainly Polish, mirroring the fact that the vast majority of the migrant worker membership is Polish. The CWU and Unite each have fewer than ten, while BATU has only ever had one non-Irish shop steward. While SIPTU has more than 20, this is still a very small proportion. Jack O'Connor commenting on the issue of representation:

I think we were correct, albeit that it wasn't so much a conscious decision, not to create sectarian groups (migrant workers sectors) but I don't think that we have done enough to cultivate leaders among them but that's attributable to this culture problem that exists, that's not just about migrants. It's about our whole inadequacies in the organising field generally. You know we're not any more successful organising Irish workers than we are organising workers from abroad. We're not any more successful developing leaders (Interview, 2012).

7.5.5. Level of resources

It is widely recognised that there are substantial resource requirements, which should not be underestimated, for unions in evolving from a service model to an organisational model. There is an even greater resource requirement if unions are to endeavour to recruit migrant workers who are largely located in private sector, non-unionised employment and inherently difficult to organise for all of the reasons spelt out earlier such as lack of English, transience of employment, employer opposition etc. "Organising inexperienced workers is a heavily front-loaded investment, the cost of which must be borne, in the short to medium term by established union members" (Findlay and McKinlay 2003: 64). There is also the question of the long-term sustainability of organising strategies which are both labour and resource intensive (Heyes and Hyland 2012; Holgate, 2011).

The level of resourcing is a strong determining factor in the success, or otherwise, of union engagement with migrants. An organisational approach to representation is much more resource intensive than the more traditional service model, as development and leadership-building demand significantly more input. This is a source of tension within unions as staff

and elected representatives see resources being taken from mainstream union activity to go into organising. While, as can be seen, SIPTU has made a very significant commitment to investing in organising, it is not a move that is universally supported within the organisation. Two of the three Officers, Jack O'Connor and Joe O'Flynn are very much in favour but the third, Patricia King is not a supporter. While she is concerned about the demands on staff in terms of changes of work practices, her major concerns are around the level of finance being moved into organising.

The difficulty with regard to resourcing is compounded by the decrease in membership levels overall and the concomitant drop in income from union dues. When ICTU's strategic plan placed recruitment and union organisation as the number one priority for the Irish trade union movement, it called on its member unions to provide additional finance for this by making available their strike and contingency funds. The purpose of this new fund would be to support general promotional purposes and to target specific sectors such as migrants. It didn't happen (Geary 2007). A Unite Officer outlines his union's position:

Resources are an issue. There's this idea that the unions have vast resources and they don't and particularly not now. Unite is downsizing, we're a private sector union; we're coming under pressure with membership dropping due to the recession (Interview, 2013).

7.5.6. Research

Organisational research is a critical early component of any strategic organising campaign as pioneered by the SEIU: "You map out the employment; you map out the bosses, the workers, the social situations, the demographics" (Interview, Mandate Lead Organiser, 2013). SIPTU, in particular, has committed substantial resources to this aspect of organising. It has a team of researchers, directed by the Head of Organising, and their role is to provide the detailed, purpose-based research required to back up specific organising campaigns. They start out by studying the sectors and considering where it is most likely that the union could make gains, not just in terms of membership but in terms of conditions of employment, the industry demographic, its long-term future, its strategic importance and its economic potential. SIPTU Senior Organiser 2:

We look at every element of the industry, everything from who owns it, who the shareholders are, what the points of leverage are, so what makes it tick? In most cases in the private sector you'll find it's follow the money so where is the money trail, not just profit and loss. It's beyond that. What are the relationships within society for the industry in terms of political support and

so on and so forth? We will even know where an industry may export to all over the world (Interview, 2013).

The decision to focus on a particular sector is then made based on that research and, if the decision is to target the sector, the Organiser and team draw up a comprehensive staged plan: “we make a very cold objective decision based on facts. It’s not based on a response to a request or to an emotional response, we target them, we go after them” (Interview, 2013).

Another SIPTU organiser who previously worked as a union researcher described her approach to researching the successful hotels campaign: “I thought about it for a long time and I did a lot of research in the industry, a lot, a lot, a lot.” She describes how she was allowed to give it the amount of time required which was unusual in trade unions which tend towards commissioning and producing reports very quickly:

‘But they gave me the time that it takes to understand an industry because I think SIPTU did not understand the hotel industry at that stage. I think we understood it in the past but it changed and we didn’t change with it and our understanding didn’t change with it. So it took time to understand the industry and get my head around it and understand the key players such as the Irish Hotels’ Federation which was the key voice’ (Interview, SIPTU Senior Organiser 2, 2013).

The use of research in this way is an entirely new approach for Irish trade unions and a very long way from the traditional union geographical branch and section approach where a branch official focuses on a particular factory in a geographical area with little or no information about it until he/she came through the gates.

7.6. Conclusion

This chapter has discussed the issue of Irish trade union revitalisation, the debates around it and the engagement with new organisational approaches. It has located the issue of migrant worker organisation within the broader context of organisation of new constituencies and new employment sectors more generally. The fact that in most cases these newly targeted sectors employed predominantly migrants meant that migrant workers became the focus of these new approaches. As can be seen from both the literature and the comparative material presented in Chapter Three this process was not one peculiar to Ireland but many trade union movements have come to the same point in their development as they confronted decline and crisis – the need for re-invention, to develop new strategies, to

reach out to more diverse constituencies (Milkman 2014; Donaghey 2008; Frege and Kelly 2003).

The Irish trade union response to migrant workers on a policy basis can be spoken of in general terms with ICTU being strong and to the fore in terms of policy development and rhetorical positioning. To a very large extent the trade union movement spoke with one voice and conveyed a positive welcoming message to migrant workers. However, while the ICTU affiliate unions who engaged with migrant workers all adopted specific measures to reach out to them and to increase their representation within unions, there was enormous variation among the unions in terms of the degree to which they adopted and adapted policies and approaches. Also, while ICTU led the way in policy terms, it did not seek to provide leadership on development of organisational and representational strategy. In fact, as can be seen ICTU was actually in favour of taking an entirely different direction to the provision of services to migrant workers than was its affiliated unions and it displayed a level of scepticism about the engagement with organising.

Of the unions studied for this research all but two now claim to be adopting an organising approach, both as a method of reaching low-paid workers in non-unionised sectors and as a method of revitalisation. The INMO has engaged in revitalisation debates and has introduced special measures directed at its migrant worker membership but neither it nor BATU make any claim of having fundamentally changed their long standing representational model. It has been argued that the choice now facing unions is not between 'representation' and 'organising' but in striking an appropriate balance between them (Fletcher and Hurd 2001). And striking that balance appears to pose a difficulty for Irish unions. While a number of unions consider themselves to have adopted an organising approach, SIPTU seems to be the only union fully engaging with the concept. Other unions appear to be more focused on recruitment and representation in the more traditional way. They lay claim to organising but haven't committed the resources to it which begs the question is it organising or is it recruitment?

The following, and final chapter, will discuss the issues of organisation and representation of migrant workers in the context of the overall Irish trade union response and will locate the discussion within both the data and the theory. The focus will be on establishing and presenting what has been shown by this research.

SECTION 3: OVERVIEW

CHAPTER EIGHT: ORGANISING: THE WAY FORWARD?

As outlined in Chapter One, this thesis has posed a number of questions: Is there an ‘Irish trade union response’ or are there a variety of trade union responses within Ireland to the presence of migrant workers in the labour force? To what extent did Ireland’s unions maintain a traditional union-led servicing approach when dealing with this new constituency of workers or to what extent did they make new alliances and reach out to newcomers in imaginative and progressive ways? What are the commonalities and differences in responses and what are the influencing factors? How does the Irish trade union response compare to that of other European trade unions and how does it measure up?

This chapter presents a summary of the main findings of the research and posits some ideas looking to the future of a particularly Irish variant of union organisation. It provides an account of the major themes considered, grounded in the data; that is in the context of chapters Four to Eight. The focus is on establishing clearly what has been demonstrated by my research, the aim of which was to investigate how Irish trade unions have responded to migrant labour and to contextualise that response within the broader European response. It then moves on to provide an overall analysis of the findings to show to what extent this thesis has contributed to theory and knowledge in the specific area of the intersection of labour and migration studies. It pulls together the themes presented and groups them into higher order issues, leading to discussion of the wider debates on migrant worker unionisation, trade union revitalisation and new organisational models.

8.1. Context

The relationship between trade unions and migrant labour has always been one characterised by complexity and ambivalence – equally so in the case of Ireland. Labour migration is an issue that the trade union movement has generally seen as a threat due, firstly, to the fact that despite their internationalist foundations, unions are shaped by their national contexts and thus have a national focus, with their primary purpose being to represent their domestic membership. Secondly, the presence of immigrant workers in the labour force is generally considered to have a depressing effect on wages, to reduce working conditions and thus to weaken the position of trade unions. From the 1990s the combination of the growth of globalisation and the crisis of trade unionism have made the issue an even more pressing one for the trade union movement as it faced ever decreasing

membership, reduced influence, and even, as some voices suggested, the possibility of dissolution. Castells spoke of the labour movement 'fading away as a major source of social cohesion and workers' representation' (1996: 354). Confronted by such a crisis, unions have had to face up to the fact that the traditional service model of unionism is no longer fit for purpose, that they need to find new ways of doing business and that they need to reach out to new constituencies beyond the traditionally highly unionised public servants and industrial workers. Taking up Castells' point, long-wave theory would suggest that around the turn of the century was the time for such a move given an upswing in the economy and a 15/20 year time lag since the start of the neo-liberal model which had given time for a degree of labour recomposition. Increasingly, the trade union movement sees the need for revitalisation and within that paradigm the important place of migrant workers. Even at the supra-national level, for example at the ETUC, the debates and initiatives that have taken place around issues of migrant labour are indicative of the recognition at an official level.

As elsewhere, the Irish trade union movement was under significant pressure when it was confronted by the issue of labour migration in the mid-1990s. While still part of the tripartite partnership process, giving it some political influence, it was suffering a decline in membership and bargaining coverage, an erosion of traditional trade union structures and a growth in hostility to trade unionism from both the FDI and small firms sectors. Ireland was in the throes of an economic boom, the like of which had not been experienced previously. Unemployment was all but wiped out and there was a need for labour that could not be met by the indigenous labour force. And so for the first time in its history, Ireland looked beyond its own borders for new workers. This was market led immigration, in the first instance, with employers pressuring Government to open the labour market to foreign workers.

There were at the time very real and substantial barriers to the unionisation of migrant workers, some of which also applied to native workers and related to the factors outlined above and the loss of legitimacy of the trade union movement. Chief among those was probably the issue of type and location of employment whereby migrant workers were employed largely in smaller firms in services, retail and construction, sectors which were characterised by employer hostility to unions and which had become increasingly non-unionised. This contributed in turn to lack of union availability. This combined with issues

of language and communication certainly served to distance migrant workers from trade unionism in its traditional form.

8.2. The Irish trade union response

In summarising the main findings of this research, I refer back to the analytical framework and present the Irish trade union response to labour migration through the themes that emerged, grouped under the categories – policy and rhetoric; attitudes and perceptions and organisation. I then briefly discuss the factors considered as influencing that response, they being the character of the immigration, the economic and labour market conditions that pertained, the politico-legal context and the industrial relations context.

As already established in Chapter Seven it is possible to speak of an Irish trade union policy response to the arrival of migrant labour in that the shared response of the trade union movement in both policy and rhetorical terms was unequivocally one of openness and inclusion. As is evident from Chapter Three, unlike many of its European counterparts who adopted negative or ambivalent positions when first confronted with the issue of migrant labour (Wrench 2000; Bhavnani and Bhavnani 1985; Castles and Kosack 1973), the Irish trade union movement responded positively, there was no indication of resistance and the message conveyed was one of welcome (through initiatives such as nationally co-ordinated anti-racism initiatives, provision of employment rights information in a variety of languages). Irish trade unions did not seek restrictions on immigration in the first instance and, instead, co-operated with government, employers and non-governmental organisations in facilitating the arrival of migrant workers. As discussed in Chapter Six this was not just a reflection of union solidarity but was also born out of a level of pragmatism:

Even from the standpoint of enlightened self-interest, exploitation of a vulnerable group undermines pay and conditions of indigenous workers' (ICTU 2005: 3).

This positive and welcoming approach was also a feature of the trade union movement response in Spain and Italy both of whose union movements come from an oppositional tradition, whereas Irish unions were located within a corporatist model. Likely it was influenced by their being later countries of immigration and by the economic conditions that pertained, but it is also the case that all three were countries with long histories of emigration which would seem to indicate that this too influenced their position.

At an attitudinal level too, despite expectations to the contrary, there were no anti-immigrant attitudes displayed within Irish unions by professional union staff. While there were issues around increases in workload and some frustration among staff as unions moved towards new organisational approaches with a change in work practices, there was no evidence of overt racism or xenophobia. However, there was some passive resistance which manifested itself largely in inertia as in union officials offloading cases of migrant worker exploitation that were brought to their attention onto colleagues or NGOs. The situation was more complex at shop-floor level where there was evidence of racial tensions. There were examples of this given by interviewees from all of the unions, indicating that in a racially mixed workforce, issues of racism and xenophobia will arise among workers in general and also among elected union shop stewards. These need to be acknowledged and managed through the provision of training and support both by the union and by the employer, ideally working together.

And so the number of shared elements of the response to labour migration is quite significant in terms of unions' policies and public statements and internal attitudes and perceptions. Of those unions studied for this research, all reported similar approaches and experiences. It is around the issue of organising and representation of migrant workers that there is greater variation and the more interesting data emerges.

In the initial stages, while Irish trade unions adopted an inclusive approach to migrant worker organisation, it was a passive approach and no union was pro-active in the recruitment or organisation of these workers. Rather they actively engaged in 'soft organising' practices such as awareness raising, literature distribution and anti-racist campaigning (Dundon *et al.* 2007).

While ICTU's response to migrant labour was positive on a policy basis and it led the union movement in that regard, it did not come to the fore as an organisation to act as a co-ordinating force in relation to the development of organisational strategies. It does not appear to have provided leadership in either the debate or in the development of strategy and has been the subject of some criticism for this. But ICTU, as with its affiliates, also had to confront the effects of union decline and the economic crisis on the organisation. The decline in union membership led to a severe decrease in its funding base. That,

combined with the collapse of social partnership latterly has placed the ICTU in a position where, like its union affiliates, it too has to reinvent itself.

The initial union response was well intentioned but the lack of co-ordination was problematic and the role of the individual activist/official was absolutely crucial both in connecting with migrant workers and in contributing to changing attitudes within unions. This is supported by Kelly who considered that the “role of the individual activist in industrial relations has been seriously understated” (1998: 127). Also Greenwood and McBride (2009) see the presence of the union activist as being key to any organising success

All unions who engaged with migrant workers developed specific strategies to a greater or lesser extent – specialist organisers, use of interpreters, translation of materials and co-operation with other agencies. Factors determining the level of development of these strategies were resources primarily (both human and financial) particularly in cases where migrant worker organisation was not prioritised by union leadership. The re-allocation of resources from general servicing to support specific migrant targeted strategies was an essential element of their success. One of the strategies to recruit migrant workers into unions is to encourage their representation within the structures. However, in Ireland, as in most other European countries, migrant worker representation at decision making levels within unions remains extremely low; their presence is not reflected to any great extent within the structures, reflecting the pattern that has existed with women for many decades. It is still relatively early in the migrant worker/trade union relationship in Ireland to be definitive about the success or failure of this strategy. It is research to come later in the immigration cycle that will determine that.

The industrial disputes at Irish Ferries and Gama were major ‘tipping points’ in the national debate around labour migration and exploitation and in the subsequent reconfiguring of capital, labour and state relations. While ICTU and the individual unions involved concentrated on legislative solutions in the first instance and did not capitalise on the public mobilisation that had taken place, the power relations shifted on the issue and the trade union movement achieved strong commitments to legislative protection and enforcement. It was their position in the corporatist decision making process that gave them a level of power at that time. Possibly it was also that position that made the trade

union movement feel insulated from the deleterious impact of labour migration in the early days and also perhaps explained that initial inertia in their approach to migrant organisation

The internal union debates around revitalisation and unions re-connecting with their original social movement origins had actually commenced pre-these tipping points but the issue became even more pertinent in the follow-up to these disputes and the increased suspicion in the social partnership process from both trade unionists and employers. There was a growing recognition among some elements, as labour migration reached its peak in the mid-2000s that the combination of the established workplace-centred service model coupled with social partnership, was not connecting with the potential new membership within the migrant workforce. But it was really the confluence of circumstances that led to moves towards revitalisation and organisation with migrant workers central to those moves. Unions were in decline, seeing a decrease in membership, participation and political influence, migrants were arriving in large numbers, they were working in non-unionised sectors, they were low-paid, they were open to gross exploitation, as evidenced by Gama and Irish Ferries particularly. *Ipsa facto* any union revitalisation strategies had to take account of migrant workers and recognise the difficulty in reaching them through traditional union methods with their focus on workplaces and employers. And so, unions began to engage more strategically with new organising approaches. Migrants became central to these new strategies even if unions couched this turn in the more generic language of ‘the low-paid’. The fact is that migrant workers have, for some time now, constituted the vast majority of the low paid and so, in targeting the low-paid as a critical element of their revitalisation strategy, unions were targeting migrant workers.

What becomes clear from the research is that the issues of new organising approaches and organisation of migrant workers were very much part of the internal union discourse both at union and at confederation level (SIPTU 2011) but that not all unions have gone the organising route. There is no one union response to migrant worker organisation and representation. Instead what we see are differing responses from different unions. SIPTU has embraced organising and seems to be the only Irish based union fully engaging with the concept in that it has studied the model, it has restructured and it has allocated substantial resources, both financial and human, to organising. Unite too has made the move to organising but the focus of its more innovative organising initiatives appears to be

largely UK based. Mandate is the only other union that has engaged in restructuring and allocated some finance but its activities still appear to be more focused on recruitment and representation in the traditional way with efforts at innovative organising strategies still at a very embryonic stage of development. Others such as the INMO, BATU and the CWU have continued to employ a servicing model – in line with the closed shop approach. While others lay claim to organising, evidence indicates that though they use the language of organising, they are actually engaged in recruitment (Hyland 2014; Heyes and Hyland 2012) or as Holgate (2009) said of UK unions, more engaged in discourse on the subject of organising and new forms of unionisation than in the practice. They lay claim to organising but have not committed either the financial or human resources necessary for it to be anything more than recruitment. This reflects a dilemma frequently posed in the international literature (Milkman 2006; Ness 2005; Tait 2005; Cobble 2001)

While strategic organising is only a feature of the approach of a small number of unions, the fact that SIPTU, with 34% of overall union membership, is one of them means that it can safely be said that new organisational approaches are a feature of Irish trade unionism. Further it can be said that there is an Irish model of organising emerging, one which takes an organising union-led approach with the dynamic drive being internal to the union and not external, as in pressure from faith based organisations or NGOs. Though the union is working with and through community and interest and faith based groups, it is doing so within existing trade union structures (Holgate 2009; Fine 2005).

Finally, a further feature of these new approaches is that, largely through their engagement with migrant workers, Irish unions have increasingly seen the benefits of co-operation and collaboration with other unions and with NGOs. This willingness to collaborate is doubtlessly born out of a recognition of the weakening trade union position as described by Hyman (2001) but nonetheless its manifestation is noteworthy, the relationship between SIPTU and MRCI particularly so. Both organisations seem to recognise the benefits and value the contribution that each can make to the process e.g. MRCI seeing its role as engaging in areas where unions can't easily organise, such as domestic workers. Also noteworthy is the successful collaboration of the unions, SIPTU, Mandate, Unite and the CWU with a number of NGOs and campaigning groups in the 'coalition to protect the lowest paid'.

8.3. Explanatory factors for union response

The evidence, supported by the literature, would indicate that the initial positive response of the Irish trade union movement to migrant labour was influenced by the combination of a number of favourable factors - the positive economic climate and the resulting buoyant labour market with its evident need for additional labour; the fact that the majority of the migrants, in the first instance, were European, educated, and culturally Roman Catholic in the main, thus reducing the sense of threat to the national union membership; the industrial relations context of social partnership which provided the unions with access to influence; and, in terms of the politico-legal context, a pragmatic recognition of the inevitability of labour migration, given the growth of globalisation and the combination of employer demand and Government acquiescence. While these factors were still in play in the mid-2000s the other factors that influenced the more pro-active approach to migrant workers that began to evolve at that point were the increasing growth in the informal sector and irregular forms of employment, the fear of displacement, increasing knowledge of exploitation, the lack of strong legislative protections and the continuing trade union decline.

What became clear through the research process as indicated earlier is that with regard to organisational approaches to migrants, there was not a homogeneous trade union response and that the unions studied responded in a variety of different ways. What then were the factors that accounted for that variation? This research would indicate that it was accounted for primarily by the type of union. That is that SIPTU as a large generalist union responded in one way while BATU as a small, closed shop craft union responded in another and the INMO as a professional, largely public service union took another approach again. The issue of the closed shop is very important here as it applies also in the case of Mandate in relation to a number of large employment sites. Nissen and Grenier argue that the more closed the union structure and the more dependent on the 'hiring hall and country club approach', the more closed they are to representing migrants in terms of their strategies and forms of organisation (2001: 274). Connolly et al (2011) pointed to the need to appreciate the internal politics of unions and how traditions of identity and narratives influence the way choices are made. They contend that the influence of external variables is mediated by a 'framing process' that is internal to the union and mainly built around the notion of identity. This view is also supported by Frege and Kelly (2003) who argue that trade union responses to the organising vs. servicing dilemma are strongly influenced by union internal structures as well as by the institutional context.

The impacts of the Gama and Irish Ferries disputes in particular were significant factors in (a) Irish trade unions questioning the efficacy of the traditional service model in reaching vulnerable (largely migrant) workers and (b) the divergence between unions' approaches to organising. It was these disputes that showed up the limitations of the service model as it was then operating. Prior to the Gama dispute there was a certain complacency within the trade union movement, based on the belief that exploitation of migrant workers only took place in situations where there was no union presence, such as in the case of the mushroom industry as outlined in Chapter 6. The belief then was that no such exploitation could take place in employments where there was a union presence. The Gama case debunked that particular myth and the unions were confronted painfully with the reality of the need for new thinking.

The impact of the Irish Ferries dispute was somewhat more complex and more significant in the context of having far reaching effects beyond the introduction of legislative protections that did not live up to their original promise. In this instance the trade union movement positioned itself carefully and presented a nuanced message to the workers, the social partners and the public. They rejected the position of 'Irish jobs for Irish workers' which they could have adopted and which was the approach taken by many other trade union movements in similar circumstances (e.g. British unions in 2009, French and Dutch unions in the 1970s). Instead the call was for fairness for all, presenting the ill treatment of the Irish workers alongside the proposed exploitation of the migrant workers. This was pivotal in terms of the positioning of the issue within the public discourse and served to diminish the possibility of an anti-immigrant political movement gaining traction at that time. It was a seminal moment for the trade union movement as it positioned itself in terms of its own membership, migrant workers, the state and the public more generally. Had it responded in a more protectionist manner, the outcome could have been very different.

8.4. Contribution to literature

This section considers the findings of the thesis in the context of the main conceptual debates that underpin the research which are that: (a) the organisation of migrant workers as a new constituency is potentially a mutually beneficial proposition for both trade unions and migrant workers; (b) new approaches to organisation such as community unionism and social movement unionism, involving the organisation of low paid, low skilled, mainly

migrant workers, have the capacity to rejuvenate trade unions; and (c) there is no one best model of unionism.

If unions stay in the servicing model, they will die. The servicing model is a title that should never have been adopted. It shouldn't be servicing vs. organising. If we don't have industrial officials, the unions will die. It's not people but the way we do our work. There has to be a blend of servicing and organising and recruiting (Interview, Mandate Senior Organiser, 2013).

This quote sums up one of the central themes that emerged from the research which is that the trade unions recognise that they are in crisis, that 'business as usual' is not an option, that they need to develop new strategies and new approaches to recruitment and organisation but that there is no single 'off the shelf' model to be used by all. The nature of the debate with the servicing model on one hand in opposition to the organising model on the other, is simplistic and unhelpful (Fairbrother *et al.* 2007).

Increasingly the literature indicates that there is no one best way for labour to respond to migrant labour but that what is needed are a range of innovative trade union strategies with an orientation towards social justice and collaborative practice (Frege and Kelly 2003; Cobble 2001). And this research would indicate that this too is the perspective within the Irish trade union movement. There is a recognition that unions must develop additional and alternative, more participatory types of collective activity if they are to appeal to a more diverse constituency, that they need greater co-operation with each other and with other agencies in order to connect with low-paid and migrant workers. But while some see a new organising approach across low-paid, low-skilled occupations as the way forward not all see this as the best route for them and others wish to take elements of an organisation model and combine them with their existing servicing traditions.

However, while in principle, there is no conflict between organising migrant workers and servicing existing members, in practice, resource issues are a factor with union sustainability being the ultimate concern. 'This leads to realities of attempting to tackle migrant organising and membership decline from existing resources rather than reallocating resources from existing services' (Fitzgerald and Hardy 2010: 146). Organising is both labour and resource intensive and also there is the related issue of the long-term problems unions face in sustaining activism and cohesion after an organising victory (Katz 2001; Milkman and Wong, 2001). This is particularly the case where unions have adopted what Fletcher and Hurd describe as the 'organisational combustion'

(organising at all costs) approach, This is a crucial issue for unions pursuing an organising approach (see Heyes and Hyland 2012; Holgate, 2011).

What is abundantly clear from this research is that Irish trade unions have recognised the potential of migrants as a new constituency. As has been pointed to above, while the language may have been around low-pay the trade union revitalisation drive has been driven by the presence of migrants in the labour force. While all are not necessarily engaging with new organising models, almost all have adapted their approach to unionisation in ways to, at least, accommodate this new constituency. In the case of those unions that are adopting new approaches, and particularly in the case of SIPTU, I pose the question of where this emerging Irish model fits. Is it a new model or a variant on international organising models? Can we discern a community orientated unionism of an Irish type? Is it more than just an organising model?

This research posits that the Irish model of organising that is emerging is different to other models, though it shares many characteristics. Although it takes an organising approach, it is union led, it is employment focused and it is research based. The dynamic drive was not external to the unions e.g. pressure from faith based organisations or NGOs. Rather it was an inner union dynamic, led in the first instance, by committed activists and developed with the support of internal union leaderships. It is happening within the existing structures of the union which may well be making links with communities but it is directing the work. It may be that it's not yet fully formed or it may be that different strategies are required for different situations. While it cannot be described as community unionism in that it is not community based and while it has moved beyond the workplace and beyond standard trade union modalities, the trade unionists interviewed for this research would say that though engagement at community level is very much a feature of their work, it is not a free choice but one driven by inability to access the workplace. Thus the approach could be termed a community oriented organising approach. Thus the approach could be termed a community oriented organising approach (Upchurch and Mathers 2012, Moody 2009; Wills 2006; Frege and Kelly 2004)

Finally I would argue that my focus on trade union revitalisation rather than migrant social integration, for example, has added a much needed alternative focus in Ireland. While there have been many studies of migrant workers and the problems they face there have been

very few focused on migrant workers as potential constituencies for trade unions facing decline and seeking means to revitalise their situation. Irish trade unions did rise to the occasion in their unplanned, sometimes patchy yet eventually effective engagement with the migrant worker population. In doing so they not only played a leading role in shifting the national discourse around migration, effectively blocking a xenophobic reaction, but they also revitalised their own democratic structures, organisational drive and political orientation.

8.6. Future research

There is considerable scope for future research into the theory and practice of an ‘Irish model’ of organising. As seen above the trade union model was not a particular focus of my research when I started out. It was only through the research process that it became clear that the development of new models and strategies was central to trade union debate and development. A future action oriented research approach could build upon the research conducted for this thesis to further interrogate trade union thinking and to develop the theoretical and practical parameters of what an ‘Irish model’ might look like.

As SIPTU’s engagement with the organising model reaches its fifth year in 2015, this would seem a suitable time to undertake research into its sustainability. As has been noted organising is highly resource intensive and SIPTU entered into it at a time of decreasing union membership. Sustainability is an issue raised in the literature and it was one that also emerged in this research with many of the interviewees involved in organising expressing concerns around member retention following organisation.

A further research area that recommends itself is that of migrants’ experience of trade unions in Ireland. To my knowledge there has only been limited research in that area to date in Ireland (Turner et al, 2008a; 2008b) and there is scope for a more broad based study into migrant workers’ knowledge, experience and expectations of trade unions. This would be a necessary complement to the research I have conducted which has been largely from a trade union rather than a migrant perspective.

Finally, a rich area for research is that of union co-operation and collaboration with NGOs, community groups and faith based groups in reaching out to unorganised workers and the capacity of such alliances to maximise organising and representative efforts. In this context

the Irish case could inform the broader international debates underway which are focused largely on the UK and the US.

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APPENDICES

Appendix A: List of interviewees

Appendix B: List of themes and codes and categories

Appendix C: Union Survey

APPENDIX A: LIST OF INTERVIEWEES AND SCHEDULE

ORGANISATION & POSITION	DATE	LOCATION
ICTU		
1. David Begg, General Secretary	8/6/2012	Dublin
2. ICTU Officer	3/9/2011; 5/8/2012	Dublin
SIPTU		
3. Jack O'Connor, General President	3/6/2012	Dublin
4. SIPTU Senior Organiser 1	9/5/2012	Dublin
5. SIPTU Senior Organiser 2	23/5/2012	Dublin
6. SIPTU Industrial Organiser 1	22/4/2013	Meath
7. SIPTU Industrial Organiser 2	29/4/2013	Cavan
8. SIPTU Shop Steward	29/4/2013	Cavan
9. SIPTU Specialist Organiser	16/11/2011; 5/10/2103	Brussels; Dublin
MANDATE		
10. Mandate Senior Organiser	21/2/2013	Dublin
11. Mandate Official 1	23/4/2013	Fingal
12. Mandate Official 2	26/4/2013	Limerick
13. Mandate Lead Organiser	5/4/2013	Dublin
INMO		
14. Liam Doran, General Secretary	26/5/2012	Dublin
15. INMO Officer	22/8/2013	Dublin
BATU		
16. Brendan O'Sullivan, General Secretary	27/3/2013	Dublin
MRCI		
17. Siobhan O'Dohoghue, Director	18/5/2011; 3/3/2012	Dublin

18. MRCI Officer 1	5/2/2012	Dublin
19. MRCI Officer 2	15/7/2013	Dublin

CWU

20. CWU Officer	1/8/2012	Dublin
21. CWU Official	1/8/2012	Dublin

UNITE

22. Unite Officer	27/2/2013	Dublin
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Former SIPTU/ Key Informants

23. Former SIPTU Regional Secretary	7/8/2011; 3/4/2013	Dublin; Dublin
24. Former SIPTU National Organiser	15/4/2013	Dublin
25. Former SIPTU Nat. Exec. Member	14/6/2013	Navan

ETUC

26. John Monks, General Secretary	27/4/2012	Brussels
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PICUM

27. Michelle Levoy, Director	6/5/2012	Brussels (telephone)
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UCD

28. UCD Academic	8/10/2013	Dublin
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APPENDIX B: INTERVIEWS - CODES & THEMES

Macro Issues

- 1 trade union response to migration
- 38 nature of trade unionism pre-migration
- 50 Future of labour migration

Organisation

- 9 Organisational model & approach
- 10 SEIU model of organisation
- 11 organising campaigns
 - 5 trade union renewal
 - 4 trade union structures
- 8 migrants as a new union constituency
- 24 co-operation and collaboration
- 51 ethical trading
- 41 research

Corporatism and Legislation

- 22 legislation & NERA
- 23 Social partnership
- 20 labour market regulation
- 14 collective bargaining
- 12 Planning for migration
 - 2 Consultation on opening of labour market

Approaches to migrant organisation

- 52 Migrant-organisers
- 15 Equality vs special measures (inc. integration)
- 32 interpretation & translation of materials
- 37 migrant worker representation in trade union structures
 - 3 recruitment & membership
- 34 level of resources on migrant workers
- 28 services to non-union members
- 40 role of individual activists
- 45 shopfloor/branch response
- 49 EU & non-EU workers
- 43 record keeping
- 35 barriers to recruitment
- 36 migrant resistance to unionisation

Sectoral organising

- 46 domestic workers & home helps
- 47 mushroom workers
- 48 organisation of nurses

Major issues of migration

- 6 positive aspects of migration
- 7 negative aspects of migration
- 27 dealing with undocumented workers
- 29 displacement
- 31 language issues and training
- 21 discrimination
- 16 exploitation
- 39 racism & xenophobia
- 18 impact of labour migration on pay and conditions
- 42 inter- racial tensions & labour force segregation
- 30 growth in non-compliance since recession
- 44 seasonal work
- 17 Gama and Irish Ferries
- 26 Agency workers, recruitment agencies

APPENDIX C: SURVEY QUESTIONNAIRE

1. General Information

This survey is being conducted as part of a doctoral research study into migrant workers and the trade union movement, supported by ICTU. The outcomes of the study will be fed back to ICTU and to you, the affiliated unions, with a view to contributing to policy development, recruitment and service in this area.

The survey is four pages long and should take no more than 10 minutes to complete. Your support in completing it would be enormously appreciated.

For the purposes of the research I use the UN definition of the term 'migrant worker' as referring to a person who is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

1. Name of trade union

2. Person responsible within your union for issues relating to migrant workers

Name:	<input type="text"/>
Title:	<input type="text"/>
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
City/Town	<input type="text"/>
Email Address:	<input type="text"/>
Phone Numb	<input type="text"/>

2. Recruitment and Membership

2. To what extent does your union hold information on migrant worker membership?

- Holds substantial information
- Holds some information
- Holds no information
- Opposed in principle to collecting this information
- Don't Know
- Practical difficulties in collecting this information (please give details)

3. What is the total membership of your union?

4. What proportion of your union's membership is made up of migrants?

- %
- 1% - 5%
- 6% - 10%
- 11% - 15%
- 16% - 20%
- more than 20%
- None
- Don't know

5. What is the proportion (approx) of migrant workers in the sectors your union represent?

- 1-5%
- 6-10%
- 11-15%
- 16-20%
- Don't know

6. How has the current economic recession impacted on union membership?

	Increased	Decreased	No change	Don't know
Overall union membership	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Migrant worker membership	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

comment

7. Has the recession impacted on your union's policies in relation to migrant workers?

- Yes
- No
- Don't know

If yes, please give details

8. How, if at all, has the recession impacted on your union's approach to recruitment? (Please tick all relevant boxes)

- Developed new strategies
- New focus on organisation
- Targetted specific groups of workers (eg migrants, young people)
- Targetted specific sectors
- No change in approach
- Other (please give details)

9. Does your union have a strategy in place to increase the proportion of migrant workers through any of the following methods? (Please tick all relevant boxes)

- Publishing leaflets and brochures in languages other than English
- Targeted recruitment campaigns
- Employment of staff with special responsibility for migrant worker recruitment and membership
- Campaigns on migrant issues
- Developing links with NGOs or community organisations who work with migrants/ethnic minorities
- None of the above
- Other (please give details)

10. Do you see any of the following as causing particular difficulties for your union in recruiting migrant workers? (Please tick all relevant boxes)

- Language barriers
- Nature of employment
- Location of employment
- Resistance to unionisation
- Lack of staff resources
- Lack of financial resources
- Don't know
- Other (please give details)

3. Participation

12. Does your union have any migrant workers as shop stewards/workplace representatives?

- Yes
- No
- Don't know

13. If yes, how many?

- 1 - 5
- 5 - 10
- 10 - 20
- more than 20

14. Are migrant workers represented on your decision making bodies listed below?

- Yes
- No
- Don't know

15. If yes, how many?

	1-5	6-10	11-15	16-20	more than 20
National Executive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Branch committees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Annual conference	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other committees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't know	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16. Are migrant workers employed by your union?

- Yes
- No
- Don't know

17. If yes, how many?

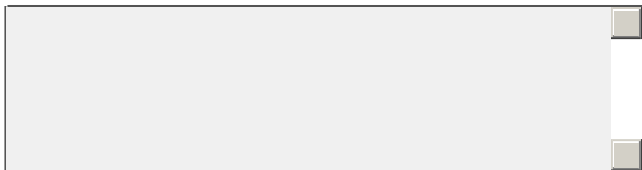
	1-5	6-10	11-15	16-20
At Union official level and above	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At support staff level	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't know	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**18. What measures has your union taken to increase involvement of migrant workers?
(Please tick all relevant boxes)**

- Targeted training on trade union issues
- Language training
- Anti-discrimination training for broader membership
- Special committees
- Specialist services (e.g. leaflets in different languages)
- Positive discrimination measures (e.g. reserved places on committees)
- Forged links with unions in countries from which migrants originally came
- None
- Other (please give details)

A rectangular text input field with a light gray background and a vertical scrollbar on the right side, intended for providing details for the 'Other' category.

19. What do you see as the obstacles for migrant workers to advance within your union? (advancement as outlined in questions 12, 14 & 15 above)

A rectangular text input field with a light gray background and a vertical scrollbar on the right side, intended for describing obstacles to advancement.

4. Policies and Services

20. Does your union have a stated policy on:

	Yes	No
Immigrant workers	<input type="checkbox"/>	<input type="checkbox"/>
Irregular/illegal migration	<input type="checkbox"/>	<input type="checkbox"/>

IF YES, PLEASE GIVE DETAILS OF POLICY DOCUMENTS AND INDICATE WHERE THEY MAY BE ACCESSED

21. Do migrant issues feature in workplace negotiations? (issues such as language training, translation of health and safety materials etc.)

- Yes
- No
- Don't know

If yes, please outline types of issues

22. What particular services does your union offer to migrant workers? (Please tick all relevant boxes)

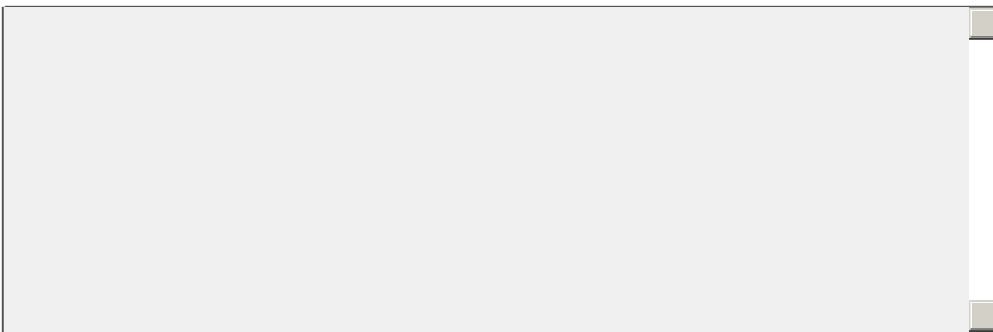
- Workplace advice
- Workplace representation
- Language training
- Training on trade union issues
- Advice and services on migration issues (eg work permits, residency)
- Advice and services on social issues (eg housing, health)
- None
- Don't know

23. Are these services available to:

- Union members only
- Both union members and non-union members
- Migrants in irregular/illegal work
- Don't know

24. Please outline briefly the characteristics of any initiative your union might wish to take to increase participation of migrant workers in union structures.

Such an outline will be considered as an expression of interest to the Integrated Workplace Strategy Challenge Fund, as described in the covering email, which will see 3 grants of €5000 for such initiatives. If your proposal is successful, your union will be asked to develop the idea further.



25. FINALLY, If you would like to add any other comments or observations, please do so here

