

From marginal work to core business

**European trade unions
organising in the
informal economy**

This report is based on the proceedings of a conference organised by the Dutch trade union Confederation FNV in collaboration with the International Restructuring Education Network Europe (IRENE) and with the support of the European Trade Union Confederation (ETUC):

**Organising in the informal economy:
From marginal work to core business: taking the
'informal(ising)' margins of the European
labour market to heart.**

12-15 January 2003

Kontakt der Kontinenten, Soesterberg, Netherlands

The event was attended by some 100 participants from national and international trade unions, international networks, workers' associations, labour-support NGOs (non-governmental organisations), plus specialists from Ministries, the International Labour Organisation and other researchers. They came from Western, Eastern and Central Europe, along with four experts from countries of the South.

This report was edited by Celia Mather, a freelance writer/editor based in the UK specialising in workers' rights in the global economy.

May 2003

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What we will do back home

Conference participants were asked how they will promote and popularise the organisation of informal workers in their own countries. Here are some snapshots of their answers:

Vsevolod Barbaneagra of the **Moldovan** Confederation of Trade Unions **CSRМ** will try to contact trade unions from the countries where are migrants from Moldova.

Jorma Rusanen of the **SAK** union federation in Finland said it was time to evaluate progress among SAK affiliates who had been asked to change their statutes to allow in the 'self-employed'.

Helena Cornejova of the **Czech-Moravian** Confederation of Trade Unions **CMKOS** offered to feed these ideas into the impending recruitment drive in the Czech unions.

Dan Gallin will propose more activities on sex workers and their trade unions in **WIEGO**.

Plamen Dimitrov of the **CITUB** union federation in Bulgaria plans to establish a report on informal employment and trade union policy and the actions needed, to present to the National Conference of the CITUB in february in Sofia.

Jordi Gutierrez Suarez of the Comisiones Obreras in **Spain** will pressurize his government to give legal protection to economic dependent own account workers, and give them the right to negotiate about their working conditions.

Leontine Bijleveld of the **FNV Women's Department** in the Netherlands will try to ensure that the results of this conference go to the ICFTU Women's Conference the following month.

Margareta Tuch from the **EAKL** union federation in Estonia wants to develop new services to cater for the needs of workers in the informal economy, and felt it important to take back to her organisation the experiences from non-European countries to organise undocumented workers.

Marlena Pawlowska of **NSZZ Solidarnosc** in Poland will write an article for her union newspaper and encourage her organising team to start some initiatives among the 'self-employed'.

Jose Reginaldo Andrietta, International Young Christian Workers, will bring these issues to the international YCW gathering in May 2003 for young people.

Faith O'Neill of the **ILO Bureau for Workers' Activities (ACTRAV)** will prepare a detailed survey on organising in the informal economy for circulation throughout the labour movement.

Ruza Rudic Vranic of **Femina Creativa** in Yugoslavia will make a presentation to the Entrepreneurial Advisory Committee of the Ministry of Economy and Privatisation in her country.

Paddy Moran of the Irish trade union **SIPTU** would like to lobby for a European directive to ensure that migrant workers are given more protection.

Eva Scherz of the Austrian Union for commercial services **GPA** is going to do networking with NGO's, and will put organising on the top of the 'To Do' list.

Tony Young of the British **TUC** will bring home the importance of organising in creative ways in the informal economy.

Introduction

'Pour une Europe plus démocratique et citoyenne'.

'Make Europe work for the people!'

(ETUC Congress, Prague, May 2003)

The so-called 'informal' economy is growing in Europe - in Eastern, Central and Western Europe - and trade unions across the continent are responding by reorienting their strategies and coming up with innovative activities. But they often know little about each other's experiences. If we are to reach out successfully to the millions of workers in the margins of the European labour market, then exchange of information and mutual inspiration is crucial.

This is why the ETUC supported the conference "From marginal work to core business - organising in the informal economy", organised by the Netherlands Trade Union Confederation FNV in January 2003 in Soesterberg, Netherlands. We are grateful to the European Commission for helping to finance the conference, giving the trade unions an opportunity to develop new strategies and practices.

This report is an important document for the ETUC and its affiliates - comprising 78 national trade union federations from 34 European countries, representing some 60 million members. Those who attended the conference came from very interesting and diverse backgrounds. Their levels of enthusiasm were very high; their contributions highly enlightening. Specialists from Asia and Africa gave crucial, sometimes critical insights.

There is no doubt that trade unions have a specific responsibility to represent the voice of workers - all workers. But unions cannot meet the challenges of the informalising labour market alone. This is especially true where unions are still learning about how this 'informalisation' is happening, or where they find difficulties in reaching and organising informal economy workers. Therefore, co-operation and alliances with 'labour-friendly NGOs' may be very important. The conference and this report show us how productive - and, yes, sometimes how complicated - such shared responsibilities can be.

It turns out that the informal economy and the formal economy are more strongly interrelated than perhaps we have recognised. We need to demonstrate this interdependency not only in economic terms but also in terms of the workers involved. The big task ahead is not to approach informal workers as if they are a new and different group, but to include them so that we encompass all working citizens in our union activities.

Modernising employment relationships is a major challenge for the trade union movement in Europe. But real modernisation is miles away from neo-liberal deregulation that takes away protection for working people. We need to review and renew existing rules and regulations, and make sure that, alongside diversity and flexibility, there is sufficient protection for all working citizens of Europe.

The conference and this report provide some guidelines for this task. One recommendation from the participants to the ETUC, for example, was for better exchange of good practice, information and inspiration, especially through a network of contacts. I hope this report will be of great interest also to those who could not come to Soesterberg, to join those who were there in stimulating greater enthusiasm for bringing marginal work into our trade union core business.

Jean Lapeyre,

Deputy General Secretary, European Trade Union Confederation (ETUC)

Towards an inclusive trade union movement

“Workers in the informal economy are not recognized, registered, regulated or protected under labour legislation and social protection... and are therefore not able to enjoy, exercise or defend their fundamental rights.”

ILO 2002, Conclusion 9“

... the problem is that the current globalization processes are not sufficiently inclusive or fair; the benefits are not reaching enough people, especially those most in need.”

ILO 2002, Conclusion 15

European trade unions and NGOs have long been interested in problems related to the growing informal economy. But they have largely focussed on developing countries where they have been supporting projects which help informal workers there to organise themselves and be recognised as having rights. At the global level too, there is an exchange of views and proposals via networks and within organisations like the International Confederation of Free Trade Unions (ICFTU), the Global Union Federations, the International Labour Organisation, and a number of NGO umbrella organisations.

Until recently, however, little attention was directed to the informal economy within Europe itself. Where trade unions and NGOs have tried to study and understand parts of European informal labour markets, the results have sometimes been quite marginal. But now in a number of European countries this situation is changing rapidly.

A meeting organised by the European Trade Union Confederation (ETUC) in Rome in October 2001 on “economically-dependent workers” revealed remarkably innovative and successful attempts by unions to organise both informal workers and/or workers on the ‘margins’ of the formal labour market. Sometimes in co-operation with NGOs, these unions are trying to reach and organise homeworkers, teleworkers, so-called ‘undocumented’ workers, the self-employed, short-term contract workers, “on call” workers, temporary agency workers, and so on. One of the conclusions of the Rome seminar was the need for more thorough and constant exchange of good practice within Europe, to provide a stronger basis for common policies and reciprocal inspiration.

Meanwhile, in the International Labour Organisation (ILO) there have been discussions on how to bridge the gap between workers in the informal and the formal economy. During the ILO Conference in 2002 the claim of ‘decent work’ for every worker, whether in the formal or the informal economy, was thoroughly analysed in the tripartite Committee on the Informal Economy. In its conclusions, the Committee stressed the diversity of these workers and their situations, and therefore the need for multiple solutions and strategies (Conclusion 3). Trade unions are expected to play an important role in organising and serving informal economy workers (Conclusion 34).

Trade unions are not the only players, however. Some NGOs have been developing their own expertise in the field. How should we bring these approaches and initiatives together, given the different organisational frameworks and histories of both unions and ‘union friendly’ NGOs? On the NGO side, international organisations such as IRENE (the International Restructuring Education Network Europe) and WIEGO (Women in Informal Employment Globalising and Organizing) have helped open up this debate, especially at an international meeting in April 2002 to which they invited a number of trade union representatives to discuss the possibilities for common strategies.

All these developments inspired the FNV, the Netherlands Trade Union Confederation, to take the issue onwards by bringing together the experience of many European unions and a number of NGOs. With the financial help of the European Union, in collaboration with IRENE and supported by the ETUC, a conference was organised in Soesterberg, Netherlands, from 13-15 January 2003. The previous weekend, IRENE also invited union and NGO representatives from Central and Eastern Europe to analyse their own responses to the growing informal economy in their countries.

Quotes running in the margins of this booklet refer to the **‘Resolution concerning decent work and the informal economy’**, adopted by the General Conference of the International Labour Organisation, meeting in its 90th Session, 2002.

The subtitle of the FNV conference - the informal(ising) margins of the European labour market - indicates the wide spectrum of workers we wished to cover: small independent entrepreneurs who are economically dependent on one or several contractors (sometimes they are employees who have been forced to become 'self-employed'); homeworkers; 'atypical' workers on the periphery of standard labour law protection; and workers who have no permission to stay or work in the country where they perform their work.

Until now, trade unions have mostly focussed on organising workers with some sort of employment contract, and on trying to bring workers whose jobs have been 'informalised' back in the mainstream of labour law. The NGOs have mostly focussed on workers outside the scope of (labour) law and who are on the margins of the labour market, like homeworkers, cleaning/domestic workers, or workers with no permit to stay or to work in a country.

So it can seem as if there are two 'economies' and two different types of workers: the formal and the informal economy; formal and informal workers. However, different national legal systems mean that what work and which workers are termed 'informal' varies from country to country, as does the process of 'informalising' workers. This leads us to conclude that there is no such thing as a 'black-and-white' division between formal and informal work.

The questions at the heart of the issue are: how to prevent the absence or stop the breakdown of workers' rights on the one hand, and/or how to upgrade the protection of workers on the other - and how to fit this into a modern trade union approach.

By bringing to the conference trade unionists and other activists from more than 25 European countries, plus 'experts' from within and outside Europe, we hoped to achieve a number of results:

- To exchange experiences of organising informal workers and of protecting/promoting their interests by trade unions and NGOs (self-help organisations and service organisations);
- To help develop better strategies to organise such workers;
- To highlight the situation of workers on the (sub)-margins of the European labour market and place this in a global context; and to use this for awareness-raising and trade union and development education;
- To address the results of the discussions in the ILO in June 2002 on 'labour in the informal economy', and prepare a 'European approach' for the discussion in the ILO in 2003 on the scope of the employment relationship;
- To contribute to the discussion within the ETUC on the issue of 'modernising employment relationships' and the protection of 'economically dependent workers'.

"All our unions are faced with the growing percentage of casual, precarious labour and so called self-employment. We have to include these workers in our ranks, and in our policies and strategies. Otherwise we will end up defending a diminishing group of privileged, mostly male, workers with permanent jobs in traditional industries, who feel threatened all the time by the growing amount of unprotected workers outside. We have to include them, because otherwise our power-base will become smaller, and our opinions will no longer be seen as representative of all working people."

Catelene Passchier, FNV

Although we originally wanted to focus on three categories of informal economy workers - self-employed workers, undocumented migrant workers, and domestic workers - we had to drop the third category. This was partly due to lack of time, and partly because most of the participants preferred to focus on the first two categories.

This report reflects the richness of expertise and experience we were happy to bring together at the conference. What made it so worthwhile was the interaction among the highly motivated union and NGO people who attended.

There is much more yet to be done, and we hope this report will help to inspire this. At the end of the report we give an overview of who was who and who was there. So, whoever wants to know more or join in, knows where to go or whom to contact.

The organisers:

Anneke van Luijken (IRENE)

Catelene Passchier (FNV)

Wim Sprenger (FNV)

Why is the 'Informal Economy' Important?

1

The trade union movement in Europe is increasingly turning its attention to the growing numbers of workers who find a living in what is called the 'informal' economy. These are the workers who do not work in a permanent job, in a specific workplace, for a clear employer, with a written employment contract.

Those who do - the permanent factory- or office-based workers - are the traditional core of trade union organisation in Europe. They benefit from labour laws and social protection such as rights to paid maternity leave, paid holidays, and unemployment benefit that have been fought for and won by their trade unions over decades. They are in what is termed the 'formal' economy.

There are millions of workers, however, who fall outside the formal economy and they are often the most exploited and vulnerable precisely because they do not enjoy these rights to protection. They include those on temporary, short-term but repeated contracts, perhaps hired through 'temping agencies'; the self-employed or 'own-account' workers such as the 'owner-operator' truckers who may be tied to one contracting company; the hidden homeworkers working at home but still part of an industrial production line; and the (often undocumented) migrant workers harvesting crops and providing domestic work in Western Europe. Many employers are shifting to these types of employment practice so as to avoid their legal obligations. In this way, the economy is 'informalising'.

The numbers of workers involved in this 'informalising' economy are growing, which means that the trade unions are representing an ever shrinking proportion of the workforce. Their low rates of pay and substandard conditions are undermining the standards and benefits achieved by the labour movement. And, since they are among the most exploited of all workers, they ought to find a voice in and through the trade union movement.

Yet, many traditional union members feel defensive or even hostile towards these unorganised workers. At the same time many informal economy workers may not see even themselves as 'workers' for whom a trade union is appropriate. Or they are too scared of losing their job to have anything to do with a union. They represent a huge challenge for the trade unions to organise.

Unions are Evolving

Many unions realise they must take up these issues - perhaps even for the sake of their own survival.

Catelene Passchier, who organised the conference for the **FNV**, says she has seen an evolution in the attitudes of European unions. *"In the Netherlands", she says, "the unions used to speak of the 'core' labour force, meaning the visible and organised workers, on the one hand, and the 'peripheral' workers 'on the sides' on the other. After all, in Western Europe there is still a high proportion of workers in the formal economy.*

But now there is an increasing awareness of the many who fall outside the existing systems of representation and protection, many of whom are women."

So, some trade unions in Western Europe, including the FNV, are finding innovative ways of reaching out to these unorganised workers. At the same time, many informal economy workers are organising themselves into associations, often supported by NGOs. Relationship are being developed between unions and these informal economy workers' groups.

"The term "informal economy" refers to all economic activities by workers and economic units that are - in law or in practice - not covered or insufficiently covered by formal arrangements."

ILO 2002, Conclusion 3

"In many countries, both developing and industrialized, there are linkages between changes in the organization of work and the growth of the informal economy. Workers and economic units are increasingly engaged in flexible work arrangements, including outsourcing and subcontracting."

ILO 2002, Conclusion 8

"We don't think that it is helpful to make too big a distinction between the formal and informal economies. Many formal workers are paid wages that are far too low to cover living costs and so they also have an informal job. Many teachers, for example, need another job to survive."

Vsevolod Barbanegra, CSR

trade union confederation, Moldova.

To the East, in the countries of Central and Eastern Europe, the old state-led economy has been replaced by market-led reforms. Much social protection has been replaced by extremely high levels of exploitation, leaving many shocked and bewildered. These countries are also experiencing huge flows of people, out to Western Europe, in from countries further East, and between themselves. But many workers are still extremely wary of any collective organisation. The new and reformed trade unions in this region are facing many challenges in building their organisations.

Meanwhile, in developing economies of the South, the informal economy has always been greater than the formal economy. Here models of organisation of informal economy workers are more developed, and European labour organisers may have much to learn from them.

International concern

Because of these trends, the informal economy has increasingly become a topic of concern in international labour bodies. There was success, for example, when the Conventions on Part Time Work and Homework were adopted by the **International Labour Organisation (ILO)**. But further progress has proved difficult because the informal economy covers so many different situations, many of them too hard to identify or define precisely for those who make laws and statutes.

Yet, the ILO is increasingly concerned that most of the world's workers fall outside whatever protection does exist and it is bringing this into the heart of its work. The June 2002 International Labour Conference called on all trade unions and employers associations around the world to extend their representation to these unprotected. Trade unions, said the ILO, should provide more education, outreach and special services to informal economy workers, especially to women.

The **European Trade Union Confederation (ETUC)** has been taking these issues up. It has initiated discussions at various levels of the international trade union movement, and with European employers. The ETUC is also trying to influence European Union policy where it relates to the position of informal economy workers. At a global level, the **International Confederation of Free Trade Unions (ICFTU)** has also set up a Task Force on the informal economy.

Meanwhile, international networks such as **IRENE (International Restructuring Education Network Europe)** and **WIEGO (Women in Informal Employment Globalising and Organising)** have been bringing together a wide range of labour organisations, trade unions, workers' associations, NGOs and networks, to do research, lobby policy-makers, and strengthen the organisation of workers in the informal economy.

All these activities are signs that many in the labour movement are taking these issues seriously. In June 2003, there will be another major discussion at the International Labour Conference in Geneva. If there is sufficient union pressure, this could lead to recommendations for a new ILO standard to safeguard better the rights of all workers regardless of their employment status.

“Speaking as someone not from Europe, I do find that when European trade unionists talk about the informal economy they very quickly move on to talking about the criminal economy, of the ‘black’ economy or the ‘grey’ in between. But when I think of the informal economy, I think of very colourful activities, of the marketplaces with their vegetables and fabrics, the shouting and chattering. To me, the ‘grey economy’ is the stock exchange, the men in grey suits.”

Pat Horn, Streetnet (international network for street vendors, based in Durban, South Africa)

The ILO: New Thinking and New Action

The **International Labour Organisation (ILO)** is paying greater attention to the informal economy than ever before. A first step to include the non-regular workforce was taken with the Part-Time Work Convention (No.175, 1994). Then came the Homework Convention (No.177, 1996), where for the first time an ILO Convention explicitly covered workers in economic dependent situations, regardless of their employment status under law. Then discussions started for an Convention on Contract Labour, but they floundered at the ILO Conference in 1998 when it proved impossible to define who is a contract worker.

In June 2002, the ILO Conference returned to the theme with a general discussion on the informal economy and how it relates to the ILO's concept of 'Decent Work'. 'Decent Work' includes good working conditions, productivity and job quality, social protection, workers' organisation and having one's voice heard. In ILO terminology, there are "serious deficits in decent work" in the informal economy. That is to say, informal economy workers tend to enjoy few if any of these conditions or rights.

Andrea Singh of the **ILO International Focus Programme on Small Enterprise Development** describes how the ILO's approach to the informal economy has been changing over the years:

"Behind early ILO thinking was an assumption that economies worldwide would evolve along the Western pattern of industrialisation. In 1972, however, a mission to Kenya noted high urbanisation of the population but very slow growth in the formal sector and yet little open unemployment. It was clear that poor people could not afford not to work; they had to find a way of supporting themselves and their families.

During the 1970s and 1980s, the concept of the 'informal sector' that emerged focussed on micro- and small-scale enterprises, those which are most visible, operating outside the realm of legal regulation, registration, tax structures or employment legislation. But it was seen as a 'developing world' problem.

It was only in 1993 that a statistical definition was drawn up. But there were many drawbacks. National governments have different definitions which makes international analysis difficult. There was an urban focus, neglecting the links to rural economies. The emphasis was on enterprises, their size (number of workers) and legal status. The self-employed, homeworkers, domestic workers and casual workers were largely ignored, leaving out an enormous proportion of what today we call the 'informal economy'.

During the 1990s there were many eye-openers. 'Structural Adjustment Programmes' caused a decline in formal employment in developing countries. In 'transition' countries of the former Soviet bloc, there was a massive loss of both state employment and social security. There was a revolution in developed countries too, with more outsourcing, sub-contracting, flexibilisation, etc.

So now a new conceptual framework is emerging, one that is much more useful. It encompasses employment relations as well as the status of enterprises. It includes multiple aspects of formality and informality, and it suggests a continuum rather than a dichotomy between formal and informal. It brings in the value chains that cross national borders under globalisation. It allows us to analyse the process of 'informalisation'.

This new framework is being tested out in a number of countries, and will be evaluated at the 17th International Conference of Labour Statisticians in December 2003. It should help us draw up a new roadmap for getting better protection against the loss of rights and social protection, to move people up the ladder to decent work.

"The feminization of poverty and discrimination by gender, age, ethnicity or disability also mean that the most vulnerable and marginalized groups tend to end up in the informal economy. Women generally have to balance the triple responsibilities of breadwinning, domestic chores, and elder care and childcare. Women are also discriminated against in terms of access to education and training and other economic resources. Thus women are more likely than men to be in the informal economy."

ILO 2002, Conclusion 20

"The informal economy provides an environment that allows child labour to thrive."

ILO 2002, Conclusion 23

"Governments must provide the conducive macroeconomic, social, legal and political frameworks for the large-scale creation of sustainable, decent jobs..."

ILO 2002, Conclusion 26

The June 2002 International Labour Conference did not only ask trade unions and employers associations to take up these issues more. It said the ILO itself should have a 'highly visible programme of work' in this area. Now the ILO Technical Assistance and other programmes have specific priority areas:

- *to promote fundamental rights in the informal economy, and look at how legal and regulatory frameworks may need to be changed to do this;*
- *to improve and extend social security coverage to the informal economy;*
- *to promote the organisation of both workers and economic units in the informal economy, identifying the obstacles that prevent this;*
- *to develop more programmes and policies that create decent jobs and assist workers and employers to move into the formal economy.*

Work has already started through an ILO Working Group on the Informal Economy. This encourages cross-fertilisation between all ILO sectors, the Turin training centre, ILO work in the field, etc. Programmes such as 'Decent Work' and 'Jobs for Africa' are having to integrate the informal economy better. Regional and national tripartite meetings are being held to set priorities. A mapping exercise is underway on all existing ILO research, publications and programmes to identify the gaps. After years of being sidelined, we can say that the informal economy is at last being mainstreamed in the ILO."

www.ilo.org/infeco

Closing the Gap between the ILO and the EU

Ieke van den Burg MEP has been helping to improve legislation and standards on informal work in the Netherlands and internationally for over twenty-five years, mostly from a trade union position and perspective. Today, as a Member of the European Parliament, she continues to take a live interest and sits on two relevant Parliamentary Committees. Before that, she was involved in major changes in Dutch labour legislation on working time, part-time work, homework, and health and safety for homeworkers, amongst others. And during the 1990s she was a spokesperson for the Workers' Group at the International Labour Organisation (ILO) where she helped to negotiate the Part-Time Work and Homework Conventions. Ieke describes the political background to these developments:

“In the ILO, the employers’ group was firmly and unanimously opposed until the very end. So we had to find support among governments. But first we had to solve our own disputes within the Workers’ Group. Many union representatives are focused on the interests of workers in the formal sector and thought that any recognition of part-time work or homework would lead to a weakening of standards. In the end, there was a broad consensus that it was better to regulate these types of work than to fight them without any chance of really eradicating them. Now only a minority in the union movement continues to disagree. I am very proud of these two Conventions but disappointed that they have got so few ratifications. It is tragic too that a third proposal, for a standard on Contract Labour, failed in 1997.

Meanwhile in the European Union, the issue of ‘a-typical’ work was taken up from the early 1990s but no progress was made until after the Social Chapter of the European Union Treaty was agreed in 1997. Two Directives, one on Part-time Work and another on Contracts of Fixed Duration, were adopted. However, negotiations for a third, on Temporary Agency Work, failed. We now have some compromise proposals with majority support in the Parliament, but some governments are still resisting. We will see what the Council of Ministers decide in June 2003.

I believe the EU Commission and Council are in danger of thinking that then the issue of ‘atypical’ work will have been dealt with. But not so. As we found with the regulation of working hours for truck drivers, we had to apply these rules also to ‘self-employed’ drivers; otherwise all transport work would be outsourced at lower standards. So, we need a better overall definition of ‘dependent’ workers in need of protection. So far this has been left to individual EU member states, many of whom do not want to deal with it. Yet the growth in work across borders has shown that, unless we have common definitions and understanding about how to apply it, European legislation will be undermined and even become void.

Clearly there is a sharp political divide. The liberal pro-market parties love to see the labour market increasingly liberalised and individualised, with labour and social legislation got rid of. Against them are the defenders of social Europe who are still working on getting the EU Charter of Fundamental Rights legally binding.

So, it is important to link discussions between the EU and the ILO. In the ILO, trade unions are able to co-lead and set the agenda, but the impact of ILO standards is weak if ratification is low. We need to put much more pressure on EU member states to ratify ILO Conventions. EU Directives and regulations are binding once adopted, and have a major impact on national legislation and practice. However, many member states try to avoid this. So it is all the more important that we mutually influence the debates between the ILO and the EU.

The history of the labour movement shows that unless pressure is organised and collective strategies developed inside and outside the trade unions, we will have only marginal results. It is crucial to organise informal and ‘atypical’ workers. Only this will take their interests out of the margin. For that, we in Europe have a lot to learn from those parts of the world where informal workers’ organisation is better developed.”

www.ivandenburg.nl

2 The impact on labour law

“The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up and the core labour standards are as applicable in the informal as in the formal economy.”
ILO 2002, Conclusion 16

“To ensure that labour legislation affords appropriate protection for all workers, governments should be encouraged to review how employment relationships have been evolving and to identify and adequately protect all workers.”
ILO 2002, Conclusion 22

In Europe, trade unions grew out of industrialisation, when workers in the factories, mines and mills organised to fight their way out of poverty, exploitation and injustice. At the time, most employment was informal and the aim of the trade unions was to win formal protection for workers through collective bargaining agreements and laws.

The unions founded political parties to represent the interests of working communities. Eventually, unions became officially recognised as one of the ‘social partners’, along with governments and business, at the heart of discussions over social and economic progress, with the right to represent the voice of all workers. They pushed governments to organise systems of social protection for workers and their families. They achieved collective bargaining agreements with private and state employers that lay down the terms and conditions under which workers are employed, that are legally binding on all parties. In doing all this, unions have constructed an impressive body of regulation, offering protection to those who are recognised as economically dependent and subordinate workers.

Over the past two decades the labour market in Europe has been dramatically changing, however. There is a growing proportion of workers in casual or precarious jobs or so-called ‘self-employed’ workers, who fall - or sometimes are deliberately pushed - outside the scope of the ‘formal’ regulatory framework into an ‘informal’ void, and whom the unions do not reach. Now, many in the unions are realising that they must find ways of reaching out to these unorganised workers if they are to claim to represent ‘all’ workers.

In October 2001, the **European Trade Union Confederation (ETUC)** called trade union experts together in Rome. They started with the obvious and yet challenging statement that ‘Every worker is a worker, regardless of his or her employment status’. They agreed that, as trade unions, they need to organise and represent all workers, give them voice and do whatever they can to improve their situation. It turned out that activities to organise informal workers were taking place in various countries, more than anyone had expected. But these initiatives were somewhat isolated from the core politics of the unions, and from each other. One success of the seminar was to bring organisers and their achievements together.

“In the Netherlands we realised we did not only have to try to force ‘a-typical’ work into existing laws, but to change the laws to become appropriate to a wider range of work and employment situations. This meant asking ‘typical’ workers to give up some of their privileges, for example over working time. It was not easy, but there was heavy pressure for these changes particularly from women in the trade unions. Now the Netherlands is famous for having a rather flexible labour market, not one which forces flexibility on the weakest but one that integrates flexibility into the normal working patterns of all.”

Ieke van den Burg, MEP

At the same time, the European Commission has been consulting social partners including unions on “the need to review the essential elements of the system of laws and collective agreements to make sure that they are relevant to a modern organisation of work”. Unions will need to be very proactive. The EC is proposing to make the rules more flexible, while yet saying it wants to ensure “adequate protection” for new categories of workers. This kind of ambiguous and sometimes contradictory approach mirrors that of many EU member governments.

“If you only accept as ‘workers’ those who are so defined legally, why are you accepting the government’s definition? In South Africa before 1979, black workers were not defined as ‘employees’ under law. So we organised black workers and got the law changed. We do not need someone else’s permission.”

Pat Horn, Streetnet

Meanwhile, for at least a decade, the **International Labour Organisation (ILO)** has been trying to put on the agenda a series of questions arising from the growing numbers of ‘atypical’ workers, challenging the coverage of international labour standards, and recognizing that this issue touches upon the ILO’s very existence. What use do international labour standards have, if they no longer cover the most vulnerable and dependent workers?

In June 2003, the ILO will present a report to the annual ILO Conference for a so-called ‘general discussion’. Under discussion is the increasing phenomenon of dependent workers who lack labour protection because of one or more of the following factors:

- the scope of application of the law (the definition of who is a worker) is too narrow or is too narrowly interpreted;
- the law is poorly or ambiguously formulated so that it is unclear who is and who is not covered;
- the employment relationship is disguised (deliberately dressed up to look like ‘self-employment’ while being in fact dependent and subordinate);
- the employment relationship is in fact ambiguous, for instance where a worker performs work for more than one employer, sometimes working from home, and enjoying a certain degree of autonomy that casts doubt on whether or not an employment relationship really exists;
- there clearly exists an employment relationship, but it is not clear who the employer is, what rights the worker has, and who is responsible for them, for instance when there are one or more intermediaries such as labour supply agencies or a chain of subcontractors;
- increasing lack of compliance with and enforcement of the law.

An ILO Expert Meeting in 2000 proposed two strategies, and these will no doubt be discussed in June 2003:

- **‘refocusing’** to clarify the scope of labour law, to make sure that it includes: (a) workers who were always meant to be covered but have fallen out of coverage because of employers’ disguising mechanisms and tactics; and (b) workers in new situations which do not fall under labour law, but who are in real relationships of dependency and therefore should be included.
- providing for **basic protection** for a broader group of ‘working citizens’ (in accordance with the ILO philosophy of ‘decent work’): all workers, regardless of their legal status of employment, should be recognised as having **basic rights**, for example concerning occupational safety and health, vocational training, and social security.

Hopefully, these discussions will lead to an agenda for future activity by the ILO to help its member States find solutions. The fact that these problems are faced in most countries of the world means that they must be tackled through international co-ordination and action in which the ILO can play a central role.

“Certain employers have found they don’t need to have the law changed; they just side-step it by changing the employment relationship.

They vacate the law.”

Enrique Marin, ILO

Time for a Rethink

The Netherlands is a country with a well-established legal system and elaborate systems of worker protection. Yet, as a Dutch labour lawyer, **Catelene Passchier** has seen how since the 1980s employers have tried on a large-scale to avoid their responsibilities, by denying that their workers are ‘workers’ in the sense of labour law and social protection. This caused the Dutch unions to think again about their strategy.

“When I started in the 1980s, the most vulnerable and dependent workers were in practice often excluded instead of being given protection. I saw how often the law could be used against them, pretending that they were not employees under law. The only way to get legal protection for these workers, many of them women, was to go to court and prove that they were indeed employees. Of course most of them were too afraid to lose their job to start a court case. At the same time, I was involved in a project in the Dutch FNV unions about ‘flexibilisation’, trying to raise awareness about the needs of women workers. Many women prefer flexible work arrangements so that their job can fit around their domestic work. But the trade unions saw part-time work and flexible work arrangements as something bad for workers, something which should not exist. They were not prepared to offer solutions, in terms of protection as well as flexibility, to these women workers. For example, the Commercial Services Union was not allowed to conclude a collective agreement with the employers’ organisation of temporary agencies, because temporary agency work was considered to be a threat to workers’ interests.

As governments increasingly argued for flexibility in the labour market, and the trade unions did little, the employers sat back and enjoyed their new freedoms to develop as many flexible strategies as they could invent. We lost more and more ground. Eventually, the FNV realised it had to respond, and we have come a long way, as the work of the FNV Bondgenoten among migrant agricultural workers and the affiliation of the ‘Red Thread’ sex-workers’ union show.

The ‘Grey Zone’

But we need to do more to tackle what I call the ‘grey zone’. This is where it is not at all clear if someone has employee status or not. It is where social security does not apply because of the precarious status of the job. It is where employers deny responsibility for the workers concerned, even when these workers are totally dependent on them.

The legal definition of who is a worker comes out of the industrial revolution. A worker was someone needing special protection because of their legal subordination in the workplace and their economically dependent situation, having nothing to sell but their labour. All labour laws since then have been based on a ‘black and white’ distinction between the ‘employed’ and the rest - the ‘self-employed’. But even from the beginning, this distinction was not satisfactory. In the Netherlands at the end of the nineteenth century, working time legislation excluded agricultural workers, home-workers and domestic workers, for example.

Only in the 1950s-1970s did protection expand to cover the most dependent workers. But the gap between those covered and those not covered also widened. It became ever more attractive to employers to evade giving workers the status of ‘employee’. They did this by changing the organisation of work, increasingly using outsourcing and chains of networked companies, as well as hiring people on a temporary basis for services that could be called casual or independent. Employers could say, ‘This is not my worker, even though s/he works for me.’

So we see that there is not a black-and-white picture of an ‘either-or’ situation. Rather it is a continuum. At one end are the well-protected, permanent, full-time workers for a core company. At the other are the unprotected, so called independent, own-account or self-employed workers, perhaps hired through a sub-contractor. And individual workers move within this continuum; sometimes being employed, sometimes self-employed, sometimes even doing both at the same time.

Most labour law and social security systems are simply not capable of dealing with these ‘grey’ situations. For example, where workers move between ‘employment’ and ‘self-employment’, the systems cannot give these workers protection throughout their entire working life.

Also important is the fact that labour law in different countries draws the line between the 'employed' and the 'self-employed' in different places. Some bring more workers into the protected workforce than others. This makes it very hard to work on common definitions internationally. It also makes the idea of a continuum seem more useful.

So, from the point of view of labour law and social protection, there seem to be several strategies for unions. The first is to extend the status of employee to a wider range of workers, for example to include the so-called 'bogus' or 'pseudo' self-employed who are in reality dependent workers, or those who are in 'triangular' employment relationships, hired through an employment agency or sub-contractor. The second is to add to the concept of 'employee' a further concept of 'employee-like', and then grant a certain amount of protections to this group. This approach already exists in German and Italian labour law, for example.

Trade unions have been hotly debating these strategies. Some say the first option is too lenient towards employers' demands for flexibility, because it legitimises these new forms of work arrangements. Some fear that the second, introducing another category into labour law, may endanger existing labour protection, because it allows to offer some groups of workers a 'diluted' package of workers rights.

A third option exists too, to have a relatively restricted notion of who is an employee but at the same time extend social security to all working people, including the real self-employed. This is found, for example, in Slovenia.

Another model is proposed in the 'Supiot Report', a recent expert report for the European Commission. It makes a distinction between work-related protections which should be provided to 'all workers who perform socially useful tasks (including unpaid work)', on the one hand, and, on the other, basic protection which should be provided to all citizens.

Certainly, there is a need for a radical rethink of the legal framework at international and national levels. Unions need to work with governments and employers to:

- *adapt, refocus and extend the legal framework of labour law, to tackle bogus self-employment and include new groups of workers;*
- *adapt social security legislation, fiscal law and commercial law to eliminate the cause of bogus self-employment, i.e. the wide differences in social security coverage and taxation between those with employee-status and the self-employed;*
- *extend social security cover and health and safety regulations to all self-employed workers, not only the bogus self-employed;*
- *give access to training to all workers, regardless of their employment status;*
- *give access to credit to all workers, regardless of their employment status;*
- *remove all barriers to collective bargaining for own-account and self employed workers, including in competition law."*

"This notion of the worker as being in a continuous process of transition from one 'status' to another also opens up a whole new 'arena' for trade unions. In a situation where more and more workers cannot rely on a long-term relationship with a certain employer/enterprise, and therefore might not be able any more to get enough safety/security from that relationship, the trade union might develop into the only organisation offering continuity in a person's working life! But only if and insofar as trade unions succeed in developing new approaches and new services that offer workers such a perspective."

Catelene Passchier, FNV

New Legal Definitions

Roberto Pedersini is one of a network of researchers in the **European Industrial Relations Observatory** looking at how to improve regulation of the informal economy.

Their research shows that across the countries of the Europe Union there are varying rates and growth of 'self-employment' in the workforce. At the highest are Greece and Italy with 20% of the workforce self-employed, to under 6% in Luxembourg, and Norway at the lowest.

One step to improve the legal situation is to come up with a better legal definition. This might be 'economically dependent workers'. This could be applied to the formally self-employed where they depend for all or most of their income on a single employer. They share many similarities with regular employees, often doing the same work, and clearly situated somewhere in the company hierarchy. But usually they have much less protection and representation.

There are workers where their 'self-employment' is actually bogus; in reality they are dependent employees. Here we must get existing laws better enforced, especially where the employer is clearly breaching the law. Then there are new types of employment, and here we need new rules.

Throughout Europe, determining who is 'employed' and who is 'self-employed' legally is done in various ways. One way is to go to court, to use case law to establish whether or not you are an employee, whether or not you were legally dismissed, etc.

In Ireland, by contrast, in 2000 a tripartite body involving unions, government and employers drew up a code of practice, a set of guidelines which can be used by all to agree what is 'employed' work and what not.

Meanwhile, in France, Austria and Germany, there are laws which presume that certain types of worker - for example, performers and athletes - are dependent employees. Then, in Austria, Greece, Italy and Portugal, there are laws that define the types of contractual relationship where the 'self-employed' have rights to unemployment benefit, maternity and sick leave, etc.

So, the issues of the 'self-employed' are given different emphasis in different countries. It often depends on the existing type of welfare system. In Sweden, for example, there is universal social protection anyway, unlike most other countries.

In a number of countries, there are attempts to revise the definition of 'employee'. In the UK, there are proposals simply to take out the word 'waged' so that the laws can apply to all workers. In Italy they are considering revising legislation so that all workers are covered where they have a defined employer, whatever the terms of their employment contract.

What is clear is that the old dichotomy between 'self-employed' and 'economically dependent waged' work no longer holds true. We need to find ways of defining the 'ambiguous' states in between, and of extending existing protections to these new forms of work and the workers who do it. We may need to define a new set of rights which would apply to all workers, irrespective of their status, plus some specific protections for those who are truly 'self-employed'.

www.eiro.eurofound.eu.int

How Employers Side-Step the Law

At the International Labour Conference in June 2003, there will be a major discussion on the employment relationship. Discussions may just be an exchange of ideas or lead to a recommendation for a new ILO standard. Much will depend on how the trade unions take it up.

Enrique Marin from the **ILO In Focus Program in Social Dialogue**, says that research in 39 countries has found that problems in the employment relationship exist everywhere, but are more intense in some places than others.

“International standards and protections are designed for waged workers. But increasingly, the status of the worker is not clear and labour protection fails. Certain employers have found they don’t need to have the law changed; they just side-step it by changing the employment relationship. They vacate the law.

First, there are those who are in employment relationships which are disguised to look like something else so that they are excluded from labour law. For example, the worker is dependent on a single employer but looks like an independent operator in a civil or commercial relationship.

Then there are those in ambiguous employment relationships where it is difficult to identify who is the worker and who is the employer. The worker may start as independent ‘freelancer’ but after some years become dependent on one employer. Or, vice versa, employees are forced to become ‘free’ and then be rehired as ‘self-employed’. Many truckers have been experiencing this, when they still work for the same company but must buy or rent their truck.

An employment relationship may not be bilateral but trilateral: the worker - the employer - and another client or user, such as an employment agency or sub-contractor. This is true of many construction workers, perfume vendors in department stores, security guards, etc. The triangular employment relationship can also be ‘false’, where the supposed employer is actually only an intermediary. The ‘bidi’ cigarette workers in India, seem to be such a case. Their employment relationship is disguised by apparently working for sub-contractors.

Airport workers such as check-in and security staff were once employees but now they are largely hired through sub-contractors. This practice in US airports came into the spotlight after the September 11th hijackings. 80% of security staff in the French nuclear industry are sub-contracted.

Labour law defines who is a worker. Their type of work, how they work, and for whom can be analysed by factual observation. But these disguised and ambiguous forms of employment relationship place the workers concerned on the borderline of labour law. Who is a salaried employee? Very often the workers themselves do not even know.

In a triangular relationship there are three main questions. Who is the employer: is it the end user or the agency/ subcontractor? Do the workers enjoy the same rights as direct employees? And who is liable for these rights under law?

The challenge for the ILO Conference in 2003 is how to reconcile flexibility with equity. In 1998, the Conference broke down on this topic but agreed to more research. Now we have a better understanding of the reality. The question remains, though, what are we going to do about it, nationally and internationally?”

3

Profound changes in Central/Eastern Europe

“Macroeconomic policies, including structural adjustment, economic restructuring and privatization policies, where not sufficiently employment-focused, have reduced jobs or not created adequate new jobs in the formal economy... Many countries do not have explicit employment creation and business development policies; they treat job quantity and quality as a residual rather than as a necessary factor of economic development.”
ILO 2002, Conclusion 14

Since ‘perestroika’ and the dismantling of the Soviet bloc, the Central and Eastern Europe (CEE) region has been opened up to the global market, and the economic and political changes have been profound. Both unemployment and the informal economy are growing. The unemployed now have little or no protection and must seek out a living in the informal economy. Meanwhile, especially in sectors such as construction, commerce and transport, employment contracts have been weakened in numerous ways, leaving those in jobs in a state of high insecurity.

According to the trade union ‘Solidarity’ (**LPSS**) in Lithuania, collective labour agreements now only cover 10% of the workforce in that country. In Hungary, many are now employed under civil contracts rather than employment contracts, and in this way are not covered by labour law. This is mirrored in other countries.

But the situation also varies from country to country. It is a huge region with many differences between countries, politically and economically. Some may soon join the European Union, some later, some never. The proportion of the informal economy ranges from 14% of Gross Domestic Product (GDP) in Poland, to 35% in Bulgaria, 50% in Moldova, and over 70% in Yugoslavia, though statistical data is unreliable.

As the formal workforce declines, women have been particularly badly hit. **Vanja Lesic** is from the **Association of Business Women** based in Belgrade. She notes that women constitute a higher proportion of the unemployed. Those in the new informal economy - the self-employed, the home-based workers, those getting only irregular work, etc. - again the majority of whom are women, are not registered and not protected in any way. She says that people realise they have lost the safety-nets that they had. “Women have become increasingly impoverished and apathetic”, she adds.

Across all CEE countries, the state now takes little interest in workers’ conditions, or in collaboration with social partners. Agreements with employers are only skeletal. Legal and juridical structures are poor. As elsewhere in the world, labour laws in CEE countries have been weakened through deregulation so that ever fewer workers are covered.

In any case many laws do not recognise those deemed to be ‘self-employed’ or at least not a ‘worker’ in a narrow sense. In some countries, there are steps to change this. In Yugoslavia, for example, the new labour law includes a new category of ‘self-employed’. But there is little confidence that such changes will materially improve the conditions for most workers in the informal sector.

A crucial issue for the entire CEE region as well as Western Europe is migration. Some CEE countries are sending very high numbers of workers outwards to find a living, suffering as a result a large drop in their own potentially productive workforce plus a serious ‘brain drain’ to Western Europe. Meanwhile, there is large-scale migration between CEE countries, plus inward and outward flows with countries further to the East, such as from the Ukraine to Poland and the Czech Republic, and from Moldova to Russia. All told, there is a vast and unstable movement of people.

“People are disappearing to Western Europe but they are not joining unions there.

They are disappearing off the union map.”

Sergejus Glovackas,
Coordinator,
**ICFTU Central/Eastern
Europe Unit**

The Challenge to CEE Unions

Hubert Cambier is the Acting Head of the Central/Eastern Europe Unit of the **International Confederation of Free Trade Unions (ICFTU)**. He outlines the discussions that have taken place in that region, particularly during a round-table on the informal economy held by the ICFTU, along with the ILO, Friedrich-Ebert Stiftung and others in September 2000, in Budapest, Hungary.

“We realised we were uneasy with the term ‘informal sector’. There are so many different categories of activity involved, from teachers or doctors with second jobs, to street sellers. Nor is it something which is ‘unorganised’; some parts of it are highly organised. Also, criminal activities such as child labour, trafficking and prostitution networks are part of the so-called ‘informal sector’. What concerns unions is that they are all outside the legal framework and outside social protection.

For example, in the ‘transitional’ countries of Central and Eastern Europe, the neo-liberal economic model has been stressed for ten years now, involving a decreased role of the state, privatisation, etc. The economy is supposed to re-grow spontaneously and create jobs. This has happened in some countries but the social costs are high. Elsewhere, the informal sector is dominant. Here especially, the state is disappearing, both as a legislator and as a stimulant for the economy. This is savage capitalism with all its consequences, hitting hardest the most vulnerable, the women and the young, but affecting all.

Something is wrong with the way the state is understood or defined. To the IMF and World Bank the state is simply not capable and should be limited to the minimum. But we believe a true state should not develop industries but it should create policies for economic development with jobs at decent wages. So, it is a political problem.

How should unions deal with this? First, we must not condemn the people who are in the informal economy trying to find an income. If the economy does not develop ‘normal’ activities, then they have to find another way.

Unions must be involved in national discussions with government and the employers on economic policies. We are responsible not only for our members but the whole population. We must find partners among the responsible employers who are likely to take a view about those who operate outside the rules. We must find partners too among social research groups, NGOs active with women, and so on, to formulate policy proposals.

The challenge for the unions is to reverse the decline in representation. In 19th century Europe, unions did not make a big distinction between formal and informal. People just set up organisations to defend themselves economically and politically. It was a time of co-operatives, social insurance and mutual schemes. Perhaps we need to revisit our history. And also to learn from Africa and Asia. No-one has the complete recipe but it is the big challenge that we all face.”

Rebuilding CEE unions

"We have to recognise that unions are in decline, and the only way is to build a renewed trust in them", said **Plamen Dimitriov** from the **CITUB** union federation in Bulgaria. From countries as far apart as Estonia, Moldova and Yugoslavia, the story is similar.

The radical political and economic changes in CEE countries have thrown up huge challenges for the trade unions there. Many of the old union organisations that exist are still only organised in large, former state enterprises. Their orientation is rather formalistic or legalistic in a situation where deregulation has made using the law a less effective way of protecting workers. Originally government established, the need to go out and organise workers is for them a relatively new experience.

Meanwhile, new unions such as **Solidarnosc** in Poland, **CSRM** in Moldova, and **CITUB** in Bulgaria are able to be more flexible, but face difficult choices in strategy, especially because resources are limited.

There is still much to learn about the role of trade unions in a capitalist society. It is worth remembering that in Western Europe, trade unions were 'non-governmental' organisations first. By contrast, in Central and Eastern Europe, unions were 'governmental' organisations first. Unions in CEE countries are still discovering that there is a difference of interests between employers, the government and workers.

All CEE trade unions are largely preoccupied with retaining influence in the declining formal economy. They are aware that they are losing members to the informal economy, and some have begun to consider if and how to take on organising here. They include CITUB from Bulgaria and CSRM from Moldova.

Margareta Tuch, legal advisor to the **Confederation of Estonian Trade Unions (EAKL)**, considers that, since the trade unions have not fulfilled their potential in the formal economy, it is legitimate to ask how much of a priority it is to turn to the informal economy as well. And yet, as she says, these developments cannot be ignored.

It means that unions must widen their scope and their structures. For example, the Estonian telecommunications union changed its statutes so as to bring in individuals as members. Taxi drivers there have also registered a union. However, because their organisation is so small, it is difficult to take them into the confederation directly. They were advised to merge with a transport union but refused as they felt it would not meet their needs. It is true, she says, that unions are not very flexible. They are having to learn new branches of law so as to absorb new types of worker. Unions in Estonia do understand they have to be open to all those who work, even though their priorities are still with traditional issues of health and safety, wage payment, etc.

Unions in CEE countries are historically company-based, not craft-based. Nor are they usually open to membership by individual workers. In Hungary, for example, labour law still recognises rights only at the enterprise level. Only workers in enterprises and under employment contracts can be represented by unions. As **Judit Czugler**, legal advisor to the **National Confederation of Hungarian Trade Unions (MSZOSZ)**, says, this implies a big legal and political challenge for unions who want to change their structures, for example to become sector- or regional-based organisations.

In Romania, there is a new law proposed which will open union membership to individual workers in enterprises that are too small to form a union base. These workers can join together and affiliate to one of the five union confederations. But unions are expecting negative pressure from foreign investors and so are not optimistic that this law will be passed.

Other unions that are now experimenting with individual membership and regional structures include CITUB in Bulgaria. The Estonian telecommunications union has also revised its statutes so as to bring in individuals as members.

Reaching out to workers

The structures and activities of the old state-led trade unions in CEE countries have led to great disenchantment with anything that might recall that kind of 'collective' organisation. Instead there is apathy on the one hand, and a free market ideology where individuals think only of themselves and those close to them on the other. "People have lost their bearings" in the words of Vsevolod Barbaneagra of the CSRM union federation in Moldova.

From Romania to Poland, the young in particular are seemingly not interested in their rights, only in a job and keeping it at any cost. They do not trust any kind of organisation.

Similarly, many women are not attracted to trade unions. Some do not identify themselves as a "worker", and most do not have enough time for union meetings.

Yet these are problems not only faced in the CEE countries. The language and message of unions - such as collective action, solidarity, co-operatives, etc. - may have different meanings, or be differently interpreted, between Eastern and Western Europe. But the problem of encouraging collectivity is common to all capitalist societies. In Western Europe too, trade unions can be seen as rather old-fashioned institutions, or male-dominated. What is important is to find new ways of approaching people, including building coalitions with like-minded organisations.

Above all, this implies a much greater emphasis on organising efforts. As Vsevolod Barbaneagra says, "In the unions we have to change our mind-sets away from the traditional ways of organising labour. We have to train organisers, and especially to reach out to the young".

This chapter is mainly based on the presentations and discussions held during a pre-conference meeting organised by IRENE and WIEGO. Here, representatives of trade unions and NGOs active in Central and Eastern Europe had a rare opportunity to exchange experiences and opinions, and to share these with representatives from Africa and Asia. They then brought their ideas to the main conference, helping to shape the nature of the debate among their colleagues from Western European unions.

IRENE, the International Restructuring Education Network

As part of its on-going collaboration with the FNV, IRENE organised a day's pre-seminar prior to the conference, so that the participants from Central and Eastern Europe could meet each other, exchange information and perspectives, and prepare for the conference ahead. They were also able to meet several of the participants from the South. Such opportunities for unions and labour-oriented NGOs from the region to get together are still relatively rare and therefore very valuable.

Internet: www.irene-network.nl

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WIEGO (Women in Informal Employment Globalising and Organizing)

WIEGO is an international network of women's organisations, women's sections in trade unions, women's NGOs, development agencies, workers' educational bodies, and academics, plus the networks Homenet and Streetnet. It has a secretariat at Harvard University, USA, co-ordinated by Professor Martha Chen.

The driving force has been the Self-Employed Women's Association (SEWA) of India which is the largest trade union of informal workers in the world, having 687,000 members. WIEGO's main focus to date has been on street vendors and homeworkers.

It has five programmes:

- global markets: looking at how women own-account workers enter the global market and how they can improve their economic position
- urban policies: particularly how local authorities relate to street vendors
- statistics: improving our knowledge of the size, scope and contribution of the informal economy
- social protection: how to improve legislative and other initiatives such as micro-finance to protect and assist informal workers
- organisation and representation: working with networks such as Homenet and Streetnet as well as the international trade union movement.

Internet: www.wiego.org

Moldova: an Acute Situation

In 2001-2, the **ILO** undertook a research project on the informal economy in Moldova, in collaboration with the **CSRM** union federation (**Consiliul Confederatiei Sindicatelor din Republica Moldova**). They found that the problem of unprotected labour in the country is “very acute”.

Out of a labour force of only two million, between 600,000 and one million are leaving as migrant workers to countries such as Russia, Italy, Spain, Portugal and Greece.

Thousands of others have been pushed into the informal economy. For example, after the privatisation of land caused collective farms to disappear, agricultural workers who were organised in unions have become self-employed farmers. Plus some 85% of enterprises are not officially registered. Overall, the informal economy is thought to represent 55-60% of the total.

Some other highlights from the ILO study include:

- Over one-third of workers in Moldova do not know about their right to organise.
- Over 60% do not know about the existence of international labour conventions.
- Over one-quarter of workers only have an oral work contract with their employer.
- Over one-third have no faith in the usefulness of trade unions.

The CSRM realised there are other important aspects too, such as the disproportionate involvement of women and young workers in the informal labour force. Also they saw how the formal and informal economies are intertwined since many people on low pay in the state sector must seek out additional incomes from the informal sector to survive.

As part of its strategy to deal with this situation, the CSRM has set up some new trade union organisations to recruit workers in micro-enterprises, the self-employed, market-sellers and owner-operator taxi drivers. Plus they have established territorial organisations based in the regions.

Vsevolod Barbanegra of the CSRM says:

“The biggest problem we face is one of mentality. After 10-12 years there has been no improvement; everyone struggles to survive, and we are even seeing a nostalgia for the past, when there was at least minimum social protection for all.

Informal economy workers do not know about their rights, nor think that they need to know. After all, we did not need to know about them in the past. We call it ‘juridical ignorance’. Also, people fear that they will lose their job. And there is a distrust of trade unions.

Employers structures too have become weak. Now, when we sign agreements with them, they are not implemented. And there is a deep lack of efficiency in the state system, for example labour inspection.

We see a role for NGOs in informing workers in the informal economy about their rights. We need special programmes on both information and on organising.”

‘Unprotected Labour in the Republic of Moldova: Reality, Challenges, Strategies’,
Labour Institute CSRM - ILO project in Moldova, 2001-2002.

Union Restructuring in Bulgaria

Plamen Dimitrov, Vice-President of the **Confederation of Independent Trade Unions in Bulgaria (CITUB)**, explains how they are restructuring to confront the growing informal economy in Bulgaria.

“In 1998 CITUB took the decision to organise in both the formal and informal economy. One estimate says that one-third of GDP in Bulgaria comes from the informal economy, involving 1 million out of a workforce of 3.4 million. On top of that, there is a ‘shadow’ or criminal economy.

It has grown so much because of economic policies driven by the ‘Washington Consensus’ and the international financial institutions (IFIs), particularly privatisation and deregulation through the Structural Adjustment Programmes (SAPs). Investment grows - and yet so does the informal economy, particularly small enterprises in both the legal and ‘shadow’ or ‘illegal’ economy - and in the ‘grey’ economy in between.

We have also been building new structures - branches which allow individual membership. This should be more suitable for informal economy workers compared to the enterprise-based structures of the past. We have also set up regional federation structures. They do not exist yet in all regions, and membership is still low. But we see it as a first step. And something new to consider is life-long union membership.

We have to fight a huge battle between individualism and collective values. Step-by-step, collective thinking has been replaced by individual responses; people think first or solely of themselves and their close family. Many believe they will succeed through self-management and do not want to be organised. We have to rebuild the diminishing confidence among workers towards unions which, after all, did not save their jobs. We have to fight for a new identity, and show clearly that we are not part of the political establishment of the past, nor indeed of today.

Who are our partners? We have been working with labour-friendly NGOs, and of course we need a clear division of labour. Representation of workers is the job of unions because they have democratic structures. Meanwhile, servicing can be shared with NGOs. Mutual respect is important; we have to trust each other, especially in difficult times.

We encouraged some 40 women’s NGOs to come together and one result is a Women’s Parliament. We also have built a new, non-union structure for the youth, called the Youth Forum for the 21st Century, which acts as a bridge between young workers and students.

What services can we offer informal economy workers whose social protection is very poor. Credit unions are an important initiative. CITUB is also looking at how union-established pension and health-insurance schemes can be extended to self-employed workers.

We also need the international trade union structures, the ICFTU and the Global Union Federations, to recognise that our region is the main area in Europe where the informal economy is growing. We need them to take this up more, especially to give us more support for training organisers.”

Romania: Organising the Unorganised

In many CEE countries, the trade unions tend to organise in large-scale enterprises and are seemingly wary of others who intervene to support workers' rights. **Mariana Petcu** of the **National Association of Human Resources Specialists (AUR)** in Romania describes how her NGO has been reaching out to unorganised workers, particularly women in the garment sector. Now, however, there are new working relationships between NGOs and unions which hold promise for the future.

“Before 1989, Romania had a well developed garments industry, but the only companies to have survived are sub-contractors, employing largely women to sew and finish. The working conditions are very bad. To earn a living wage, workers have to do overtime, working 16-18 hours a day. There seems to be a non-legal, non-written rule that there should be no unions in these factories. Then there are the small sweatshops in garages, sheds and apartments. Here seamstresses may be locked in until they reach their production targets.

Unions in Romania are still company-based and hardly reach into these kinds of workplaces. Our NGO, made up of professional people interested in labour relations and employment conditions, has been carrying out a research programme, interviewing largely women worker and looking at how to attract them to the idea of organisation.

As NGOs we feel we can offer our knowledge, flexibility and ability to penetrate into non-organised sectors. But it has been hard to find out how to work with unions. There are fears on both sides. At first the unions suggested that we were interfering, but in October 2002 there was a meeting of NGOs and unions, including the National Confederation of Free Trade Unions of Romania (CNSLR-FRATIA). The unions admitted they had only 20-25% membership in the garment sector, and declining. We believe they are now realising that NGOs can help in attracting new members and helping to build organisation in non-organised sectors. We see our job as finding easier ways for unions to do their job. It is time to work together, in refreshed ways.

We are planning a project for which we are seeking funding, aimed at building this union-NGO collaboration. A small team of both NGO members and trade union representatives will go out to the regions to inform and educate people about their rights. We will target workers, schools, universities and the mass media. The young generation in particular does not have any idea about rights. They only share a common notion of what unions were like pre-1989. Unions now have to prove that they are different from that. It is a challenge for us all.

We have also been supported by the Clean Clothes Campaign from Germany, which in 2002 set up a Balkan office. It has been bringing together a network of women trade unionists from countries such as Romania, Bulgaria and Moldova.”

Organising strategies

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There are many differences between countries across Europe, as elsewhere in the world, in the way that the informal economy is growing. But there are also many similarities, particularly in the impact on workers themselves. How can trade unions better support these workers? What initiatives are already being taken? But where too are the blockages, and how can they be overcome?

These are some of the arguments mentioned by conference participants as common in their organisations and needing an effective response:

- **“Unions must first fulfil their potential to represent workers in the formal economy”**

Many trade unionists feel that they have enough on their hands just to organise well in the formal economy. How much of a priority is it, they ask, to grapple with the informal economy as well?

One answer comes from the **ILO Declaration of Philadelphia**, 1944, which says, *“Poverty anywhere constitutes a danger to prosperity everywhere”*. It goes on to say, as **Francis Owusu** of the **Ghana Trades Union Congress** points out, *“that human beings, whatever their colour, race, gender, or creed have a right to pursue their material well-being and spiritual development in conditions of freedom and dignity, of economic security and equal opportunity. ILO standards are not the preserve of any group of workers, because we are dealing with human lives not commodities”*.

Carlos Carvalho, Vice-President of the **CGTP-IN** union federation in **Portugal**, (the General Confederation of Portuguese Workers-Intersindical) adds, *“The most important question is to organise these workers within our unions and work for improvements to their situation. We cannot have an economy which exploits these people.”*

Many trade unions are coming round to the idea that it is simply in their self-interest and long-term survival to work in the informal as well as the formal economy.

- **“Unions cannot represent workers who have no legal status”**

In Western Europe, unions tend not to organise workers in the informal economy because sometimes they are only allowed by law to organise the formally employed, the unemployed and the retired. Unions have greatest difficulty with ‘illegal’ (undocumented) migrant workers who have no legal status which means that unions have difficulty in legally representing them.

But unions do not have to accept the law as it stands. Unions have always been at the forefront of challenging bad laws and campaigning for better ones.

Under Finnish law, for example, says **Heli Ahokas** of the **Finnish Confederation of Salaried Employees (STTK)** there are only two terms: ‘worker’ and ‘entrepreneur’. In Finland the scale of the informal economy is still quite small but growing. For example, in the Lapland Tourism Centre, waiters are now deemed to be ‘entrepreneurs’ and must rent their tables. Also, many nurses and psychotherapists can only keep their jobs if they shift to being ‘entrepreneurs’ and rent their rooms.

“Without organization and representation, those in the informal economy generally do not have access to a range of other rights at work. They are not able to pursue their employment interests through collective bargaining or to lobby policy-makers... Women and youth, who make up the bulk of workers in the informal economy, are especially without representation and voice.”
ILO 2002, Conclusion 17

“Workers and employers in informal activities may wish to join existing trade unions and employers’ organizations, or they may want to form their own. Employers’ and workers’ organizations play a critical role in either strategy...”
ILO 2002, Conclusion 31

So, in occupational safety and health legislation and the new Employment Contract Act of 2001, the unions did what they could to include as many categories of workers as possible. Also, domestic workers have been classified as in the health sector so that a general Collective Agreement in that sector can cover them. Temporary workers can be union members. But it is not easy to formulate in legislation whether a person wants to be self-employed or is forced to be, she notes.

Unions also do not have to wait for the law to be changed. They can be active in the meantime in organising, supporting the self-organisation of workers, and lobbying on these issues at a political level.

- **“Where there is no employer, unions have no-one to bargain with”**

For increasing numbers of workers these days there is often no ‘employer’, or one is not apparent, and so it is difficult for unions to know with whom to bargain. This seems a problem because unions largely identify themselves on the nature of the employment relationship. But does this have to be so?

“Some unions consist of members who do not have an employer at all or, indeed, have many employers. There are often other parties with whom the union can negotiate, such as local authorities. This is one of the key issues for all trade unions to reconsider.”

Dan Gallin, WIEGO

Often too the relationship between ‘employer’ and ‘employed’ is a brief one. The union federation **Confédération Française Démocratique du Travail (CFDT)** in France, for example, has been negotiating with temporary work agencies and won some minimum protection for their workers, according to former CFDT General Secretary **Daniel Mignot**. They are also fighting for minimum protection for fixed-term contract workers, such as those on three-month contracts, where there is a lot of abuse.

Or it can be difficult to negotiate any collective agreement because the employers are a large number of individuals, themselves unorganised, such as those who employ domestic workers in their own homes. However, the CFDT is trying to organise among domestic workers. He notes that mostly these workers used to be from France’s rural areas, and then from former French colonies. Now they come from other parts of the world and *“language barriers make it difficult to put our ideas into practice”*. He admits that the CFDT is not yet organising homeworkers, however.

- **“Union structures and statutes do not allow us”**

Here again, the task ahead may be to reform union structures and statutes. This has already been done in countries as far apart as Bulgaria and Ghana. Or it may be to open up to collaboration with other types of workers’ associations and non-governmental organisations, as has been happening in relation to homeworkers in the UK, for example.

Pat Horn speaks from the experience of Asia and Africa. *“We have found that a union is not necessarily the old model of an organisation for employed workers. It can be any organisation of workers. It may well have a different shape and activities precisely so that it can have members from the self-employed. And this does not have to be called an ‘NGO’.*

The primary functions of a union are (1) to represent workers, typically in collective bargaining, and (2) to offer services to the members. For informal economy workers, we are seeing the development of new types of unions that are able to represent them, as well as restructuring within existing unions.”

Many more of these issues are addressed in ‘Changing union mind-sets’ and the case studies throughout this booklet.

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Questions for Your Union

What is your union policy on the following issues. Do you think it needs changing?

- Workers include the self-employed and those where the employer is not clear; the employment relationship is not central to defining who is a worker.
 - To bring in workers from the informal economy, most unions need to reform their structures; even the industrial branch model, widely found in Europe, has problems; general unions are another model.
 - 'Illegal' and 'anti-social' are not necessarily the same things. Workers can be 'illegal' through no fault of their own, and we should not criminalise them for it. What is 'legal' as defined by the state is not necessarily in the interests of workers and their trade unions.
 - The union movement cannot address its own decline unless we build alliances in broader society, with those who share our values and interests such as labour movement NGOs involved in education, welfare for workers, etc.
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Changing Union 'Mind-Sets'

Pat Horn, coordinator of the international network for street vendors **Streetnet**, speaks about the changes she feels are necessary in trade union thinking so that informal economy workers can be brought into the union movement.

"We have to ask: what is it that prevents us from organising in the informal economy? We have to turn upside-down old assumptions which we may not even know we have. After organising in the paper and chemicals unions in South Africa from 1976-1991, I turned to the informal economy. And I did this from a union perspective. I believe that trade unionism does work in the informal economy, as long as we think 'outside the box' and then build a strategy for organising, while constantly rechecking our assumptions.

For example, there is an assumption that to be a union you have to be enterprise-based or craft-based. But a union is an organisation of workers. If workers are not in an enterprise or a craft, why then is your union based on this?

Why does a union have to relate to an employer? Perhaps there is another organisation with whom you can bargain.

Unions are not only about wages. We must ask the workers what are their issues.

Some say that unions only exist if their members are able to go on strike. Why? Striking is a useful but not essential tool.

If you only accept as 'workers' those who are so defined legally, why are you accepting the government's definition? In South Africa before 1979, black workers were not defined as 'employees' under law. So we organised black workers and got the law changed. We do not need someone else's permission.

We must rethink our approach to legality, because what is deemed 'illegal' is not necessarily criminal or anti-social. There can be stupid laws that need changing. Criminal activities also happen in the formal economy. White-collar crime does not stop us from organising white-collar workers. In the South, we do not have such a strong idea of linking the informal economy with criminality.

So, it becomes necessary to reconceptualise. Are 'workers' necessarily employees? We may need to redefine the 'employment relationship', the 'labour market', the 'working class', etc. Even common notions of the economy may have to be rethought, recognising that it does not simply divide into the 'formal' and 'informal'.

Above all, though, we do not need to get our terminology right before we start organising. The informal economy is like a giraffe: it may be difficult to describe it, but you know one when you see it.

Unions can be creative and they know how to use power to get change. But unions can also be conservative, and think only of the employer-employee relationship. Unions were formed when workers looked at the rise of capitalism and how it worked in the 19th century. We need to look at it now, with globalisation, mass migration, etc., and decide on our organisational response.

You may need to start a new union, such as SEWA did in India. Or the established unions may need to start something new, as they did in Ghana. In this case, you need to win the support of existing members, by appealing to their long-term self-interest in the benefits of common membership.

How to fund these activities if you cannot collect dues from informal workers? But perhaps you can. The public employees' union in Uganda affiliated an association of informal sector workers, charging a flat rate per member of the association.

It does mean making a commitment to build the human resources, train organisers, etc. It means building up the political will to organise in the informal economy. These are investments which not a lot of unions are making as yet.

We do have to drop the idea that we need to finish organising in the formal economy first. Because it is disappearing. So, we may as well do both at once.

We need to stop using caricatures of the informal economy that prevent us from seeing the workers who are there. Some ignore them because they fall outside the existing legal framework. They say, "Street vendors are not tax-payers". But in fact they pay revenues to local authorities. Ask them if they want to continue being 'outside'. Most people want to be officially recognised by society, pay appropriate taxes and get appropriate benefits. Those who do not are by-and-large in the criminal economy or are tax-dodgers, and they are in the minority.

What is 'regulated' and 'de-regulated'? Many street vendors, for example, are 'regulated' by removal in police vans. Or the mafia impose their own kind of regulation if there is an official vacuum. Market regulation is another form of regulation; it is not a lack of regulation.

The workforce does not simply divide into the 'employed' and the 'unemployed'. There are people who do not have jobs that we call 'jobs' but they work 60-70 hours a week. Job creation schemes sometimes do not work because the unemployed are too busy to join them!

So, we must decide:

- * who are the workers we want to organise?*
- * create a framework in which to organise them*
- * organise them.*

It is not very different organising people in the informal economy from the formal economy. Whether you are scared of your employer or the local mafia boss, it is much the same.

Ask the workers what their needs are. Don't tell them; don't presume. In a union, you turn the workers' needs into a set of demands. You identify who is the most appropriate authority with whom to negotiate these demands. There can be multiple partners for different issues, for example the local municipality (one or more departments), the provincial government, the police, traditional leaders, etc. Then you initiate collective bargaining. Usually no kind of bargaining framework yet exists, and so you must be creative and experiment. If the law is not appropriate, the union project must be to change the law. You campaign, lobby, mobilise mass support. Assume you will be creating new institutions.

You need to find allies. Here, existing unions have the advantage over new organisations. You also need research data which may well not exist. WIEGO commissions research that we can use in bargaining forums. Authorities must be shown the vast numbers of people who are involved, and the economic activity that they are generating.

www.streetnet.org.za

Publications include: Streetnet Association newsletter, in English and French.

Ghana: Where the Strong Help the Weaker

The term 'informal sector' was first used in the early 1970s when the ILO World Employment Programme investigated the labour market in Kenya and Ghana. There, it concluded, the principal social problem was not unemployment but the existence of large numbers of 'working poor' struggling to produce goods and services without their activities being recognised, registered or protected by public authorities.

In 1996, the **Ghana Trades Union Congress** and its 17 affiliated trade unions, with half a million members, took up the challenge of organising informal economy workers. In Ghana today, 80-85% of the workforce is in the informal economy. **Francis Owusu** is the head of the GTUC Informal Sector desk, responsible for co-ordinating informal sector activities in each affiliate. He explains the GTUC's strategy:

"We were motivated by three factors:

- *Solidarity with informal sector workers who are the most vulnerable and disadvantaged of the entire working population.*
- *The dramatic drop in the unions' own membership.*
- *The growing similarities between the conditions of work in the formal and informal sectors, due to the 'informalisation' of work.*

GTUC unions are organised on industrial or sector basis, such as mineworkers, transport, agriculture, etc. The new policy encouraged the unions to bring in informal economy workers. They could either recruit them into their existing structures, or recognise and affiliate existing informal sector associations. We did not say that one model had to be followed by all. They were asked to review their own constitution and structures so that they could mainstream informal sector workers into their activities. Some of this was already underway in some affiliates.

At the basis of trade union structure is a coherence of interests among wage-workers. The interests of self-employed workers are more fragmented. So, what structure can be adopted to bridge this difference? At one end of the spectrum, informal sector workers' organisation is brought into existing union structures. At the other, informal sector workers' organisation exists autonomously but has on-going interaction with the trade union movement. GTUC policy recognises both.

Organisation of informal sector workers into our trade unions did not come on a silver platter. It is a challenge to ensure their active participation. They ask why unions might be interested in them. They barely have time to attend union meetings. We needed to find new ways of approaching and organising them. Some unions won confidence in the communities and marketplaces by, for example, voluntarily solving problems with local authorities. They took initiatives before they knew what the benefits would be.

Trade unions depend on dues paid by members. The ability to pay dues depends on regular income, which is difficult for informal sector workers. So we did not expect them to pay dues at first. The union members were sympathetic, and operated on the principle of the stronger helping the weaker.

Another example of support comes from the General Agricultural Workers' Union (GAWU). The members of its Rural Workers' Organisation Division, who are mainly women, now have access to revolving loans, basic tools, fertilisers, storage facilities, and classrooms for literacy classes.

A big challenge is how to develop collective bargaining for informal economy workers. But we in the unions have benefited. Union membership was dwindling but now it is growing again."

Philippines: Support for Women in the Informal Economy

The **Manggagawang Kababaihang Mithi ay Paglaya**, which means Women Workers Aiming for Freedom, or **Makalaya** for short, was set up in 1998 in the Philippines by women trade unionists, community leaders and women working in informal employment. Their aim was to challenge the trade unions to be more responsive to the issues of women workers including in the informal economy.

Today, Makalaya has 3,000 members organised into 7 chapters throughout the country (though it is difficult to keep up activities in the conflict-ridden South). It focuses on developing leadership capacity among women workers, strengthening the women's structures in mixed organisations, and organising women in informal employment.

Teresita Borgonos of Makalaya, says:

“Makalaya is trying to mix two perspectives in organising - those of trade unionism and community organising. In this way, we are acting as a pressure group within and outside the union movement. There is a big debate whether to be separate from the union or let women members in the union take it forward.

There are numerous government agencies where informal sector operators can be registered, from local authorities (barangay) and municipal offices to national government structures. In 1995, the social security system was extended to cover the self-employed under a voluntary membership scheme. There is also a programme for informally employed individuals in the Philhealth medical aid scheme. But throughout these formal systems, rules and procedures are very cumbersome.

So, we provide a link between the informal economy workers and these official institutions. We lobby and negotiate, and provide practical support. For example, in the rural areas, we collect in social security contributions from our members and submit them to the local government system. In particular, we provide training and empowerment for women so that they can do their own negotiating so they can get access to the social protection that they need and are entitled to. But as an alternative, we have been encouraging indigenous mutual insurance schemes to be set up, though these are still very limited because informal economy workers can make only very small contributions.

We are also using government job creation schemes in rural areas to encourage skills training and, as an alternative, encouraging the formation of workers' co-operatives. In partnership with local government, we are developing schemes that give access to small capital and non-finance inputs.

In these kinds of ways we are trying to assist informal economy workers move into and benefit from the formal systems. We find many of them do want this.

But empowerment relies on the quantity and quality of our members, so it means organising and education. The first step is to organise them through their particular issues, in the community, in the workplace, in the home.

It doesn't stop there, though. It is also important to be visible at the political level, lobbying a wide range of national and local government bodies on the issues of women workers and the informal economy.”

Where Unions Aren't Working

Are unions the only, or even always the best-placed, organisations to organise workers? **Chantal Finney** explains how other types of labour organisations can reach into those parts of the workforce which unions do not. By working with the unions, the net effect is to get more workers organised.

*“The **Clean Clothes Campaign (CCC)** is a network set up over a decade ago and now active in twelve countries of Eastern, Central and Western Europe. In each country it is a coalition of trade unions and NGOs concerned with improving the standards and rights of workers in the garments and sportswear industries. Beyond Europe, it is part of an international network which includes unions and NGOs in garment-producing countries as well as the US, Canada and Australia.*

The CCC works through awareness-raising and campaigning, building international solidarity, putting pressure on companies throughout the garment supply chain, and lobbying decision-makers at EU and national levels.

In CCC's experience, bringing working conditions up to ILO standards is more and more difficult. This is because workers are increasingly dispersed and employed without secure contracts, with decreasing or non-existent benefits or social protection, and without representation. This new, casualised workforce is overwhelmingly a women's workforce.

The scale of the problem is so vast that it cannot be solved by just seeking to turn these jobs into formal sector jobs. The CCC sees the tide very much going in the other direction.

In many workplaces, fully functioning trade unionism is simply not an option. This happens, for example where there is extreme repression against unions. Here, the CCC's strategy is to develop and maintain links with other types of groups which bring together, support, organise and sometimes even represent workers who would be otherwise unrecognised and unprotected.

For example, in Guatemala City, a women's organisation Women in Solidarity, provides women 'maquiladora' (assembly factory) workers with health education and services. At the same time, it works to build the confidence of the women and provides them with training on workers' rights. Given the horrors of the recent civil war in the country, many women workers fear that trade union activity will put them in danger. The health project therefore has become a means to organise safely and, importantly, away from the workplace. There are many such projects throughout the developing countries, for example in Export Processing Zones where unions are banned.

In other situations, unions may legally have the right to organise but for a variety of reasons do not do so. Homeworkers in the UK provide an example of this. In a survey by the National Group on Homeworking, 45% of homeworkers interviewed said that trade unions do not particularly understand their needs, and yet 41% called for trade union recruitment of homeworkers. This is remarkable given their isolation and often lack of awareness of what unions have to offer.

Meanwhile, the UK unions surveyed, including the three main unions active in the garments sector, said they felt not in a position to service homeworkers. The reasons they gave were:

- *Homeworkers are dispersed and rarely come together.*
- *Homeworkers are often low paid and may find it hard to pay regular union dues.*
- *Some workplaces have only a small number of homeworkers.*
- *Homeworkers have a weak bargaining position.*
- *Homeworkers lack a common interest.*
- *There is a possible conflict of interest between homeworkers and on-site workers.*
- *Homeworkers might place high demand on unions' scarce resources.*

These difficulties are real, but perhaps overstated. Elsewhere, there are positive examples of unions organising homeworkers. But, on the whole, UK unions have been recruiting among and servicing those informal workers who are easier to organise, such as part-time, on-site workers rather than homeworkers. So, the National Group on Homeworking, which is an NGO, is preparing to organise homeworkers, in full co-operation with the unions.

Such organisations as the NGH in the UK and Women in Solidarity in Guatemala are not setting out to compete with trade unions, nor to undermine them. They are setting out to organise because organisation is needed and because they are well placed to organise workers. By-and-large, they seek to work with unions as closely as possible, in order to facilitate the development of trade unionism.

At the same time, this does give rise to pressure from the NGOs to change the nature of union organising. The way in which the global economy is developing makes traditional forms of workplace organisation more difficult. Workers in globalised industries such as garments are in widely dispersed workplaces, with their ultimate employer on the other side of the world. In any case, trade unions have never adequately represented workers outside main production units, the majority of whom are women.

So, NGOs have emerged to fill the gap, mainly initiated and run by women. They have often encouraged workers to develop their own associations or trade unions but with the home or community as the focal point of organising rather than the workplace itself.

What matters is:

- *That organising is taking place at all, whether by a trade union or an NGO.*
- *That there is a willingness to address the real needs of workers, especially women workers and workers in the informal economy.*
- *That there are a number of models of organising and they are all valid.*

To accept different ways of organising will benefit workers with very different experiences and status. Openness to new ways of working makes it possible for NGOs and trade unions to form alliances which will greatly strengthen the workers' movement."

www.cleanclothes.org

‘Like Recruit Like’

Chanda Parmar-Bonta describes how she was trained through the Organising Academy of the Trades Union Congress (TUC) to recruit and organise workers in the UK. As a Community Organiser, her role was specifically to bring Asian workers into the British trade union movement.

“Ever since the 1970s there has been a downward trend in union membership in the UK. In the late 1990s, the TUC set up a new Academy to train organisers and I was one of those trained. It is the first time that the British union movement put such resources into organising. As Frances O’Grady, the Head of Organising, put it, the reality of British trade unionists was of ‘pale, male and stale’ officials and this had to change.

I had never been actively involved in the trade union movement before, but I was very active in anti-racism work. After the TUC training, I went to work with KFAT, a trade union representing workers within the clothing, textiles and footwear industries. Its headquarters are in Leicester, a city with a big garment industry, employing many Asian workers who originally come from India and East Africa. Luckily, I come from the same community. We base our work on the concept ‘Like recruit like’.

We placed adverts on Asian language radio which were broadcast direct into the factories. This was at a time when the new minimum wage law was coming in, and we used this as a recruiting tool. We used the expertise of community-based organisations, for example the local Asian Women’s Centre which has the capacity to translate and has trust within the community.

When organising homeworkers, we had to come up with new ideas. At first, we asked them only for a symbolic fee of 10p a week. We used the same approach when organising in new workplaces on ‘greenfield’ sites, where we asked the workers for just 50p a week. This brought them in so that they could see for themselves what a union is and does. It took a long time to organise them but we found a way. And now we need to make the effort to ensure our services meet their needs.

We knew that KFAT would represent the workers we recruited, and not let them down. We did not experience the tensions I am hearing about from other countries between unions and NGOs. These are new ways of organising and it is the way to go. Otherwise, I fear there will be no union movement in the future.”

“The reality of British trade unionists was of ‘pale, male and stale’ officials and this had to change.”

Organising self-employed workers

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There have long been freelancers in the workforce, such as journalists, interpreters, etc. But the phenomenon of self-employment has been growing so fast in recent years that many trade unions realise they have to respond. These are uncharted waters, which challenge the notion that a union is based on workers who are 'employees' in a particular employment relationship.

There are different types of 'self-employed'. There are those who choose to be self-employed and those who have been forced into it by their employer. There are self-employed who work on their own and there are those who sometimes or often employ a few others. In today's world, many workers move between employment and self-employment, and back again, in relatively short spaces of time.

All self-employed tend to have insecure salaries and no unemployment benefits or other social protection. They do not "fit into the system" as it is currently organised, especially in Western Europe. Or the system itself no longer functions properly, as in CEE countries, where workers are left to fend for themselves. Moreover, they often undercut standards achieved by the unions. This is precisely why the sector is growing - so that employers have a flexible labour force to be called on 'just in time' and costing them much less in labour costs and social protection.

Unions have tended to be against this increase in self-employment, knowing its negative impact on labour standards. But, in many countries, unions have overcome their wariness and opened up to organising the self-employed, seeing it as in the interests of all their members.

So how are they doing this? And what lessons might be learnt from unions in other parts of the world where the informal economy is much larger, particularly the developing countries?

• In the union, or in a separate organisation?

The largest union specifically for self-employed workers is the **Self-Employed Women's Association (SEWA)** in India. (See case study.)

In the Netherlands, where there are thought to be 400,000-600,000 self-employed or some 10-15% of the total workforce (depending on the definition of 'self-employed'), the unions have taken various approaches. The unions for printing and media have been organising freelance and self-employed workers within the normal union structures already for several decades. Then in 1999, the FNV set up a special union for self-employed workers linked to the big, merged union for industry, agriculture, transport and commercial services FNV-Bondgenoten. This special union is called **FNV Zelfstandige Bondgenoten**. According to **Martin Spanjers**, quite a lot of hostility among existing union members had to be overcome first. The same model was also chosen by the Dutch Construction workers Union, FNV-Bouw. The FNV has now set up a special advisory board to co-ordinate the activities by these various unions for self-employed workers.

Marjan van Noort, General Manager of the **FNV Zelfstandige Bondgenoten**, says her union provides members with services such as advice on company law, legal and tax matters, negotiating contracts, and debt collection. It is information, tailored to their needs, for them to use in negotiations. Most of them are professionals who choose to be self-employed, such as IT specialists, consultants, interpreters, and journalists.

"Workers in the informal economy include both wage workers and own-account workers. Most own-account workers are as insecure and vulnerable as wage workers and move from one situation to the other. Because they lack protection, rights and representation, these workers often remain trapped in poverty."

ILO 2002, Conclusion 4

"Although most at risk and therefore most in need, most workers in the informal economy have little or no social protection and receive little or no social security, either from their employer or from the government."

ILO 2002, Conclusion 10

In Germany the self-employed are brought into the existing union structure. In the **Ver.di** union, according to **Gunter Haake**, members can be members for their whole working life, whatever their profession or employment status. Out of 2.8 million, they so far have 30,000 self-employed members, mostly in the media; they are working to recruit more.

In Spain, trade unions for the self-employed are not accepted under law. So the **Comisiones Obreras (CCOO)** has encouraged the formation of an association of self-employed, and changed its own statutes so that they can have a structural relationship. (See the case study.)

“There is little in common between small, very poor and exploited micro-enterprises on the one hand, and large employers (who may be exploiting them through the sub-contracting system) on the other. We want to organise society - the “toiling masses”. We need to build coalitions to defend ourselves against exploiters, employers as a class. It is a political issue.”

Dan Gallin, WIEGO

• How can we organise so many scattered individuals?

How can unions reach the self-employed, many of whom are isolated individuals, bring them in, keep them interested, and generate a sense of common purpose? The answer is often to go back to basic organising techniques, and also to use the benefits of new communications technology, especially the Internet.

In Moldova, the **CSR** soon realised that organising is best done by people who are especially trained. In Germany, they have found it important that “like service like”. So, for example, a former journalist is a better organiser of journalists. Other unions have come to similar conclusions. (See also ‘Like Recruits Like’.)

In Germany, **Ver.di** has a help-line to which anyone can call, not just union members. The service is not ‘Members for Members’ but ‘Freelancers for Freelancers’. This is to combat some freelancers undercutting the rates of the rest. Meanwhile in Austria, special web-sites for freelance members are helping to keep isolated members in touch with each other and the union. (See ‘**work@flex**’.)

The freelancers’ help-line in Germany is a project that gets government funds. Such support to unions is rare. Resources usually have to be found from within the union’s scarce resources, from members’ dues. Almost all unions, from the Netherlands to Moldova to Ghana, find that it is best to attract the self-employed in with services, then ask for dues which are so low they are ‘symbolic’, and even for the first few years subsidise the self-employed activities from the dues paid by employee members. These are tough but necessary choices, these unions believe. (See ‘Unions in Ghana Take Up the Challenge’ and other case studies.)

“The term ‘self-employed’ is used for workers in very different situations. Psychologically it is very different whether you work 14 hours a day to get rich or 14 hours a day to make someone else rich.”

Mariana Petcu, National Association of Human Resources Specialists (AUR), Romania

• **What if the self-employed employ others?**

In the Netherlands, anyone who employs others is asked to leave the **FNV**, or not allowed to join in the first place. This is found also in Finland, a decision taken after a case when the union faced a conflict of interests - an employer and the employee were both members and sought union support. Now, employers of others should join the employers' association, according to **Heli Ahokas** of the **STTK** union federation.

But in South Africa they came up with a different formula. *"In the **Self-Employed Women's Union (SEWU)**", says Pat Horn, "we at first said 'no employers' but we soon ran into problems, especially over family labour. SEWU decided to accept people with no more than three people working for them, including unpaid family labour. It was a guess but it works fairly well. You do need a cut-off point. The important thing is not to take the safe way of saying 'because we can't decide, we won't try.'"*

In Germany, **Ver.di** allows its self-employed members to employ others as long as they are not in the same profession, such as a secretary or a cleaner, and it will not service any employment contract issues with them.

"We have to challenge our assumptions: a self-employed worker may for a few weeks take on someone or several to help out with a contract; perhaps it is through an agency. If so, why should that person have to leave the union? Historically, all kinds of organisations formed the trade union movement - guilds, chambers of crafts and trades, etc. So, go easy on the principles. Look at the labour market and how precarious life has become for many workers."

Clemens Rode,
Friedrich-Ebert Stiftung,
Germany/Hungary

.....

Questions for Your Union

What is your union's policy on organising workers who are 'self-employed' - both those who choose to be so and those who have had 'self-employment' forced upon them?

Could your union do more to protect the most vulnerable among the 'self-employed'?

.....

India: the Largest Self-Employed Union in the World

The **Self-Employed Women's Association (SEWA)** is a trade union for women workers in the informal economy in India. It was founded in 1972 and today is the largest informal economy organisation in the world, with a total membership of 687,000 people, in 86 different trades in seven states.

Manali Shah, SEWA's Vice Secretary General, says that in India today 93% of the total workforce is in the informal economy, up from about 82% in 1981, and still growing. The informal economy contributes 66% of the total Gross Domestic Product of the country, 50% of the national savings, and 39% of the exports. She continues:

“SEWA was born in the labour movement with the idea that casual workers, vendors etc., have the right to fair and decent wages and working conditions, and protective labour laws, and as a result dignity and visibility. SEWA also encourages self-employed women to set up co-operatives, to develop an alternative economic system. Today we have 102 co-operatives, some land-based, others livestock-based, trading and vending, and service-based.

After careful research into our members' needs, step-by-step SEWA has built up specially designed services such as a savings and credit bank, plus social security and insurance schemes. We have an integrated approach, believing that for women workers the whole family is involved. So eleven points have been identified: employment, income, nutritious food, childcare, healthcare, housing, ownership, union strength, leadership, self-reliance, and education. Even as big as we are, we get members to become active in our structures by reaching out to them.

Home-based 'bidi' (cigarette) rollers were among our first members. None of them knew about the law. We organised some socio-economic surveys and found out what their problems were. We reached out to them by issuing the ID cards that they were entitled to under the welfare laws, and gradually helped them fight for their entitlements. We negotiated with middlemen and employers to stop them making extortionate demands. Also we fought a long case against the biggest 'bidi' employer in Gujerat to win rights to the Provident Fund. The employers tried to say that these workers were not their employees, but we eventually proved it by tracing the production chain through the labels on the 'bidis'. The employers and contractors were very angry and withdrew work all over Ahmedabad city. It led to a one-month strike. After talks with the Labour Department, we are now trying to form a tripartite provident fund. This case has been seventeen years of struggle.

SEWA's struggle for vendors' rights began in 1974 when we took a case to the Supreme Court on behalf of 525 street vendors. We argued that under the Indian Constitution everyone has the right to an occupation. After a long struggle, we won. Today vendors are trading peacefully on the streets. They are no longer harassed by the police or municipal authorities. They don't have to pay fines or bribes. We have 40,000 street vendors organised. They actively lead their own campaigns for space, licences, ID cards and representation on the boards which formulate policies and law for urban development.

In 1998, SEWA initiated the National Alliance of Street Vendors of India (NASVI), which has 320 membership-based organisations from 49 cities in 22 states. Recently, consultation with the Urban Development Minister led to a special task force which has been working out a national policy for street vendors. So, instead of collective bargaining with an employer, for vendors we negotiate with other structures, including municipal authorities, the police, and traffic authorities.”

www.sewa.org

SEWA's 11 points

1. employment
2. income
3. nutritious food
4. healthcare
5. childcare
6. housing
7. assets
8. organising strength
9. leadership
10. self-reliance
11. education

Organising the Self-Employed in Spain

Jordi Gutierrez i Suarez describes how the **Confederación Sindical de Comisiones Obreras (CCOO)** trade union in the Catalunya region of **Spain** has started to organise the 'self-employed'.

"Traditionally our membership was men in large industries. But we have had to change and open up to new groups. There are new systems of work being developed, especially a growth in the 'self-employed', many of whom are still contracted to companies, sometimes just one company and sometimes several.

All workers need social protection, and we want to defend their rights to it. They need proper working conditions. They require representation. So these workers must be brought into the mainstream world of the union movement. If we don't do this, there will be conflict between them and our traditional members.

In March 2001 the CCOO in Catalunya set up an Association of Self-Employed Workers, which is legally recognised by the union movement. Under Spanish law we could not have a trade union for the self-employed. So the legislation had to be changed to allow for this new type of joint membership system. Also we had to change our statutes to bring in these non-waged workers. In this way we are incorporating the self-employed into the established unions.

Those not included are those running their own small business, employing others including family members. They cannot be included in our structures, or there would be legal conflict. We do bring in some people who have employees working for them but they are those who are classified as 'independent workers' under Spanish law, that is they do not have the legal status of business-owners. This includes some street vendors, construction workers, and so on.

When it comes to street vendors, at first, we didn't know where to put them in our structures. We realised they were having difficulties negotiating with local authorities and so we started to help them do this.

Now we are going sector-by-sector, building more than one association for self-employed workers. The self-employed have tax obligations, contractual relationships with other businesses, and they provide services and goods, but often without written contracts. We try to encourage them to have contracts with clear working conditions. We teach them techniques for collective bargaining, and about their rights. We give them advice on how to deal with the tax and other authorities. When we discover bad working conditions, we try to get media coverage. We have had many meetings with groups involved, from public authorities to business representatives. We have developed a 55-point platform to incorporate the rights of self-employed workers.

In our meetings, the self-employed members have full voting rights. We don't want two types of union: one for waged workers and one for the self-employed. We want a unified union movement for both. This is also because in today's flexible labour market, you may be self-employed today and employed tomorrow, and then back again. In the major transport industries in Catalunya, we have achieved a single agreement for all types of workers.

Also, we are working on an EC programme in co-operation with the Italian unions in Lombardy who are doing something similar. Throughout Europe we are in a similar situation and so we should have a European approach.

We realised we had to change attitudes and structures. We need to move forward with the times. We must avoid an explosive situation, a two-tier system where some have rights and some do not. This would help to divide-and-rule workers."

www.ccoo.es

work@flex for the Self-Employed in Austria

The **Gewerkschaft der Privatangestellten (GPA)**, or Union of Salaried Private Sector Employees, is the biggest trade union in Austria, with 300,000 mostly white-collar workers. It negotiates 160 collective bargaining agreements a year. **Eva Scherz** explains why and how the GPA set about organising among the self-employed:

“Out of a workforce of 3.2 million in Austria, only about 100,000 are ‘self-employed’, a relatively small proportion. But research shows that four out of five of them are not voluntarily self-employed. They are in this situation because a lot of employers are trying to avoid social insurance and taxation.

So, in July 2000, the GPA decided to organise ‘self-employed’ people. We had lost many members and realised we needed new structures and orientation. By February 2001, the first two interest groups started working: work@social and work@IT, and six months later work@flex was born.

By February 2002 work@flex had its first 200 members, though it was hard work to get them. Two months later they elected their first representatives, and by the end of 2002 we had 600 new members for the union.

Under Austrian law, it is not always easy to identify who is an employee and who an employer. Work@flex targets people in several such precarious situations:

- *those who provide services under self-employment contracts;*
- *those in a strange position who are categorised as an employee for social security purposes but as an employer for tax purposes!*
- *trade-licence holders but who do not have employees;*
- *and, since January 2003, temporary agency workers.*

Though organising among many types of work, we are concentrating on bike-couriers, nurses, education workers, finance workers (where there is a lot of IT outsourcing), and young scientists contracted to the state. About one-third of work@flex members are recruited through the GPA’s Internet home-page.

There are a number of principles we have built into this new structure.

- *You can join in the work@flex activities before becoming a full union member;*
- *To become a member you have to actively register;*
- *Members have full voting rights in elections, including to the highest levels of the union structure;*
- *They get a platform from where they can raise their issues politically;*
- *Networking is encouraged, for example through monthly meetings in Vienna (though this is more difficult in other regions);*
- *The union offers made-to-measure services, such as advice on tax and social security, assistance on contracts and payments, legal protection, and insurance policies against loss of earnings due to sickness or accident*
- *We work with research institutes on research into precarious employment.*

Much of this we developed after asking the new members what they would like. We also got ideas from the FNV in the Netherlands. Our political aims now are to achieve for these members the right to vote and participate in works councils elections; to integrate them in collective agreements; to include them better in social security and unemployment benefits; and to work on international regulation. In 2003, we are campaigning for unemployment benefits for everyone.

www.interesse.at/work@flex

Organising Sex-Workers in Holland

The Red Thread (De Rode Draad) is a trade union for sex-workers in the Netherlands that is affiliated to the FNV. In many other countries, sex-workers are 'illegal' and not considered as 'workers'. For these and other reasons, the trade union movement usually has little to do with them officially. **Sietske Altink** explains how the Red Thread and the FNV work together:

"Twenty years ago, there was no 'Red Thread'. At that time, I met a big shot from the FNV in a pub. I asked him if he would accept sex-workers as union members. 'Over my dead body', was his answer. Little did he know that shortly after his death, the FNV would indeed accept sex-workers as members.

The Red Thread came into being in 1985, founded by a self-help group of sex-workers with the aid of some prominent feminists. In 1987 it received funding from the Ministry of Labour and Emancipation. (Now it is funded by the Welfare Department.) The decriminalisation of prostitution was in sight.

In 1991, we had first contact with the trade unions. The good news was that they were no longer totally opposed to sex-work as a concern of the labour movement. The bad news was that they felt they couldn't do anything for sex-workers. They only took on members who were employees in a clear employer-employee relationship.

At the time, Red Thread members preferred the status of independent entrepreneur or self-employed contractor, as this gave them anonymity, which an employment contract could not do. But legalisation of brothels meant 'normalisation', and the taxman. And there is no way to pay tax anonymously. So, the Red Thread gave up the idea that employment with a labour contract was out of the question.

Meanwhile, and more importantly, the FNV set up a department for sole entrepreneurs. This paved the way for a second round of contacts, right before the legalization of brothels. The FNV Executive Board decided that they should take up prostitutes' rights. Formally, members could stop them, but in fact they never did.

We see the working with a regular trade union as a great step forward. We get:

- official recognition
- expertise in the case of labour conflicts, e.g. with brothel-owners
- a weighty partner in political issues because the FNV is fully recognised by the government as a social partner.

The FNV also:

- supports us in building our union for sex-workers. We recruit the members, in our own office. Women do not have to state their names, etc. as they would in a regular trade union. Self employed sex-workers can also become members. Now we have a small but growing number of members.
- is developing a tailor-made training programme for sex-workers so that they can become fully-fledged shop stewards.
- has developed other publicity materials for us.
- last but not least, is entitled to make a collective labour agreement that should be valuable nationwide for those sex-workers who want to enter into an employer-employee relationship.

According to the FNV, all this is only possible because legalisation gave them the authority to defend our case against their 'traditional members' and to lobby the government.

But can a union only do something for a 'legal' workforce? Now we are debating about the exploitation of 'undocumented' sex-workers. Is there some kind of action possible parallel to that for people in garment sweatshops or domestic work in conditions of slavery? Undocumented sex-workers should have a means of redress that is better than just deportation.

We want more women to be documented. Our view is that migrant sex-workers should enjoy the same rights and restrictions as migrants in other professions.

So the 50,000 Euro question is: what can we offer to a sex-worker who won't or can't join the union, such as the undocumented women? Or to sex-workers who don't see themselves as sex-workers and have taken up the work 'just for a few days, for a bit of money'?

The answer is simple: they should be able to apply for support, even if we don't know their names and legal status. We, as a union, are not the police. We don't check residence permits or other papers. We don't do the work of the police.

How have the brothel-owners reacted? We encouraged the organisations of brothel-owners to become members of the official organisations for employers. Some of them had come up with the idea themselves. Some are willing to take their seat at the negotiating table. But on the whole, they have been aggressive, not unlike the great captains of industry in the nineteenth century when workers got organised. In practice, we get often kicked out of brothels. There is a long way to go. We don't expect we will succeed within the next year.

But there is one thing worse than fighting brothel-owners and that is not fighting brothel-owners. There is one thing worse than fighting exploitation, and that is not fighting exploitation. There is one thing worse than organising and that is not organising. And there is one thing worse than just a small group of organised sex-workers, and that is no group at all."

info@rodedraad.nl

Organising undocumented migrant workers

6

The world is on the move. It is thought that 120-180 million people, workers and their families, are currently migrants, perhaps double the figure in 1975. They increasingly include women moving on their own. All continents are affected.

Not only are there large flows from Eastern and Central Europe to Western Europe but suddenly also a lot of migration within the CEE countries. Within Western Europe, the situation varies between countries too. While immigration into France, Germany and the UK is long-standing, it is a much more recent phenomenon in Spain, Portugal and Ireland, which used themselves to be the 'cheap labour' countries of Europe.

Among those coming into Western Europe, many are skilled - IT professionals, health workers, engineers, artists, etc. They are most likely to be granted work permits and therefore legal status. For them, migration is often a positive experience, giving them and their families better economic and social position. Women in particular can gain personal freedom as well as income. The role of these migrant workers in the countries that receive them is not so controversial.

Others, by contrast, are in jobs seen as the '3 Ds': dirty, difficult and dangerous. These are jobs which many nationals of a country do not want to do. These workers help to build homes, work on farms, make clothing, collect garbage, clean offices, hospitals and hotels, prepare food, care for children and the elderly, etc. Their contribution is essential but the workers are often invisible. Some of it, such as household work, is not even considered as 'work'. Many of these jobs are not registered and not counted as important enough to entitle the workers to work permits. Employers have a ready labour supply and many cannot be bothered to apply for permits.

"... the majority of workers and enterprises in the informal economy produce legal goods and services, albeit sometimes not in conformity with procedural legal requirements, for example where there is non-compliance with registration requirements or immigration formalities. These activities should be distinguished from criminal and illegal activities, such as production and smuggling of illegal drugs..."

ILO 2002, Conclusion 5

"Let everyone who migrates with a legitimate cause be a trade union member. Let us remember that they bring culture as well as an ability to clean floors."

Leo Mesman of the **FNV Mondiaal's Central and Eastern European Programme.**

These are the workers who are particularly vulnerable to harassment, intimidation, and threats. They face economic exploitation, social discrimination and serious health risks. They are prey to deception and coercion by the 'people traffickers', the organised criminal gangs that supply labour. They may even be forced into debt bondage, servitude and captivity. For them, the concept of 'workers' rights' is very distant.

There is often a contradiction at the heart of union policy on migration. Unions know that migrant workers are used to undercut the achievements of the trade unions and replace organised and protected workers. This leads many unions to agree to tight immigration policies. However, unions are also aware that it is these high barriers that serve to increase the levels of exploitation and unfair competition with national workers.

And what about the workers who were once union members, then travel to seek work, maybe are made 'illegal', and then are lost to the union movement? Eastern European unions feel acutely the loss of members who migrate to the West. What can unions do to keep workers organised, wherever they move to?

"We could look at European union membership - that is, if you are a union member in one country then you are a member in another. In this way, a migrant worker would be recognised as someone who is part of the union movement, and his or her rights could be properly defended."

Henk van der Kolk, President of the **FNV Bondgenoten**

• Should unions organise 'illegal' workers?

Across Europe, East and West, trade unions have barely started to grapple with the issues of organising migrant workers. For many, the status of many migrant workers as 'illegal' and pressure from racism and xenophobia in society at large hold them back. Even some union members support racist political parties. Some unions are active in getting migrant workers deported. **Sir Tony Young** of the British **Trades Union Congress** comments, "We cannot take it for granted that our own members agree with supporting migrant workers. It is a very sensitive issue, and we have to face up to racism in our unions, even among union activists. Real education has to be done."

In many countries, unions work within what the state defines as legal. In Finland, for example, union representatives have been involved in surprise raids on construction sites, along with labour and tax inspectors, according to **Heli Ahokas** of the **STTK**. The Finnish unions have written a guide for migrant workers, highlighting their rights under Finnish law and explaining to whom they can turn for support. It is translated into appropriate languages such as Russian and Estonian.

"Unions should not differentiate between workers with and without papers. If we do, it will be to the detriment of 'legal' as well as 'illegal' workers. All union members should get equal treatment, even if many of our existing members do not agree. It is not easy organising migrant workers. But we must find the means."

Henk van der Kolk, newly-elected **President of FNV Bondgenoten, Netherlands**
(See also 'We will re-energise our unions'.)

In the Netherlands, the **FNV** has gone a bit further. On May Day 2002, President **Lodewijk de Waal** declared that the FNV will accept 'illegal' migrant workers as members. This means that migrant workers who have no legal status under immigration law can join FNV unions. It was a controversial statement even within the FNV. But he believes the FNV should follow the principle that 'every worker is a worker, independent of their legal status'. The FNV makes a clear distinction between the immigration status of workers on the one hand and criminal activities on the other, which of course the FNV avoids. An example of this policy in action is that of the 'undocumented' sex-workers in Holland. (See the case study on the Red Thread.)

So, a clear distinction can be made between, on the one hand, legitimate economic activities - irrespective of the legal status of the individual workers involved - and the criminal economy, on the other. Included in the criminal economy is people-trafficking. Many migrant workers are channelled by criminal gangs. It should be possible to develop policies that are humane towards migrant workers whose activities and intentions are not criminal, and at the same time harsh towards the gangs that control them.

• "illegal" or "undocumented"?

No Noi Hacbang of the **Commission for Filipino Migrant Workers (CFMW)**, which has offices in London and Amsterdam, appeals to trade unionists not to use the term 'illegal'. Using 'undocumented' better describes their status as workers without correct papers. It is the restrictive immigration policies of European governments which make it difficult for people to be registered. It is not a term for unionists to adopt uncritically.

"Workers in private homes in the Netherlands are not granted work permits and so they are not documented. Yet among them are highly educated scientists, midwives and teachers from the Philippines and elsewhere. What if these people who carry out this basic service were not there? They make Europe richer. Europe, with its ageing labour force, needs migrant workers."
Jusay Fe, CFMW

• Is it important who holds the work permit?

In some countries, such as Ireland, it is the employer who applies for and holds the work permit. If s/he sacks the worker, the permit is returned and the worker becomes 'illegal', at risk of deportation. Elsewhere, such as in Switzerland, it is the worker who is granted the permit, and the Irish unions are lobbying for this change in immigration law, according to **Paddy Moran** from the **Services, Industrial, Professional and Technical Union (SIPTU)**.

However, while changes in the work permit system may be necessary, evidence from the OMI contract system in France suggests this is not sufficient. (See 'Different System, Same Exploitation'.) The answer lies instead in migration policies that are based on planned labour market needs, and equality of treatment for migrant workers as for nationals, as the ILO is suggesting. (See 'Improving Migration Policy'.)

Yet at present it seems that more and more migrant workers are being made 'illegal'. In France, migrant workers who arrived twenty years ago with proper documentation are, since new laws were passed, being made 'illegal'. In Spain, North Africans are getting fewer permits and being made 'illegal'. Who is demanding these changes in the labour market? And why is it that over and over again, it is the migrant workers who are punished and deported while unscrupulous employers are let off with a fine; some go on to repeat the same practices over and over again.

“In the autonomous regions of Spain we are bringing in legislation to criminalise the use of ‘illegal’ labour. We need to challenge these employers, who often have political support. If there was no demand for this labour, there would be no trafficking. Taking a stand on this issue is a legitimate role for unions.”

Jordi Gutierrez of the **CCOO** in **Catalunya, Spain**

Different Systems, Same Exploitation

Three days of rioting in the Andalusian town of El Ejido, Spain, in February 2000 sent shock waves throughout Europe. The **European Civic Forum** decided to investigate. The ECF is an international association founded in 1989 by Eastern and Western European citizens to develop common activities, and has agriculture and rural society as one of its main concerns.

Sissel Brodal of the ECF believes that, until the riots, few in Europe had known about the greenhouse industry in Southern Spain. All Europeans now eat tomatoes in winter. But few ask where they are produced, by whom, and under what conditions.

“In that region, about 3 million tonnes of tomatoes, squash and peppers are grown each winter for the European market, under a vast plastic ocean of 30,000 ha. The riots were directed against the 30-40,000 migrant workers who work there, the majority of whom are Moroccans from across the Mediterranean sea.

Working excessive hours, constantly at risk from pesticides, and in sweltering temperatures up to 50 degrees C, they live in shacks and barracks, often without running water or electricity. The conditions are so bad that any worker who gets legal status leaves as soon as possible. At any one time, the 15,000 owners of these production units employ about half of their workforce without legal permits.

The ECF investigation showed there were many and complex reasons for the riots. At that time, the Spanish - then socialist - government had started a campaign for the ‘legalisation’ of undocumented foreigners. February is a peak season for the greenhouses but many workers were in the queues to obtain their papers. The riots went on for two days before the police intervened. Then the Moroccans went on strike for a week before the greenhouse-owners agreed to sit down and negotiate. Many promises were made for better wages, better housing, etc., but today, three years later, little has changed.

What is changing, though, is the source of labour. Now the greenhouse owners are trying to shift to Eastern Europeans. The Moroccans have been working in the region for decades. They know the situation well and how to organise themselves. Many are highly educated. It is the desperate economic and social situation in their own country that drives them to emigrate ‘at any price’, as their organisation ‘Les Diplomés Chômeurs’ (Unemployed with Diplomas) with its 10,000 members reveals.

What the ECF found in Spain also exists in Italy and Greece. All three are countries which used to provide cheap labour for Northern Europe. Today, they are themselves countries of immigration, a gateway to the fortress of Europe.

Today’s industrial vegetable and fruit growers need a large army of people in distress to be used just how they want. This is because the main buyers are a small number of very big supermarket chains that in many European countries control 80% of the retail trade. Their monopolistic position allows them to dictate the prices to the producers. The only cost that the producers control themselves is that of labour, and hence the search for ever cheaper workers.

In France, the situation is different. Here too there are vast areas of greenhouses with migrant workers from North Africa and Eastern Europe. But most of them have legal contracts, the so-called OMI contracts which are based on bilateral agreements between France and Morocco, Tunisia and Poland. It is a 30-year old system.

Each worker signs the OMI contract with his or her employer before leaving home and at the end of the contract must return home within one week. They are physically in France but their rights are those of the home country. They pay social security taxes the same as French workers but receive sick pay, family allowances and pension to the standard of their home countries. They still ‘live’ in their home country and only ‘work’ in France. They may only work in France for 8 months at a time. Even if they return each year for 25 years, no French residence permit is possible. The OMI contract has to be renewed each year, and the numbers are decided each year by the French Government.

Under this system, working and living conditions can be just as bad as those in Spain. OMI workers are entitled to the official minimum wage and a 35-hour working week but it is not clear who verifies this. Hardly any employers pay for overtime properly. They can dispose of OMI workers almost as if they were 'illegal'. It is a situation that makes a wide range of abuses possible.

In recent years, some badly treated OMI workers have started to defend themselves by launching complaints against their employers. In the region of Marseille, ten organisations, including the local sections of the CFDT and CGT trade unions, have set up an association to support them and other foreign agricultural workers.

At the European level, the European Commission is preparing new Directives on the conditions under which foreigners get the right to enter the EU. The French OMI contracts are being used as an important model as they link residence permit to the work permit, and the work permit to the employer. So far, however, there are no reports of any trade union speaking up against these plans to limit the rights of immigrants.

*To the ECF, this means that this is not a problem that can be tackled on the question of 'legal' or 'illegal' status. Rather, racism has become a way of organising and structuring the economy. And what is happening today in agriculture may be brought into other sectors. Trade unions were founded to change society for the better.”
Sissel Brodal feels that, if they want to survive, modern trade unions need to go back to some old-fashioned ideas.*

www.civic-forum.org

'Le goût amer de nos fruits et légumes', May 2002, available in French

'El Ejido: Terre de Non-Droit', available in French, German and Spanish.

'The exploitation of migrants in Europe', available in English and French.

“We will be re-energised”

Martin Sieker, a union organiser with the **FNV Bondgenoten** describes attempts to organise migrant workers in the Netherlands.

“In 2001 a police raid on two large vegetable growers near The Hague led to the arrest of 110 ‘illegal’ workers, or 70% of those employed there. It was a big shock to the country. The Minister, from the Labour Party, said that such employers should be punished and, if they do it again, be stopped from running their business. But in the end the Government deported the workers and just fined the employers.

Attitudes have been changing. Nearly all migrant workers are now labelled ‘illegal’ and dehumanised. From the early 1990s, it became harder for them to be covered by social security. No papers meant no rights, no housing or health facilities, even though they paid taxes.

Then in 1998 the law on temporary employment agencies was revised to make the labour market even more flexible. The number of agencies increased dramatically from 10 to 2000, all of them supplying labour cheaply. Now anyone without a permit can work through a temp agency. Wages for migrant workers directly employed used to be 12-15 guilders an hour, just above the minimum wage level. Through the temp agencies, it has gone down to just 4 guilders or about 1.8 Euros an hour, or even worse. Where at first formal employees were pushed out by migrants, now even lower paid migrants are pushing out migrants.

Formally, if you work in the Netherlands you can become a member of the union, irrespective of your legal status. But the union struggles with what we can offer. Migrant workers want legal status, but it is not our role to grant them that. But we are starting to give more support to people at the bottom of the labour market, whether ‘legal’ or ‘illegal’. For example, there is a law that could grant six months wages to a person who has been working in the Netherlands for 1.5 years, even if they are caught without papers. Migrant workers vulnerable to being expelled cannot themselves fight for this. So we are taking a test case to court.

In another project, the union employed a Moroccan activist who was trying to organise agricultural workers. The results were very positive because he was from the same background, experience and religion. Then financial support for the project ran out and we lost these members again. However, it was a lesson in what we can do if we try.

Migrant workers are different from the majority of FNV activists. Because they have to struggle to find a place in society, they are often more dynamic and creative. They could help bring vigour back to the union movement. I believe that those who risk so much to come to Europe to work want to do something to combat the abuse. If the union is willing to include them, we will not only grow in numbers. We will be re-energised.”

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Improving Migration Policy

In 2001, the Director General of the **International Labour Organisation** issued a Global Report on Forced Labour which focussed on modern-day forms of slavery and the trafficking of human beings. Since mid-2002, a Special Action Programme has been under way. It brings together various ILO units to look at policy issues linked to a wide range of migration issues. Research is now being done in Albania, Moldova, Ukraine and Romania. More is likely in Western Europe (including UK, France, Netherlands, Germany and Italy) plus Russia and Turkey, focussing on the unprotected labour markets in agriculture, construction, informal manufacturing, and domestic work. The ILO will include migrant workers as a discussion item at the 2004 International Labour Conference.

Thetis Mangahas, Senior Programme and Operations Officer of the **ILO Special Action Programme to Combat Forced Labour**, explains some of the current thinking on these issues in the ILO.

“The protection of human rights and workers’ rights need to be at the heart of any migration and anti-trafficking strategy, regardless of workers’ immigration status. Standards and guidelines on this already exist, including, amongst others:

- *ILO Declaration on the Fundamental Principles and Rights at Work;*
- *ILO Conventions Nos. 97 and 143 on migrant workers;*
- *UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990;*
- *UN Optional Protocol (the ‘Palermo Protocol’) Against the Smuggling of Migrants and Trafficking in Persons;*
- *UNHCR Principles and Guidelines on Human Trafficking.*

Much of the blame for migration is put on conditions in the countries of origin. A lot can be done on the ‘push’ factors - the poverty, indebtedness, gender discrimination in the labour market, etc., especially of rural workers. But we must also remember the ‘pull’ factors in the destination countries. There, we see strong pressure for international competitiveness, as well as lower budgets for public services creating the need for out-sourcing to cheaper labour.

A number of other problems exist in the way these issues are taken up. At present, the debates and policies are dominated almost exclusively by questions of national security, criminal law enforcement and crime prevention, stricter border controls and deportation of ‘irregular’ workers. It is an issue for Interior and Immigration Departments, while labour ministries, workers’ organisations and employers are generally not consulted or involved.

Another dominant element, particularly in Europe, is that trafficking is largely thought to be about female sexual exploitation. Most action relates to targeting women and young girls working in brothels, bars and streets. Meanwhile, other forms of trafficking and forced labour are largely ignored.

There is also not necessarily a sharp distinction between what is forced labour and other forms of migration. Many migrants make a voluntary choice but along the way fall under the control of unscrupulous agents who seize their documents, withhold pay, impose fictitious debt, and use or threaten violence. In this way a migrant worker can become trapped. Labour inspection and workplace monitoring of agents, suppliers and contractors is very uneven throughout Europe.

Under discussion in the ILO are several proposals:

- 1. ILO research shows that legal labour migration channels help to reduce exploitation, trafficking and smuggling of migrants. Labour trafficking has far less reason to exist if job-seekers have more freedom of geographical movement and access to employment. Trafficking occurs when borders are barriers, when no knowledge is available about proper migration channels, when employment is illegal and/or underground, and where conditions of work that are much worse than legal minimums are tolerated or ignored.*

So, each country should have an informed and transparent labour migration admissions system: this should be designed to respond to measured, legitimate labour needs; it should be based in the labour ministry (rather than immigration department), and rely on regular labour market assessments.

2. *The demand for trafficked persons virtually does not exist where workers are unionised and labour standards on working hours, health and safety, wages and employment contracts are established. It is where jobs are not even considered as 'work' that abuse is worst.*

So, minimum employment conditions should be enacted and enforced in each country. Irregular employment patterns should be discouraged, and abuse of workers criminalised. Monitoring and inspection should be stepped up, particularly in sectors where irregular employment is common including agriculture, domestic work and the sex industry.

3. *Policy only works effectively where the concerns and interests of those most affected have been taken into account.*

So, labour migration policy must be drawn up and implemented in full consultation with the social partners, i.e. with employers and trade unions. They should discuss together how migrant workers are recruited and admitted into the country, the training of public service and law enforcement officers, the provision of social and health services to migrant workers, public education on migration issues, and how to restore human rights to the victims of trafficking. The unions should increase their efforts to organise migrant workers.

Of course this issue is a political one, and cannot be taken out of the context of prevailing public attitudes on migrants and foreigners. But it is most important to enable those most affected - the migrant workers themselves - to have their voice heard, to press for appropriate policies and claim their rights. This might lead to conflict, but they must be encouraged to participate, in the interests of advancing workers' rights as a whole."

Forced Migration = Trafficking

Among the migratory flows are thousands of forced migrants - mostly women and children - who are trafficked, many of them to work in the sex industry. **Liliana Makovei** is from **Partners for Change**, an NGO based in **Romania**, which focuses on support for victims and awareness-raising about forced migration. She says that from her country alone, some 10,000 women are thought to be trafficked each year, each sold for a few hundred Euros. Trafficking is a growing problem throughout CEE countries. Partners for Change is arguing for much greater bilateral and sub-regional co-operation.

Dutch action to combat trafficking

Yvonne Stassen, policy officer for 'trafficking' at the **Dutch Ministry of Foreign Affairs**, speaks about the role of the Organisation of Security and Co-operation in Europe (OSCE) in combating the trafficking of human beings.

"The OSCE is an organisation of 55 participating states, not only in Europe, and is the primary organisation in Europe for early warning, conflict prevention, crisis management and post-conflict rehabilitation. In 2003, the Netherlands Minister of Foreign Affairs is the Chairman-in-Office of the OSCE and intends to raise even higher the question of the trafficking of human beings.

Often the same infrastructure is used to transport different 'commodities': the same financial sources, transport routes and criminal networks. The amount of money involved in human trafficking may recently have become similar to or even higher than that involved in the drugs trade.

Within the OSCE, the main attention so far has been on raising awareness among governments, protecting the human rights of the victims, the training of police and border guards to recognise the problem, and setting up anti-trafficking projects through the OSCE field missions at grassroots level, for instance by providing for the care of victims through shelters. The key focus has been the victims of sexual exploitation.

In 2003, the Netherlands hopes to bring more focus on the root causes such as the feminisation of poverty and unequal economic opportunities in countries of origin, and the discrimination against women and gender-based violence in the countries of destination. Trafficking needs to be tackled through a comprehensive approach to all these issues, addressing both supply and demand.

But beyond sex-trafficking there are other victims, for example in forced labour in industries, for begging and stealing and, according to anecdotal evidence, for the purpose of organ transplant. In some Central European countries, there may be more trafficking of men than women when these activities are included. All this needs more research and awareness-raising among governments and the public.

The United Nations Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000) has very useful definitions of what is trafficking. It was agreed to by over 100 countries, and yet only a dozen countries have so far ratified it. In the Netherlands, anti-trafficking laws still only relate to the victims of sexual exploitation. New, more comprehensive laws are being drafted but it means that at present the possibilities of prosecuting traffickers and protecting their victims are limited. It is a similar picture in other countries.

So, internationally we need more police collaboration, technical co-operation to help countries adjust their laws, prevention campaigns, and programmes to help victims. An Anti-Trafficking Project Fund has been set up to help countries and NGOs in these activities. The OSCE countries have also agreed to update an Anti-Trafficking Action Plan in 2003.

Decent labour laws are part and parcel of any democratic society, and they should be for everyone: national workers and migrant workers, whether 'legal' or 'illegal'. With trafficking, it is clear that labour laws are being flouted. People are coerced into work situations, often in degrading circumstances. It is our common responsibility as governments, international organisations, trade unions, employers' associations, NGOs and others to stop this from happening."

Protecting Migrant Workers

At the FNV conference in January 2003, three workshops in different languages (German, Spanish and Russian) and plenary discussions came up with proposals. Summarised, the participants suggested that all trade unions should:

- **organise and represent migrant workers including 'undocumented' workers**

Migrant workers need to be recognised as members of the union movement, and their rights properly defended. Unions should fight for migrant workers to have the same working terms and conditions as others so as to combat the dual labour market. Migrant workers must be encouraged to become active union members.

Unions should organise all workers in their territory, not just according to their legal status. This may mean revising union structures and campaigning to remove legal obstacles. It may well mean having a migration policy that is different from that of the national state. 'Illegal' is a state word. For migrant workers, trade unionists should use 'undocumented' instead.

Where formal organising methods do not work, trade unions should use informal ones. Training organisers is key, wherever possible reaching out to migrant workers with organisers from the same communities. Unions in some countries need to ask themselves why unions in other countries are able to do this better.

- **develop cross-border union recognition**

Being able to carry your union membership to other countries should be promoted, especially within the European Union. This may mean developing bilateral mutual recognition agreements, or pan-European union membership, or more effective use of the Global Union Federations, perhaps opening them up membership by individuals on a global basis. The ETUC should do more to bring together unions in European labour exporting countries with those in destination countries.

- **work for changes in state policies on migrant labour**

Clear migration policies are needed. It is not possible to open up all countries to all-comers. Nevertheless, unions, including the international federations ICFTU and ETUC, should fight for migration policies, for example in the EU and in the International Organisation for Migration (IOM) that are less restrictive, less punitive, and more firmly based on United Nations' Declarations and ILO Conventions on migrant workers' rights. Trade unions must firmly denounce policies that place workers in transport, social services, health and housing provision, etc., in the position of policing migration.

Unions must highlight the clear distinction between migration and trafficking. Trade unions should fight harder for the criminalisation of employers who exploit and abuse migrant workers, particularly the criminal gangs and those who hire workers through them, not the workers themselves.

Work permits should be granted to workers not employers, to help prevent workers from being 'locked' into a particular employer. Trade unions should lobby for the qualifications of foreign workers to be recognised.

• **promote understanding on the causes of migration**

Unions need to denounce a society which is based on two classes: protected 'legal' workers and unprotected, undocumented workers. Union members and society at large must be made more aware of the sweated labour that lies behind the low prices of products and services, and who is profiting the most from the current neo-liberal policies. This includes more intensive education and campaigning against racism and xenophobia.

Unions should be deeply involved in anti-racist campaigns, initiating them where necessary. **Tony Young** says that the **TUC** has been very active, for example, in the North-East of England where fascist parties have been gaining ground. Unions have also been vocal in opposing recent discriminatory legislation including the unfair system where asylum-seekers and refugees were given vouchers for food rather than cash, a system that has now been withdrawn. The TUC is trying to ensure that each of its affiliated unions audits its own organisation so that it operates without discrimination.

"We must work especially on the causes of migration. Neo-liberal globalisation was never intended to develop Third World countries, but to benefit the industrialised countries."

Jean Lapeyre, European Trade Union Confederation (ETUC).

.....
Questions for Your Union

How well does your union's policy fit with these suggestions?
What changes might be necessary
and how can you help to bring them about?
.....

MIGRANT WORKERS

Written by Frank Edam and performed by the Alkmaar Street Band (Alkmaars Straatorkest) for the FNV conference. It is sung to the well-known tune of 'Which Side Are You On?' which was originally written by Florence Reece during a miners' strike in the USA in 1931.

Listen all you people
There's news to you to tell
Of how illegal people
Are working here in hell.

Chorus: Which side are you on? x 4

The dirtiest work they're doing
It's almost slavery.
Remember they are people
Just like you and me.

For them are all the lousy jobs
They're working days and nights
For hardly any money
Because they have no rights.

Don't scab for the bosses
They way they organise.
It's them who make the money
Don't listen to their lies.

7

Implications for union policy and practice

“The innovative and effective strategies and good practices that employers’ organizations and trade unions in different parts of the world have used to reach out to, recruit, organize or assist workers and enterprises in the informal economy should be more widely publicized and shared.”

ILO 2002, Conclusion 32

“(…) With women accounting for a majority in the informal economy, trade unions should create or adapt internal structures to promote the participation and representation of women and also to accommodate their specific needs (…).”

ILO 2002, Conclusion 34

Of what use are labour standards - national and international - if they no longer protect a growing proportion of the workforce who are the most vulnerable workers? What should trade unions be doing?

The informal economy will be on the agenda at a number of important meetings, including the ETUC Congress in Prague in May 2003, the ICFTU’s Central/Eastern Europe Council in October 2003, and the ICFTU Congress in November 2004.

The ILO International Labour Conference in June 2003 is a particularly important moment. The ILO no longer considers ‘informalisation’ as a leftover or temporary state but as part and parcel of the current path of globalisation. It is recognised how ineffective international standards are for the majority of the world’s workers who are in the informal economy. So, it is considered of major importance to discuss the scope of labour law, and extend its protection to all dependent workers, regardless of their employment status. This is an opportunity for the trade union movement to press for international labour standards to include informal economy workers.

After a packed agenda at the January 2003 conference in the Netherlands, there seemed a considerable degree of consensus. Some participants were clearly thinking afresh on the informal economy. In their feedback, many said how much they welcomed the range of organisations present, and the open-mindedness expressed. They came up with a range of suggestions for the trade union movement, in their own countries and internationally. Those specifically on migrant workers are in Section 6.

• All trade unions, nationally and internationally should:

Agree that these issues are worth fighting for, to protect the most vulnerable workers and to ensure the survival of the trade union movement; educate members and officials on this; allocate the necessary resources.

Place a major emphasis on organising workers in the informal economy. Encourage the training of organisers who understand the issues, where possible taken from the target groups themselves.

Change union statutes so as to make them more open to informal workers; campaign for revision of the law where this is needed. Evaluate what are the most appropriate activities and structures, whether within the union itself or by close collaboration with informal workers’ associations.

Develop collaboration with ‘labour-friendly’ NGOs, international networks, etc., to exchange information and, above all, share good practice. Link up with meetings on the same topic in other world regions, organised by such organisations as WIEGO, IFWEA (International Federation of Workers’ Educational Associations), Commission for Asian Women, etc.

Be more consistent in criticising the neo-liberal global economy and in developing alternatives, especially to bring human beings back into the heart of economic policy and to rebalance it in the interests of the economies of the South. Support co-operatives and mutual associations.

• **the ICFTU and Global Union Federations should:**

Re-consider how Global Unions' own structures and activities can be improved to integrate informal economy workers' organisations, and collaborate better with NGOs/networks that support them, for example in the ICFTU Task Force on the informal economy.

Encourage and support affiliates to organise all workers across the 'formal-informal' spectrum; this includes not only those in highly affected sectors such as transport and communications but also other sectors where the impact is not so visible and unions still concentrate on the formal economy.

Promote information exchange and pilot programmes for informal economy workers' organisation, including exchanges between activists, particularly between CEE countries and the South.

Take full advantage of the new approaches in the ILO to support and promote policies to combat deregulation and its manifestations such as sub-contracting and temporary work agencies, to widen the scope of the employment relationship, etc., to offer technical assistance, etc.

• **European Trade Union Confederation (ETUC) should:**

Bring the messages from this conference to the ETUC conference in May 2003. Even if firm agreement is not reached there, encourage cross-fertilisation by setting up working groups to exchange ideas and help to formulate policy. Initiate more research, for example into different legal systems and solutions.

Promote co-operation between the unions of the CEE region. Assist them to convince workers of the value of collective action.

Strengthen contact between unions of CEE countries and Western Europe where CEE migrants work; consider mechanisms for promoting cross-border union recognition.

Bring more pressure on the European Union to develop migration policies that are less restrictive and more based on human and workers' rights; ensure that labour Directives cover the 'self-employed' and other forms of informal employment.

Affiliates should recognise the need to provide resources for this work.

“Trade unions can sensitize workers in the informal economy to the importance of having collective representation through education and outreach programmes. They can also make efforts to include workers in the informal economy in collective agreements (...).”
ILO 2002, Conclusion 34

“Serious and long-term issues”

“The serious nature of these issues means we must take steps that will achieve long-term results.

For this we need more and long-term resources.

In particular, we must find ways to make the European Union move forward on regulating the ‘grey’ zone between what is clearly ‘formal’ employment and clearly ‘self-employment’. We need to find better ways of defining work relationships, perhaps based less on the economic relationship within a company and more on the notion of subordination in a hierarchy.

The ability for workers to carry their union rights across borders is also important.

To extend the rules to the ‘self-employed’, unions need to be innovative. I do believe that unions should represent all workers, not only those in limited categories.”

Jean Lapeyre, Deputy General Secretary, European Trade Union Confederation

A Check-List for Unions

Anna Biondi, Assistant Director of the Geneva office of the **International Confederation of Free Trade Unions (ICFTU)**, says, *“We are seeing a cultural change within our organisations. In the past, Western European unions were pleased at the progress achieved through better labour laws and social protection systems. But now we are increasingly aware that we are losing these. So the time is ripe for this discussion.”*

What are some of the basic building blocks? Echoing suggestions coming from the conference floor, Anna Biondi recommends:

- Undertaking an audit of our own unions, to see exactly how we are working, on what and with whom. We have become very service-oriented. Now we need to re-strengthen how we actively involve our members and especially their elected representatives into union activities.
- Developing better our ‘rights-based’ approach, using ILO Conventions and UN instruments to the full. This is crucial in particular with our work on migrant labour and forced labour, where we must move away from seeing these as issues primarily relating to crime and security.
- Playing a full role in the ILO’s programme of action that follows the discussions on the informal economy in June 2002, and in the discussions on migrant workers that will come up in 2004.
- Pushing for a revision of labour law in our countries. For this, the discussion at the ILO on the scope of employment is very important. We need to demonstrate that there is a reverse in thinking, away from deregulation. Redefining who is a worker should aim at reducing the ‘grey’ area as much as possible. This can be achieved. For example, in South Africa, new employment laws give seven factors, one or more of which define a worker.
- Putting as much pressure as possible on governments to ratify ILO Conventions, especially the Homework Convention No.177 (1996).
- Re-strengthening the union link to co-operatives. The ILO has, for example, a new Technical Co-operation Programme in West Africa where trade unions and co-operatives work together.
- Using the ICFTU Congress in November 2004 to set the priorities for the international trade union movement.
- Working with the Global Union Federations, for example to include these issues in their Global Framework Agreements with particular employers.

www.icftu.org

Annexes

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Resources on the informal economy

Useful web-sites (in alphabetical order)

Clean Clothes Campaign: www.cleanclothes.org
ETUC (European Trade Union Confederation): www.etuc.org
European Documentation and Observatory on Migration and Ethnic Relations: www.ercomer.org/edcomer
European Industrial Relations Observatory: www.eiro.eurofound.eu.int
FNV (Netherlands Trade Union Confederation): www.fnv.org
Global Unions: www.global-unions.org
ICFTU (International Confederation of Free Trade Unions): www.icftu.org
IFWEA (International Federation of Workers' Educational Associations): www.tsl.fi/ifwea
ILO on the Informal Economy: www.ilo.org.infeco
ILO Bureau for Workers' Activities (ACTRAV): www.ilo.org
IRENE (International Restructuring Education Network Europe): www.irene.network.nl
Respect, a European network of migrant domestic workers' organisations, trade unions, NGOs and supporters: www.solidar.org
SEWA (Self-Employed Women's Association): www.sewa.org
Streetnet: www.streetnet.org.za
WIEGO (Women in the Informal Economy Globalising and Organising): www.wiego.org

Selected publications

International Labour Organisation

'Trade Unions in the Informal Sector: Finding their bearings', *Labour Education*, No.116, 1999/3
'Trade Unions and the Informal Sector: Towards a comprehensive strategy', background paper for the International Symposium on Trade Unions and the Informal Sector, Geneva, 18-22 October 1999, TUIS/1999
'Unprotected Labour: What role for unions in the informal economy?', *Labour Education*, No.127, 2002/2
'Organising Workers in the Informal Sector: A strategy for trade union-co-operative action', by Dr. Johnston Birchall, ILO Cooperative Branch, 2001
ILO Compendium of Official Statistics on Employment in the Informal Sector, *STAT Working Paper*, 2002, No.1
'Decent Work and the Informal Economy', report to and resolution of the International Labour Conference 2002, GB.285/7/2, November 2002.

FNV

'Organizing in the Informal Economy: the role of trade unions', *FNV Mondiaal*, June 1998
'Organizing Change: Strategies for trade unions to organize women workers in economic sectors with precarious labour conditions', FNV and CNV, 1999

IRENE

'Decent Working Conditions for Informal Economy Workers', IRENE/WIEGO seminar report, 'News From Irene', Issue No.32, June 2002

WIEGO

'A Policy Response to the Informal Economy', 2002
'Rights, Voice, Protection and Opportunities', a leaflet prepared for the 2002 International Labour Conference

