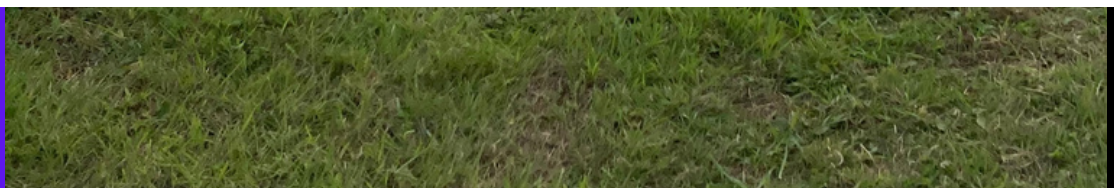


CAROLINE ROBINSON



A Plan for Scotland:
Temporary migrant agricultural
worker representation and power



WRITTEN BY
Caroline Robinson

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A Plan for Scotland: Temporary migrant agricultural worker representation and power

Caroline Robinson, February 2022

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Summary

Recent research conducted with workers on the UK Seasonal Workers Pilot (SWP) in Scotland identified a high risk of human trafficking for forced labour.¹ This is supported by a recent UK Government review of the first year of the SWP's implementation, in which significant numbers of workers reported poor treatment, illegal fees, deception at recruitment and non-compliance with contracts.² By drawing on four country case studies, this policy paper serves to inform discussions on how best to protect workers on the SWP and provides a strategic plan for Scotland to ensure representation and power for temporary migrant workers.

Despite high risks to workers on the SWP, very few temporary migrant agricultural workers in Scotland are represented by trade unions or alternative worker representative bodies.³ In addition Scotland's main agricultural policy setting body, the Scottish Agricultural Wages Board (SAWB), does not include temporary migrant agricultural workers in its tripartite structure.⁴ Evidence based policy making in Scotland has increasingly involved public participation in order to include people's "views, expertise and lived experience"⁵ in policy design and delivery. However, without temporary migrant worker representation in agricultural policy discussions or social dialogue processes, Scottish Government policy will consistently exclude the needs and interests of these key policy beneficiaries. This poses a risk to Scotland both of poor policy and of growing cases of worker abuse and exploitation.

By looking beyond Scotland, this research finds that there are no simple solutions to the challenge of temporary migrant worker representation. However, careful grassroots engagement, sustainable worker support and flexible trade union approaches together can help overcome the obstacles that exist. This research draws lessons from organising and support initiatives with migrant workers on temporary visas in four country contexts: Canada, Ireland, Germany and Brazil. It reviews examples of migrant community and support organisations, trade unions, and government funded or led processes from these countries. These national case studies provide evidence on which to base recommendations for Scotland. If the gap in worker representation in Scotland is to be filled then new approaches must be taken by the Scottish Government, trade unions and migrant

¹ See FLEX and FMF 2021 *Assessment of the risks of human trafficking for forced labour on the UK Seasonal Workers' Pilot*. FLEX, London.

² HM Government 2021 *Seasonal Workers Pilot 2019 Review – Appendices: A summary of data used to inform the Seasonal Workers Pilot 2019 Review*. Available at www.gov.uk/government/publications (accessed 02 January 2022)

³ Ibid.

⁴ Ibid.

⁵ The Scottish Government 2019 *Scotland's Open Government Action Plan for 2018-2020*. Scottish Government, Edinburgh.

community and support organisations. Whilst there are many obstacles to the representation of temporary migrant agricultural workers, Scotland now has an opportunity to learn from and replicate success, to ensure it can meet its ambition to become a Fair Work nation.

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A plan for Scotland

This paper identifies five key strategies for temporary migrant agricultural worker representation and power in Scotland through the analysis of four country case studies. These case studies show the importance of a combination of strategies to achieve worker representation and power. At the foundation of these strategies is the engagement of migrant workers themselves, leading campaigns, advocacy and services. Alongside these efforts, accessible migrant worker support centres ensure access to justice and advice for all temporary workers ensuring workers' basic needs are met. To amplify and broaden the efforts of migrant-led groups, trade unions should engage workers through flexible membership models adapted to the specific needs of temporary migrant workers. Each of these strategies is made more sustainable and predictable with State support, both in resources and through ensuring policy spaces are participatory and deliberative. The Scottish Government has a key role to play in funding work that supports and centres migrant workers and to ensure the participation of temporary migrant agricultural workers in policy spaces.

Strategies and recommendations for Scotland

1. **Grassroots movement building** by migrant support and community organisations is the first step towards representation and power for temporary migrant agricultural workers. Transformative work in Ireland and Canada, shows how important it is to work at the grassroots to mobilise and build capacity of temporary migrant workers to lead organising and campaigning work. The 'community unionism' model developed by grassroots migrant-led groups in Canada, engages with migrant workers in their communities on a wide range of issues important to them – in partnership with trade unions - rather than viewing them simply as workers. The community union model was used by the Canadian Farmworkers Union (CFU) to recruit large numbers of temporary migrant workers, and in both Ireland and Canada this model has contributed to migrant-led campaigns and advocacy.

To the Scottish Government: provide funding and support to grassroots migrant community and support organisations with strong community ties and connections to conduct outreach and engagement with temporary migrant agricultural workers.

To migrant community organisations: seek to engage with temporary migrant agricultural workers in their communities and support and empower such workers to lead collective action, campaigns and advocacy.

To trade unions: work with migrant-led groups to learn from them about their needs, to inform flexible models for unionising and to create partnerships.

2. **Migrant worker support centres** can provide stable support to temporary migrant workers and serve as a link between grassroots organising and trade unions. In both Germany and Canada, migrant worker support centres provide support to all workers who need it, regardless of unionisation. In Canada the United Food and Commercial Workers Union (UFCW) has established support centres in provinces where unionisation is not permitted in law. In Germany, whilst *Arbeit und Leben* is constrained from organising workers directly it delivers a sustained and comprehensive support service and works within networks that include trade unions. One such network is the Fair Agricultural Work Initiative which enables

participating organisations to offer support, gather information, recruit trade union members and conduct joint advocacy.

To the Scottish Government: work with and provide resources to grassroots migrant community and support organisations to help establish migrant worker support centres.

To migrant community and support organisations: design and develop migrant worker support centres offering outreach, support and advice to temporary migrant agricultural workers based on their needs.

To trade unions: gather information about the working conditions and needs of temporary migrant agricultural workers and work in partnership with migrant community and support organisations to deliver migrant worker support centres

3. **Flexible trade union approaches** based on evidence of worker needs can help overcome some of the barriers to temporary migrant agricultural worker representation. The Industrial Trade Union for Construction, Agriculture and the Environment (IGBAU, *IG Bauen-Agrar-Umwelt*) in Germany and UFCW in Canada have both tested and refined evidence-based approaches to organising and servicing such workers. In the case of IGBAU they have learnt from a previous attempt to unionise temporary migrant agricultural workers where a parallel union structure was established yet ultimately failed. Whereas UFCW adopted the approach of travelling from farm to farm gathering evidence and then using that evidence to inform their priorities and support services. IGBAU has now launched a hybrid membership for temporary migrant workers with specific terms and fees and UFCW has established migrant support centres that serve both unionised and un-unionised workers.

To the Scottish Government: engage with trade unions to help them to understand the obstacles to temporary migrant agricultural worker representation in Scotland. Provide support to bridge the obstacles to unionisation where needed.

To trade unions: gather information about the working conditions and needs of temporary migrant agricultural workers in Scotland and draw on examples from other national contexts to develop flexible approaches to organising temporary migrant agricultural workers.

To migrant community and support organisations: seek to work in partnership with trade unions to advance migrant-led campaigns and activism.

4. **Statutory funding** can ensure services are sustainable and widely available. It must come without ties or limits in order to ensure support providers and the migrants with whom they work are able to speak up where law or policy failings are identified. In Germany, *Arbeit und Leben* receives federal and regional funding which has enabled it to offer a continuous and stable support service to temporary migrant workers. In Canada, in recognition of the risks of temporary migrant visas, the government has established a multi-stakeholder pilot to identify support needs and provide services to migrant workers. Statutory funding is provided in these cases in recognition of the increased risks of exploitation found on temporary work programmes. Stable funding helps organisations to overcome some of the obstacles to temporary migrant worker engagement.

To the Scottish Government: provide funding to services designed by and for migrant workers, delivered by migrant community and support organisations. Ensure funding does not place limitations on the activities of such organisations, consider delivery by a third sector interface organisation.

5. **Participatory and deliberative policy spaces** can provide opportunities for temporary migrant workers, government and employers to deliberate policy and ensure it is evidence led. Brazil's national policy councils and sector specific deliberative models provide tested examples of participatory policy making spaces. The Scottish Agricultural Wages Board (SAWB) offers a deliberative policy making space, involving employers, trade unions and independent appointees of the Government. SAWB produces annual policy guidance on agricultural wages and conditions. In both examples, the question of who is present and who they represent is key.

To the Scottish Government: amend the composition of SAWB to include representation of temporary migrant agricultural workers. Develop a multi-level participatory policy forum for the engagement of temporary migrant agricultural workers engaging the Convention of Scottish Local Authorities (COSLA) in delivery at the local level.

To trade unions: Ensure the representation of temporary migrant agricultural workers in SAWB member delegates.

Introduction

This research seeks to understand how migrant workers on tied and temporary visas could organise and mobilise to create and claim power in policy spaces. It draws lessons from organising and support initiatives with migrant workers on tied or temporary visas around the world, in Canada, Ireland, Germany and Brazil. Interviews were conducted with ten organisational representatives, experts and academics from the four countries that have informed this work. This policy paper reviews examples of migrant community and support organisations, trade unions, and government funded or led processes from the four countries. From each case study and the strategies presented, learning is taken for approaches that could be adopted in Scotland. Finally the commentary discusses the relative merits of each strategy and how they could be combined to achieve a roadmap to enhance representation and power of temporary migrant agricultural workers in Scotland.

Background

The UK Government Seasonal Workers Pilot (SWP) was launched as a two-year pilot in the edible horticulture sector in April 2019 with an initial annual quota of 2500 workers, exclusively from outside the EU.⁶ The Pilot was expanded to 10,000 workers for its second year in January 2020.⁷ In December 2020 it was extended for a further year with an increased worker quota set at 30,000 and to include workers from within the EU following the end of the Brexit transition period.⁸ In October 2021, the UK government expanded the Seasonal Workers' Visa to pork butchers, poultry workers and HGV drivers.⁹ In December 2021, the scope of the SWP was extended to cover ornamental horticulture as well as edibles.¹⁰ The UK Government also announced that the SWP would be continued for a further three years, spanning 2022-2024 with the quota of 30,000 workers continued for 2022 and 2023 then dropping to 28,000 workers in 2024.¹¹

The rapidly changing nature of the SWP, in terms of numbers, country of origin of workers and nature of work, has taken place with very limited government oversight. In December 2021, the Home Office and Department for Environment, Food and Rural Affairs published their review of the first year of the pilot, 2019.¹² The review revealed that limited data had been collected on worker representation and voice with no data gathered on how many workers used the helplines established by the scheme operators. In addition, the Home Office revealed it conducted 15 compliance visits to farms, just two of which were in Scotland, interviewing 124 workers or five per cent of all workers in the UK on the scheme in 2019. The Gangmasters and Labour Abuse Authority, designed to uncover cases of

⁶ Department for Environment Food and Rural Affairs and Home Office 2018 *New pilot scheme to bring 2,500 seasonal workers to UK farms* [Press release] 6 September. Available at www.gov.uk (accessed 19 December 2021)

⁷ Home Office 2021 *Seasonal Workers Pilot request for information*. Available at <https://www.gov.uk/government/publications/seasonal-workers-pilot-request-for-information/seasonal-workers-pilot-request-for-information> (accessed 19 December 2021)

⁸ Ibid.

⁹ Holmes H 14 December 2021 *Less than 100 visas issued to foreign workers as pork sector faces 'meltdown'*. The Grocer. Available at www.thegrocer.co.uk (accessed 20 December 2021)

¹⁰ Foster K 14 December 2021 *Environment Food and Rural Affairs Committee: Oral evidence: Labour shortages in the food and farming sector*, HC 713. Q359. Available at <https://committees.parliament.uk/oralevidence/3206/pdf/> (accessed 19 December 2021)

¹¹ Ibid. Q355.

¹² Home Office and Defra 2021 *Seasonal workers pilot review 2019*. Available at <https://www.gov.uk/government/publications/seasonal-workers-pilot-review/seasonal-workers-pilot-review-2019>

modern slavery and labour abuse, accompanied the Home Office on six of these visits or just nine per cent of all participating farms.¹³ Despite this being a pilot, the review shows very limited pro-active labour inspection of participating farms and low contact with workers or opportunity for worker complaints to be made.

Previous research into temporary migrant agricultural workers in Scotland found that there is a high likelihood of limited to no trade union representation of workers on the SWP.¹⁴ Unite the Union, the UK's biggest union representing agricultural workers, when interviewed for that research by Robinson stated that the percentage of workers in horticulture who are unionised is "low."¹⁵ He highlighted the difficulties that unions face reaching workers in horticultural settings, hostility of employers, and the resource intensity of organising mobile, rural agricultural workers.¹⁶ The low unionisation rate of temporary agricultural workers, coupled by the high risk of the SWP to workers, prompted this research, which seeks to identify options to address the obstacles to representation for temporary migrant agricultural workers in Scotland.

Temporary migrant agricultural worker power in policy

Scotland has a comparative advantage to England and Wales in terms of oversight of agricultural policy. The Scottish Agricultural Wages Board (SAWB) is comprised of employers, trade unions and independent representatives and sets wage rates, terms and conditions for agricultural workers. The SAWB was established under the Agricultural Wages (Scotland) Act 1949 and produces an annual Agricultural Wages Order (AWO) which sets terms and conditions for agricultural workers, including the minimum gross wages and conditions for holiday and sick pay entitlement. The related Agricultural Wages Inspectors conduct a schedule of Control Test Inspections and operate complaints led inspections at businesses to monitor and enforce compliance with the AWO. The SAWB offers an important opportunity for policy influence which exists in Scotland and Northern Ireland but no longer in England and Wales. However, given the lack of trade union representation of temporary migrant agricultural workers, such workers have very limited voice in this policy space. The SAWB offers an opportunity for informed policy making by the Scottish Government which does not exist in England or Wales, yet without meaningful worker representation its aims and intentions are undermined.

Risks to workers on the SWP

The SWP allocates workers to farms which are geographically isolated working environments, with the majority, 89%, accommodated on-site by employers.¹⁷ In contrast to free movement, the SWP places significant restrictions on workers' access to and mobility within the labour market. Analyses of temporary migration programmes shows how they can increase risks of human trafficking for forced labour.¹⁸ Research conducted in 2020-21 on the risks to SWP workers in Scotland of human trafficking for forced labour, identified the following risks:

¹³ Ibid.

¹⁴ FLEX & FMF 2021 *Assessment of the risks of human trafficking for forced labour on the UK Seasonal Workers Pilot*. FLEX, London.

¹⁵ Interview with Scot Walker, Unite the Union, 1 September 2020.

¹⁶ Ibid,

¹⁷ Ibid.

¹⁸ FLEX 2019 *The risks of exploitation in temporary migration programmes: A FLEX response to the 2018 Immigration White Paper*. FLEX, London

- Debt bondage due to upfront migration costs and illegal recruitment fees
- Deception in recruitment about the nature of work and conditions
- Barriers to changing employer
- Verbal abuse
- Unsafe accommodation
- Threats of loss of work and denunciation to authorities
- Barriers to accessing justice; and
- Non-guaranteed hours/zero hours contracts¹⁹

The absence of proactive labour inspection, evidenced by the UK Government review of the SWP in 2019,²⁰ indicates a high need for worker representation and access to individual complaints channels in order to access justice and remedy.

Organising principles in practice

The International Labour Organization classifies temporary and agency workers amongst “hard-to-organise workers.”²¹ It is rare for temporary migrant workers to be organised in large numbers by trade unions as so many obstacles to their representation exist.²² Workers on the SWP are hyper transient, present in the UK for just six months and often move workplaces within that period. These workers are also highly dependent on their labour recruiter who is often based in their home country. There is no language requirement for the SWP, meaning, in research conducted with temporary migrant agricultural workers in Scotland in 2020-21, just under half of workers were found to have no or extremely basic English.²³ In addition many workers have limited previous experience in the sector and as described above, the SWP has been rapidly expanded to a range of countries and workers, meaning the worker demographic is regularly changing. The SWP has introduced a new cohort of workers that are extremely hard-to-organise and who currently have very few options for representation, support or voice in Scotland.

Globally, workforces have become increasingly fragmented and workers and workplace relationships are increasingly individualised. In response, trade unions and worker representative groups have adopted a range of approaches to the increasing obstacles to organising growing numbers of ‘hard-to-organise workers’. These approaches include: **segregated**, when trade unions adopt a parallel organising structure and approach for temporary migrant workers; **hybrid**, when trade unions develop a hybrid structure for temporary migrant workers, with bespoke membership terms and fees; **transnational**, when trade unions attempt to offer a non-geographically bounded offer, so that hyper mobile workers can take their union membership with them; and **community**, creating partnerships with community groups and leaders and delivering transformational trade unionism establishing migrants as leaders with support from the trade union movement.

¹⁹ FLEX and FMF 2021

²⁰ Home Office and DEFRA 2021

²¹ International Labour Organization 2017 *Organising and representing hard-to-organise workers: implications for Turkey*. ILO, Geneva

²² See Ibid and International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF) 2008 *Workers and unions on the move: Organising and defending migrant workers in agriculture and allied sectors*. IUF, Geneva.

²³ FLEX and FMF 2021

Through the four country case studies this paper will explore the benefits and pitfalls of these varied trade union approaches alongside those adopted by migrant community and support organisations and national governments.

Migrant worker representation in context: Four country case studies, Ireland, Germany, Canada and Brazil

Ireland: Migrant mushroom workers mobilise and unionize

Background

The Irish mushroom sector evolved from primarily Irish to predominantly migrant labourers during the late 1990s in response to Ireland's period of economic growth and "by 2006, around 95% of mushroom workers were not Irish".²⁴ Initially mushroom farms were small scale with part-time workers, mushroom pickers made up the bulk of the workforce and the role was predominantly held by Irish women. When the industry grew so did the size of farms and workers were needed, for full-time roles, in much greater number. From 1999 onwards, the industry sourced migrant workers on work permits from Latvia and Lithuania, to be replaced by workers from EU accession States in 2004.²⁵

Prior to 2006, workers had struggled to pursue claims within the framework of the industrial relations system.²⁶ Instead they navigated their employers for themselves, differentiating between good and bad growers in terms of worker treatment and seeking help from growers in order to improve their conditions.²⁷ However, the shifting demographic from Irish citizens to predominantly migrant workers in the industry brought an end to the personal relationships between mushroom growers and workers and treatment and pay and conditions worsened. The poor treatment of migrant mushroom workers, started to change with the interventions of Migrant Rights Centre Ireland (MRCI) who formed the Mushroom Workers Support Group (MWSG) and with the engagement of the Services, Industrial, Professional and Technical Union (SIPTU).

Migrant support organisation fosters migrant led support and advocacy group

The Migrant Rights Centre Ireland (MRCI) is a national migrant support organisation, that works with "migrants and their families in Ireland to promote justice, empowerment and equality."²⁸ MRCI's work includes supporting migrant workers who have been exploited at work. Whilst MRCI is not migrant-led it has actively pursued a "community work approach" of participation and inclusion of migrant workers to achieve "collective outcomes that have maximum benefit for migrant workers and their families."²⁹ This approach has political objectives to tackle the structural drivers of migrant worker vulnerability. Ultimately MRCI

²⁴ Arqueros-Fernandez F. 2009 *Contrasts and Contradictions in Union Organising: The Irish Mushroom Industry* in Gall G 2009 *The Future of Union Organising Building for Tomorrow*. P.210

²⁵ The Mushroom Workers Support Group (MWSG) 2006 *Harvesting Justice: Mushroom Workers Call for Change*. P. 8 Migrant Rights Centre Ireland.

²⁶ Arqueros-Fernandez F. 2016 *Exploitation and Resistance among Mushroom Agricultural Workers in Ireland* in Dülcke D et al 2016 *Headstrong Actors Between (in)security and Freedom*. P. 113

²⁷ Ibid.

²⁸ See www.mrci.ie

²⁹ MWSG 2006 p.10

seeks to ensure the active participation of “people experiencing exclusion in decision making structures.”³⁰

MRCI initiated the ‘Mushroom Workers Support Group’ (MWSG) in February 2006 to support migrant mushroom pickers to collectively tackle issues found in the workplace.³¹ This work started when workers that were being exploited contacted MRCI. By late 2006 the group reported “over 50 members, the majority of whom were women from Belarus, Latvia, Lithuania, Moldova, Ukraine, China and Thailand.”³² MWSG describes its goals as gathering migrant workers to:

- share, analyse and reflect upon experiences
- receive support and information
- build solidarity across ethnic and social divisions
- develop leadership skills
- be empowered to make decisions on how to go about seeking change
- build visibility and a voice
- take collective action on critical issues
- influence decisions and policy making³³

As many of the workers were employed on tied work permits, part of MWSG’s work also focussed on challenging vulnerability created by workers’ immigration status. To achieve MWSG’s objectives, MRCI employed a full-time bilingual community organiser. The work of MWSG led to the documentation of poor working conditions and treatment, major health and safety risks and obstacles to accessing justice and proposals for change.³⁴

MWSG assisted mushroom pickers to regain their self-esteem after having suffered poor treatment on farms, particularly a lack of respect, and to develop joint strategies to address such mistreatment.³⁵ In addition mediation carried out by MRCI for MWSG served to secure back wages for workers that had not been paid.³⁶ MRCI had a medium-term aim with the work to create opportunities for partnership with other institutions that could help support migrant workers in the long-term. By August 2007, once the trade union, the Services, Industrial, Professional and Technical Union (SIPTU) was engaged and the sector was partially unionised, MWSG was disbanded and MRCI established the Agricultural Workers Association (AWA). AWA had a legally independent, membership structure and sought to engage a range of workers, including dairy workers, pig farm workers, horse riders and fruit pickers. AWA’s outreach proved less successful than the work of MWSG in the mushroom sector with one reason given that the seasonal and isolated nature of the work carried out by fruit pickers was a major obstacle to collective action.³⁷

Trade union representation of temporary migrant workers

In January 2006 a group of 17 Latvian mushroom pickers walked out of a farm in Kilnaleck, County Cavan, Ireland, in response to a dispute about their extremely poor treatment at work.³⁸ The workers were subsequently dismissed on the grounds that they’d joined a trade union, they took their case to the Employment Appeals Tribunal and were awarded

³⁰ Ibid.

³¹ MWSG 2006 p.10

³² Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings 2011 *An Agenda for Prevention: Trafficking for Labour Exploitation*. P.29 OSCE, Vienna.

³³ Ibid.

³⁴ Ibid.

³⁵ Research interview data.

³⁶ Ibid. p. 214

³⁷ Research interview data.

³⁸ Arqueros-Fernandez F 2016. P.110

compensation.³⁹ This served as a catalyst for the Services, Industrial, Professional and Technical Union (SIPTU) to hold talks about organising migrant mushroom workers and by mid-2006 SIPTU had:

Put together a special group of full-time organisers from all over the country to co-ordinate the [u]nion's efforts to improve pay and working conditions in the mushroom picking industry.⁴⁰

SIPTU is thought to have ultimately recruited up to 1500 members from the mushroom sector and to have appointed a former mushroom worker as organiser.⁴¹

MRCI saw the roles of the two organisations as complementary with the MWSG, describing MWSG as “the pea under the mattress packing punch in terms of raising awareness, getting press coverage in the media.”⁴² The joint efforts of MWSG and SIPTU caused the mushroom industry to engage with them, initially to ask for the campaign to stop. However, supermarket retailers also engaged in discussions with MWSG, who partnered with SIPTU to engage in tripartite discussions at the Ethical Trading Initiative (ETI). In addition, SIPTU's high-profile campaign work served to influence the Irish Government and labour inspectorate to put pressure on employers to eventually engage in negotiations.

By early 2007, SIPTU and the Mushroom Growers Committee had agreed a draft ‘Employment Regulation Order’ (ERO) which included a provision to open up farms to trade unions⁴³ as well as ending overtime rates, ensuring workers were paid minimum wage, received 20 days holiday and paid a Sunday work bonus.⁴⁴ However, many growers continued to refuse access to their farms, meaning the objective for an industry wide ERO was unobtainable. Instead SIPTU pursued Registered Employment Agreements with individual employers who would agree to the terms. The first of these was signed with Drimbawn Mushroom Ltd, a division of Monaghan Mushrooms Ltd in December 2007.⁴⁵ This agreement covered a wide range of suppliers and farms and established minimum standards and trade union recognition. By 2010, 28 farms had agreed to trade union recognition by SIPTU.⁴⁶ Despite the apparent wins by SIPTU, the union faced some criticism for using a “top-down approach”⁴⁷ to campaigns and advocacy, rather than drawing on the energy of its members. Its recruitment success was ultimately limited, some suggested by its small number of migrant-community organisers.⁴⁸ From 2010 onwards, SIPTU's organising efforts and membership in the mushroom sector dwindled.

Lessons from this work

The community-based approach to organising and support led by MRCI provided a space and opportunity for workers to raise concerns and initiate collective action. This served to amplify the voices of workers at the local and national level. The work had a clear, migrant-

³⁹ Bushe A 17 November 2006 *Dismissals will cost mushroom farmer €350,000*. Irish Times. Available at <https://www.irishtimes.com/news/dismissals-will-cost-mushroom-farmer-350-000-1.1030151> (Accessed 2 October 2021)

⁴⁰ Arqueros-Fernandez F. 2009. P.211

⁴¹ Research interview data

⁴² Ibid.

⁴³ Arqueros-Fernandez F. 2016. P.110

⁴⁴ Arqueros-Fernandez F. 2009. P. 213

⁴⁵ The Mushroom People 2007 *Review of the Year*. Available at <http://www.themushroompeople.com/showarticle.asp?id=2007> (accessed 01 November 2021)

⁴⁶ Arqueros-Fernandez F. 2016 p. 114

⁴⁷ Arqueros-Fernandez F. 2009. P. 208

⁴⁸ Ibid.

led goal of community organising and strategizing. MRCI worked to its strengths, focussing on community engagement and support and identifying SIPTU as a partner to take work forwards both by broadening worker recruitment, and by negotiating with industry and government.

The engagement of a trade union, SIPTU, in this work enabled tripartite negotiations to take place, both under the umbrella of ETI and at the Irish national level. SIPTU's engagement led to the development of workplace agreements with employers, which established minimum workplace standards. These agreements were enforced by SIPTU who ultimately managed to recruit a significant number of mushroom workers as members and former mushroom workers as organisers. However, based on first-hand accounts and research conducted at the time, work by SIPTU in the mushroom sector does not seem to have continued past 2010. The trade union engagement was difficult to sustain, some say this was due to the leadership coming from a small number of individual migrant organisers. In addition MWSG's work was time limited, ceasing in 2007, therefore one of the driving forces behind the work no longer existed.

Advocacy with and on behalf of migrant workers led to a national focus on the issue of migrant mushroom worker treatment and amplification of the issue in policy spaces in Ireland. The joint engagement of MWSG and SIPTU in this work was important as it ensured influence of local workers on the national advocacy strategy. This work resulted in collective agreements with employers and the engagement of retailers at the top of the supply chain. However, there was reportedly limited engagement of migrant mushroom workers in the strategy, campaigns and advocacy. Therefore SIPTU's grassroots organising and its high-level government advocacy and sectoral negotiations were viewed as disconnected.

Lessons for Scotland

- **Migrant community organising** creates opportunities for temporary migrant workers to collectively identify and address cases of abuse or exploitation in the workplace and take leadership over the development of action for policy change.
- **Partnership between migrant community organisations and trade unions** can help to amplify demands and ensure employers engage in negotiations for improved standards and conditions. Trade unions can learn from migrant leaders and migrant community organisations can benefit from access to social dialogue through trade unions.
- **Trade union organising and representation** must be closely linked to ensure long term sustainability and to achieve migrant worker leadership, centring migrant workers in decisions about strategy, campaigns and advocacy.
- **Seasonal horticultural workers** proved much harder to organise than mushroom workers through the model developed by MWSG due to the temporary nature of the work and isolated working locations.

Germany: Trade union flexibility and temporary migrant worker support centres

Background

In Germany a range of approaches have been taken to organising and supporting temporary migrant agricultural workers. In the 1970s and 80s migrant workers that were present in Germany who considered themselves foreigners fought for trade unions to establish 'foreigner councils' which influenced trade union activities and leadership.⁴⁹ These migrant trade union members helped to shift the focus of trade unions from a universalistic approach focused on all workers to a particularistic model addressing migration and social policies that threatened migrant labour market participation. This generation of migrants planned to remain in Germany for the rest of their working life and therefore engaged in and sought to reform trade unions. Free movement from the 1990s onwards brought more mobile, cyclical and temporary migration as well as a shift in the identity of migrants. Young migrants in Germany now do not see themselves as foreigners and, where they are members of trade unions, join anti-racism or diversity groups to further anti-discrimination causes.

There is a high demand for workers in German sectors that are seasonal, including agriculture and horticulture, tourism and the fairground industry. As a result Germany receives large numbers of temporary migrants, including "around 300 000 workers a year for agricultural, horticultural and forestry work."⁵⁰ These workers are almost entirely comprised of EU workers, largely from Romania and Poland. However in 2020, due to a decline in demand for positions by EU workers, a bilateral placement agreement was concluded between Germany and Georgia providing a new market for temporary agricultural workers.⁵¹ Whilst the arrival of these workers was delayed by the Covid-19 pandemic, further bilateral placement agreements have since been planned between Germany and countries including Moldova, North Macedonia and Albania.⁵² Workers under these agreements fall within the provisions of the EU Seasonal Workers' Directive which provides that workers must be employed on the same conditions as domestic employees and workers.⁵³

Trade union engagement of temporary migrant workers

The main trade union dedicated to work in agriculture and gardening, forestry, construction and cleaning in Germany is the Industrial Trade Union for Construction, Agriculture and the Environment (IGBAU, *IG Bauen-Agrar-Umwelt*). In recognition of the increasing numbers of workers coming to Germany for temporary work from Eastern Europe in 2004, IGBAU started a parallel union, named the European Migrant Workers Union (EMWU) in English. The idea was to focus on unionising new and temporary arrivals to Germany who had come to work in construction and agriculture. This new union offered a range of services including: legal advice, medical support, support to access wages, collective bargaining,

⁴⁹ Research interview data

⁵⁰ Augère-Granier M L 2021 *European Parliament briefing: Migrant seasonal workers in the European agricultural sector*. P.2 Available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI\(2021\)689347_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI(2021)689347_EN.pdf) (accessed 01 December 2021)

⁵¹ Ibid.

⁵² Lechner C 2020 *Attracting and protecting seasonal workers from third countries*. P.5. Federal Office for Migration and Refugees, European Migration Network. Available at https://www.bamf.de/SharedDocs/Anlagen/EN/EMN/Studien/wp89-saisonarbeitskraefte.pdf?__blob=publicationFile&v=11 (accessed 10 December 2021)

⁵³ Ibid.

German language education, accommodation support and advocacy.⁵⁴ EMWU included documented and undocumented workers. IGBAU aimed for EMWU to become transnational connecting with circular workers across borders. IGBAU gave €1.5 million in support and aimed to recruit 10,000 workers and to partner with other trade unions to ensure EMWU was sustainable.⁵⁵

EMWU focussed on service provision primarily with workers joining once they had received assistance.⁵⁶ One of the main reasons that workers joined EMWU was to recover lost wages from employers where wages had been withheld.⁵⁷ Whilst the original intention had been to reach 10,000 workers, EMWU did not manage to recruit this number. Its recruitment efforts were primarily aimed at Polish workers, many of whom were either unaware of the potential of trade unions or wary of their power and allegiance to the Government. EMWU's transnational aim was also thwarted by the reluctance of trade unions in workers' countries of origin to cooperate, seeing EMWU as a potential threat to their own unionising efforts rather than a partner. Some even said they saw EMWU as "a form of apartheid that could lead to separate and unequal collective agreements."⁵⁸ Due to the temporary nature of migrant workers' stays in Germany member retention was also difficult for EMWU: "Once workers recovered their lost wages they would often stop paying their dues after a few months."⁵⁹ In addition, EMWU proved expensive to operate, costing IGBAU €6-7 for each €1 that members paid to join.⁶⁰

As a result of high costs and poor member retention, just four years after it was first established, EMWU was restructured as an information and servicing association linked to IGBAU.⁶¹ Members transitioned to IGBAU or the Polish migrant workers' union. Shortly thereafter, in 2010, EMWU separated from the trade union structure altogether and became an independent charity called The European Association for Migrant Workers (EVW).⁶² Now EVW conducts advocacy on the rights of migrant workers and offers training and advice to migrant workers. It also operates an advice centre for workers in Frankfurt.⁶³ The efforts to establish a parallel trade union structure for temporary migrant workers by IGBAU ultimately failed, but have left a legacy organisation that continues to offer support and services to migrant workers.

In 2020, IGBAU established a new membership model for temporary migrant agricultural and construction workers.⁶⁴ This one-year membership is offered to workers before they arrive in Germany and can be renewed each time a worker plans to return to Germany. The membership fee is calculated as 1% of the minimum wage and membership automatically ends after 12 months. With membership migrant workers are offered advice and information, legal protection, strike support, access to a telephone hotline offered in

⁵⁴ Heiner, D 21 September 2004 *European Migrant Workers Union Founded*. Available at <https://www.eurofound.europa.eu/publications/article/2004/european-migrant-workers-union-founded> (accessed 01 December 2021)

⁵⁵ Greer, I. Lillie, N., Ciupijus, Z 2013 *The European Migrant Workers Union and the barriers to transnational industrial citizenship* In the European Journal of Industrial Relations, 2013. P.2

⁵⁶ Greer, I. Lillie, N., Ciupijus, Z 2012 *The European Migrant Workers Union: Union Organizing through Labour Transnationalism*. In the European Journal of Industrial Relations, 2011. P.12

⁵⁷ Ibid. P.13

⁵⁸ Ibid. p.16

⁵⁹ Ibid. p.14

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² See <http://www.emwu.org/wer-wir-sind/>

⁶³ Ibid.

⁶⁴ Research interview data.

Polish, Romanian, Bulgarian and English and support with claims for damages.⁶⁵ As this membership model is new, it is not yet possible to assess its success, yet IGBAU is hopeful that it offers an important additional tool to protect the rights of temporary migrant workers.

Support centres for migrant workers

The worker support organisation, *Arbeit und Leben* (in English ‘work and life’) was first established in 1948, to promote adult education to working people. This educational project was jointly conceived by German trade unions and adult education institutions.⁶⁶ Today, *Arbeit und Leben* works to ensure people are supported through their work and life with an aim to ensure social participation and promote social justice. It offers educational and vocational training to workers, job seekers, migrants, young and older people. It is sponsored by the German Trade Union Federation (DGB) and the German Adult Education Association and receives federal and regional government funding. *Arbeit und Leben* has a federal structure, existing in nine of the 16 German federated states. In these nine locations, it runs 15 counselling offices and participates in the Germany wide ‘Fair Agricultural Work Initiative.’

Arbeit und Leben’s aim is to support migrant workers from within the EU whilst in Germany, with a focus on the enforcement of their labour rights. Some of the regional branches of *Arbeit Und Leben* have an additional mandate, dictated by their statutory funding, to support third-country nationals. One example of this is the *Berliner Beratungszentrum für Migration und Gute Arbeit* (BEMA or the Berlin Advice Center for Migration and Good Work), *Arbeit und Leben*’s Berlin based counselling service, which supports documented and undocumented third-country nationals. *Arbeit und Leben* is not migrant-led as an organisation, nor are services delivered by migrants.

In order to support migrant workers, and particularly temporary migrant workers with limited German language, *Arbeit und Leben* has established an English-speaking hotline as a common language hotline. Whilst this offers workers more options than IGBAU run German speaking only hotline, *Arbeit und Leben* recognises it is still not sufficient given the limited second language skills of workers conducting temporary work in Germany.⁶⁷ *Arbeit und Leben* staff conduct outreach work in agricultural settings, including farm fields, during which they share basic information on labour standards and the contact details for their centres and counselling services.

Each branch of *Arbeit und Leben* offers counselling services, supporting claims in relation to issues such as contract discrepancies, pay and working time. Whilst *Arbeit und Leben* is sponsored by DGB and participates in collaborative networks with trade unions, a condition of its statutory funding prevents it from actively organising workers. However, the information it distributes to workers informs them of trade union membership and the work of IGBAU. *Arbeit und Leben* offers a broad range of support and information to temporary migrant agricultural workers, it does not organise or mobilise workers, nor assist workers to engage in policy debate but provides a platform from which workers might be directed towards other services.

⁶⁵ IGBAU 2020 Together We’re Strong! Available at: <https://igbau.de/Binaries/Binary15743/IGBAU-Wanderarbeiter-ENG-web.pdf>

⁶⁶ Jessup, F. W. 1953 *Adult education towards social and political responsibility; International Conference held from the 8th to the 13th September, 1952*. UNESCO. P.46

⁶⁷ Research interview data.

Network led outreach, support and unionization efforts

The Fair Agricultural Work Initiative (*Initiative Faire Landarbeit* in German) has operated in Germany since 2016. It is a network of trade unions and advice organisations, including *Arbeit Und Leben*, EVW, DGB, IGBAU and others. These organisations jointly conduct worker outreach in agricultural settings during the main harvest season.⁶⁸ During this outreach work, information is distributed to workers and support is offered in the event of problems. Alongside this work, research is conducted to better understand risks of exploitation and used to inform communications and advocacy work for structural changes. IGBAU also promotes its new temporary worker union membership model through the initiative.

This initiative permits a range of organisations to come together and offer outreach, support, public awareness campaigns and advocacy to both the government and to employers. In 2021, the Fair Agricultural Work Initiative visited workers in the fields 44 times, speaking to over 2,500 seasonal workers about their labour rights.⁶⁹ This network led initiative enables workers to access a range of services and information and provides an opportunity to the participating organisations to gather information about working conditions and worker treatment to inform their work.

Lessons from this work

IGBAU, which represents workers in agriculture and gardening, forestry, construction and cleaning in Germany, has developed innovative approaches to organising temporary migrant workers. Its initial efforts to establish a parallel union structure were made in recognition of the difficulties of incorporating temporary workers, many of whom do not speak German, into its main union structure. However, its new parallel union, EMWU faced high-costs and poor worker retention rates and ultimately failed as a project.

The mechanisms that were developed to help EMWU succeed, were ultimately factors in its demise. Whilst the rationale behind making it transnational was to build connections between trade unions in different countries in which mobile workers were based, in practice it was very difficult to establish trust between different trade unions across borders. Where IGBAU thought a separate structure for migrant workers might enable more tailored support, this made some feel segregated and relegated on the grounds of their nationality. The recent efforts of IGBAU to develop a new one-year membership for temporary migrant workers are too nascent to enable evaluation of their success. However, it is positive that this membership builds on learning from IGBAU's previous efforts to unionise temporary migrant workers and on evidence gathered through the Fair Agricultural Work Initiative.

Arbeit und Leben's counselling centres offer an example of how worker support centres can provide a first introduction to the work and benefits of trade unions. The centres also offer much needed support to temporary migrant workers to ensure that they have the resources they need to prevent abuse and exploitation. Its work is made possible by trade union and statutory support. *Arbeit und Leben's* government funding imposes restrictions on

⁶⁸ Taken from Initiative Faire Landarbeit 2021 *Initiative Faire Landarbeit Bericht*. Available at: <https://igbau.de/Binaries/Binary16991/2021-InitiativeFaireLandarbeit-Saisonarbeitsbericht.pdf>

⁶⁹ See, <https://igbau.de/Saisonbericht21.html>

its ability to organise workers and in some municipalities counselling centres are not able to work with undocumented workers. Whilst statutory funding provides continuity of service and ensures *Arbeit und Leben*'s work can be carried out across Germany, this must be balanced against the limitations it poses to the work of the organisation. In addition, *Arbeit Und Leben*'s model is not migrant led, which may pose problems to their engagement with migrant workers and means in some cases *Arbeit Und Leben* faces language barriers to its work.

The Fair Agricultural Work Initiative is an example of how support organisations and trade unions can tailor their activities to working patterns. Network led engagement and information sharing efforts during peak harvest season has enabled the member organisations to effectively pool their resources. In addition, it has enabled them to reach large numbers of workers in order to share information about trade unions, labour rights and worker support centres. The initiative is complementary to other efforts to support and unionise workers. Each of these three examples, IGBAU's innovative and flexible trade union membership model, *Arbeit und Leben*'s worker support centres and the Fair Agricultural Work Initiative's network led outreach complement each other to offer support and representation to workers.

Lessons for Scotland

- **Trade union innovation and flexibility** in the membership models used to represent temporary migrant agricultural workers is essential given the multiple obstacles to organising such workers. This innovation must be based on learning, reflection and evidence from temporary migrant workers.
- **Network led information sharing, gathering and unionization efforts**, established in the Fair Agricultural Work Initiative provides an example of how worker support organisations and trade unions can work together to offer support, gather information about working conditions and provide representation to workers.
- **Migrant support centres** like those offered by *Arbeit und Leben* can provide a useful stepping-stone to temporary migrant agricultural worker unionisation, offering information, support and informing workers about the role of trade unions, costs and commitment.
- **Statutory funding for support** offers continuity of services, but can lead to restrictions on activities to the detriment of the service offered. State funding can also be facilitative, as with the example of BEMA, which is able to support undocumented and documented migrant workers with its statutory funding.

Canada: Temporary migrant agricultural workers claim power in policy spaces

Background

There are two main temporary labour migration programs in Canada, the Temporary Foreign Worker Program (TFWP) and the International Mobility Program (IMP).⁷⁰ These two streams were formally created by the Government of Canada in 2014. The IMP is managed by the Ministry of Immigration, Refugees and Citizenship Canada (IRCC) and the TFWP is managed by the Ministry of Employment and Social Development Canada (ESDC). By numbers, the IMP is the larger of the two streams and mainly facilitates higher skilled migration to roles that are exempt from the Labour Market Impact Assessment (LMIA). In 2021 there were 485,400 work permits (new and extensions) issued under the IMP and 113,900 issued under the TFWP.⁷¹ The IMP predominately applies to high-wage work and includes open worker permits. It is comprised of migrants from high and middle income countries, yet does also include racialised workers in low paid roles on tied work permits who are vulnerable to exploitation.⁷² In contrast, the TFWP, whilst permitting employers to hire migrant workers across all skill levels is mainly comprised of low-skilled workers with the agricultural stream comprising the largest group of workers,⁷³ and has faced ongoing scrutiny for the risks of abuse and exploitation it poses workers. Canada's two temporary labour migration streams, the IMP and TFWP are considered by experts to increase vulnerability to exploitation, however it is the TFWP in particular that has faced ongoing and increasing attention for the risks it poses to workers.

In order to qualify to employ a worker under the TFWP an employer must seek a positive Labour Market Impact Assessment (LMIA) to show that there is a need for a migrant worker in a particular role. The LMIA corresponds to the NOC matrix skill levels 0, A, B, C and D, with levels 0, A and B considered "high-skilled" and levels C and D "semi- and low skilled." Level C roles require high-school or vocational training, whereas level D roles involve manual labour with on-the-job training.⁷⁴ There is currently a 24-month limit on employment duration for level C and D roles. Most workers in the TFWP are issued employer specific work permits. In 2022 the Government of Canada plans to replace the NOC system with a six category system assessing 'training, education, experience and responsibilities (TEER)' on which NOC C & D will equate to TEER 4 and 5. The purpose of the LMIA and NOC skill assessments is to assess the need for a temporary foreign worker and to ensure that the roles could not be filled by Canadian workers. The LMIA is paid for by the employer and the majority are associated with a named worker. Should a worker wish to change employer when in Canada they would need to identify a new employer who obtains a positive LMIA for them, then the worker can make an application to change their work permit.

Within the TFWP there are a few specified streams by which employers can hire workers including the high-wage stream for roles above median hourly wage, the low-wage stream

⁷⁰ The IMP spans those work permit applications that are exempt from the LMIA. Eligible positions for the IMP are those which provide economic or cultural advantages to Canada or benefits to Canadian citizens and permanent residents and workers who are eligible to enter Canada as part of reciprocal trade treaties.

⁷¹ Government of Canada 2022 CIMM - Temporary Foreign Workers: permits, processing, facilitation – March 3, 2022. Available at <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/cimm-mar-03-2022/temporary-foreign-workers-permits-processing-facilitation.html>

⁷² Faraday F 2016 *Canada's Choice: Decent work or entrenched exploitation for Canada's migrant workers?* Metcalf Foundation. P.11 Available at <https://metcalffoundation.com/wp-content/uploads/2016/06/Canadas-Choice-2.pdf>

⁷³ Akbar M 2021 Who are Canada's temporary foreign workers? Policy evolution and a pandemic reality. *International Migration*, 2022;60:48-60. P.52

⁷⁴ Government of Canada 2021 National Occupational Classification 2021. Available at <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/eligibility/find-national-occupation-code.html>

for roles paying below provincial median hourly wage, the Seasonal Agricultural Worker Program (SAWP), the primary agriculture stream for workers in on farm work (from countries not specified in the SAWP) and the Global Talent Stream.⁷⁵ For the majority of low-wage positions, there is a cap of 20% on “the proportion of temporary foreign workers employers can hire”, yet exemptions apply for some roles in primary agriculture, care giving, highly mobile industry, work for a specific short-term period and seasonal industries - up to 270 days.⁷⁶ The SAWP permits workers to migrate into Canada from twelve participating countries for employment in agriculture for a period of up to eight months between January 1 and December 15. To facilitate the SAWP, Canada has entered into bilateral agreements with the participating countries requiring the sending States to: recruit and select workers over the age of 18 and with experience of work in agriculture; make sure workers have the required documents; maintain a pool of qualified workers who can work when requested; and appoint representatives to assist workers in Canada.⁷⁷ Participating employers in the SAWP face a number of requirements, including provision of housing to workers free of charge, guaranteed minimum hours, and provision of the same wages and benefits as Canadian and permanent resident employees.⁷⁸

Whilst large numbers of workers travel to Canada each year on the SAWP, some Canadian provinces continue to exclude agricultural workers from certain labour protections, such as in Alberta and Ontario where there is a collective bargaining exclusion for such workers. There are also a number of practical barriers to workers changing employer, including a system whereby the employer can name workers they would like to return in subsequent years, thereby disincentivising worker complaints against employers. Both the Primary Agriculture stream and the SAWP have been strongly criticised for limiting worker freedom and leaving temporary migrant workers open to abuse and exploitation. As a result, many worker representative organisations are calling for an end to the schemes and the introduction of sectoral or open visas for workers, which they feel will greatly reduce the risks to workers.

Community unionism and flexible approaches to organising workers

The Canadian Farmworkers Union (CFU) started migrant worker organising with largely South Asian migrant farm workers in the early 1980s in the Canadian province of British Columbia (BC).⁷⁹ The main goal of this organising was to secure recognition of farmworkers as workers, thus ensuring access to labour protections and entitlements. The grassroots and anti-racist organising campaign underpinning this work led to the recruitment of over one thousand agricultural workers in BC within its first two years.⁸⁰ Alongside its growing membership, CFU built a broad coalition with anti-racist, labour rights and migrant

⁷⁵ House of Commons 16 April 2020 Temporary Foreign Workers in Canada. Available at https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201936E

⁷⁶ Government of Canada 2022 Program requirements for low-wage positions. Available at <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage/low/requirements.html>

⁷⁷ Adapted from <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html>

⁷⁸ Faraday, F 2012 *Made in Canada: How the Law Constructs Migrant Workers' Insecurity*. Metcalf Foundation, Ontario, Canada: P.39 and Government of Canada 2022 Hire a temporary worker through the Seasonal Agricultural Worker Program: Overview. Available at <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html>

⁷⁹ Chun, J.J. & Ramirez, A.P. 2016 *Struggling against History Migrant Farm Worker Organizing in British Columbia*. In Choudry A and Smith A 2016 *Unfree Labour? Struggles of Migrant and Immigrant Workers in Canada*.

⁸⁰ Ibid.

community groups in support of its wider political aims and in order to overcome “divide and conquer” strategies used by employers in the workplace.⁸¹ This organising work was “particularistic”, focussing on migrant workers, their communities and specific social and workplace needs, rather than simply their identity as workers, or a “universalistic” approach.⁸² CFU named this approach “community unionism,” entailing organising farm workers around their community, political issues and culture and engaging organisers that speak migrant’s native languages fluently.⁸³

CFU’s successful recruitment of migrant workers translated into power and influence over legislation. In some cases this meant, for the first time, agricultural workers were included in “provincial employment standards and health and safety protections.”⁸⁴ In response, growers led a strong counter campaign, including reported harassment and intimidation of workers, which ultimately had a significant impact on CFU’s membership and advocacy.⁸⁵ In 1991, in response to the reduced political impact of CFU on farmworker recognition in BC and the effects of the recession, the Canadian Labour Congress withdrew its funds from the CFU. This had a huge impact on the capacity of CFU and by the mid-1990s recruitment and mobilisation efforts had dwindled.⁸⁶ Despite this, CFU had successfully developed a new, flexible unionization model which they entitled “community unionism” and which led to the recruitment of large numbers of migrant agricultural workers.

Following the decline of CFU, the United Food and Commercial Workers Union (UFCW), Canada, sought to unionise migrant agricultural workers in Canada.⁸⁷ This work, which commenced in the early 1990s, was led by migrant organisers who conducted extensive outreach in key Canadian provinces to build the membership. In 2001, Stan Raper, long-time activist, former agricultural worker and Co-Ordinator of the United Farm Workers of America in Canada, launched the Global Justice Caravan Program.⁸⁸ This involved Raper travelling around Ontario in a caravan to document the conditions faced by migrant agricultural workers. At the same time, Raper helped UFCW to form the Agricultural Workers’ Alliance (AWA) to support migrant agricultural workers, regardless of union membership. As National Co-ordinator of AWA, Raper helped to open UFCW and AWA’s first Worker Support Centre in Leamington, Ontario. The number of Worker Support Centres across Canada eventually rose to 10, each offering translation, transportation, assistance with workplace claims, political and legal support. This work was driven by Raper’s grassroots engagement with migrant agricultural workers and based on evidence gathered from extensive farm visits.

There are now 13,000 members of AWA although given that membership is not a requirement to get support through the centres, it is estimated that 40,000 workers have been assisted since the centres first opened.⁸⁹ Since their peak of 10, the number of Worker

⁸¹ Ibid. p.4

⁸² Simms, M, Holgate, J, & Heery, E. (2013). *Union voices: Tactics and tensions in UK organizing*. Cornell: ILR Press. P.10

⁸³ Boal, Saran. 1987. *Discussion Paper on New Strategies for Organizing Canadians*. CFU. Available at <https://digital.lib.sfu.ca/cfu-2292/brf0006-007>

⁸⁴ Chun, J.J. & Ramirez, A.P. 2016. P.5

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ UFCW & AWA 2020 *The Status of Migrant Farm Workers in Canada*. Available at <http://www.ufcw.ca/templates/ufcwcanada/images/awa/publications/UFCW-Canada-Status-of-Migrant-Workers-Report-2020.pdf> P.2

⁸⁸ Ibid. p.6

⁸⁹ Manek, H December 24 2020 *This is what we do: Union solidarity with Migrant Farm Workers*. Available at <https://ourtimes.ca/article/this-is-what-we-do>

Support Centres has since reduced to eight, of which three are mobile centres, spanning five provinces. Due to the reduction in centres, UFCW has been criticised for cutting the resources it allocates to migrant agricultural workers. AWA provides support to migrant workers regardless of trade union membership. It also continues to document migrant agricultural workers' conditions in its annual *The Status of Migrant Farm Workers in Canada* report. This evidence gathering work has provided a basis for worker support and representation.

The work of AWA has been funded by UFCW as part of a longer-term strategy to change the law in provinces where unionisation is not permitted. Since 2003, UFCW and AWA have launched a number of legal challenges against the restrictions to organising faced by some migrant agricultural workers. Despite consistent efforts to overturn restrictions on union organising, these remain in place for agricultural workers in the Canadian provinces of Ontario and Alberta. These provinces have restrictions in provincial law preventing the recognition of agricultural workers. In these locations, AWA Worker Support Centres provide ongoing support to workers and offer a space for workers to meet, collaborate and influence political discourse. One critique of the work that AWA/UFCW does is that they claim to speak on behalf of all workers, despite their unionisation and engagement rates remaining low relative to the number of migrant agricultural workers in Canada. This is viewed as a problem when UFCW is not seen as sufficiently progressive when it comes to challenging the immigration frameworks that maintain workers vulnerability.

Migrant led organisations and policy activism

Canada has many grassroots groups working with and for temporary migrant workers. These groups have had a particularly important impact on the inclusion of temporary migrant workers in public life. The following overviews explore how some of these organisations operate.

Justicia for migrant workers (J4MW)

J4MW is a volunteer run grassroots advocacy group working with and on behalf of temporary migrant workers. J4MW was established in 2001 following tensions with UFCW/AWA which was also forming at the time. These tensions related to the focus of their work and their limited engagement with what the organisers of J4MW saw as the structural drivers of inequality in the labour market. J4MW's founders felt that organising needed to be multi-racial, focussed on a range of migrant communities and crucially that it needed to address the legacy of colonialism, adopting a political lens to Canada's temporary foreign work programme. J4MW believe that the fact that people making up the bulk of Canada's TFWP come from former colonies is politically important and requires a political response.⁹⁰

Now J4MW says it is comprised of "migrant workers, labour organizers, educators, researchers, students and racialized youth based in Toronto, Ontario."⁹¹ They describe themselves as a movement which seeks to create spaces for workers to voice concerns and then to collectively campaign for change. In 2016, J4MW launched a 'Harvesting Freedom Campaign' calling for the Canadian Prime Minister, Justin Trudeau, to grant immigration status on arrival to migrant agricultural

⁹⁰ Research interview data

⁹¹ See: <https://harvestingfreedom.org/who-we-are/>

workers.⁹² The campaign organised ‘caravans’, including temporary migrant agricultural workers, to travel across Ontario to raise awareness of the poor treatment of migrant workers, culminating in protests in Ottawa at the office of the Prime Minister.⁹³ This and other campaign work carried out by J4MW has contributed to the heightened profile of temporary migrant agricultural workers in Canada’s political discourse.

Workers’ Action Centre (WAC)

The Workers’ Action Centre (WAC) is also based in Ontario and is comprised of members who are largely non-unionized workers in temporary and precarious jobs. It was established in 2005, bringing together two predecessor groups, the Toronto Organising for Fair Employment and the Workers Information Centre. WAC describes itself as being led by the aim of “maximum involvement of the people affected, developing leadership among workers, shared learning and action for change.”⁹⁴ As a membership organisation WAC seeks to develop the leadership of its members, engaging them in campaigns and advocacy and fostering migrant leadership. It also operates a drop-in centre, which is currently closed due to COVID-19, and a helpline which is staffed from 1200-1700 Monday-Friday. Workers can call the helpline or in normal times attend support clinics to discuss a workplace issue and to get advice. Alongside support, WAC offers workshops and produces documents to provide information about labour rights. WAC, jointly with its members, conducts advocacy for changes to labour laws and increased enforcement. This model is widely used in Canada, combining migrant worker support and worker leadership and activism.

WAC deliberately offers what the founders call “a new model of organizing”⁹⁵ in response to the difficulties that trade unions face when seeking to engage temporary migrant workers. In 2008 WAC contributed to the establishment of the Migrant Workers’ Alliance for Change (MWAC). This was initially established as a coalition of migrant worker organisations and allies and is now a stand-alone organisation which supports the self-organisation of migrants in Ontario. MWAC also contributed to the creation of the Canada wide alliance, the Migrant Rights’ Network which was set up in 2018. MWAC has a specific focus on temporary agricultural workers as well as live in caregivers and students. It partners with WAC on specific campaigns and projects, recently working together to ensure access to vaccinations for migrant workers.⁹⁶

The emergence of these organisations, WAC, MWAC and the Migrant Rights’ Network has had a notable impact on the prominence of migrant workers in public discourse. Each organisation operates from principles of migrant leadership and partnership with migrant-led groups across Canada. This approach has been labelled

⁹² Ibid.

⁹³ Harvesting Freedom 2016 *Harvesting Freedom campaign arrives in Kingston Ontario*. Available at <https://harvestingfreedom.org/wp-content/uploads/2016/09/kingstonontarioj4mwpressrelease-29sept2016.pdf>

⁹⁴ Workers Action Center 2020 *Annual Report*. Available at <https://workersactioncentre.org/wp-content/uploads/2021/06/ENGLISH-WAC-Annual-Report-2020.pdf>

⁹⁵ Ladd, D. & Singh, S 2016 *Critical Questions: Building Worker Power and a Vision of Organizing in Ontario*. In Choudry, A. & Smith, A. A. (eds) *Unfree Labour? Struggles of Migrant and Immigrant Workers in Canada*. Oakland: PM Press.

⁹⁶ Mariam Assefa Fund 2021 *Building Power with Migrant Workers. Meet Syed Hussan*. Available at <https://www.wes.org/fund/insight/building-power-with-migrant-workers-in-ontario-meet-syed-hussan/>

‘community unionism’ within the movement, reflecting the language used by CFU and, similarly taken to mean a “new unionism based in communities rather than workplaces and focused on creating jobs rather than “getting the man his job back.”⁹⁷ The community unionism model adopted by WAC has involved partnership and solidarity between community groups and trade unions. This unified migrant labour movement has contributed to greater awareness of the media, public and politicians in the issues faced by migrant workers. Grassroots participation has increased and campaigns have been directed at engagement between migrant workers and members of the public to build public support for agricultural workers. One recent campaign involved migrant agricultural workers handing out peaches they had picked and sharing their experiences on farms. Gradually, transformative organisations like WAC have built skills, solidarity and transferred power to migrant workers.

Canadian Government initiative to create a Migrant Worker Support Network

In October 2018, the Canadian Government established a pilot Migrant Worker Support Network (MWSN) in the province of British Columbia. The Government intended for the pilot to offer protection and information to migrant workers whilst in Canada and to promote employer compliance with the terms of their temporary migration programmes.⁹⁸ The idea for MWSN arose from concerns raised by a Canadian parliamentary committee in 2016 and Government Auditor General in 2017 that temporary migrant workers were being abused. The Government initiated a period of consultation which led to the conclusion that greater collaboration was needed.⁹⁹ The pilot was initially established for two years and provided an initial \$3.4 million Canadian dollars (approx. £2 million).¹⁰⁰ In 2020 the Pilot was extended to address support gaps faced by workers in light of COVID-19.¹⁰¹ In 2021, the Canadian Government announced the launch of a new Canada wide “Migrant Worker Support Program”, effectively expanding the pilot across Canada.¹⁰²

MWSN provides information through webinars to workers and organises quarterly meetings involving migrant workers (with interpretation provided), advocacy groups and trade unions, government officials, embassies and employers and their representatives. These meetings are designed as venues for sharing information and to connect different parties with interest in workers on the TFWP.

⁹⁷ Cranford, C. & Ladd, D. 2003 *Community Unionism: Organising for Fair Employment in Canada*. Just Labour Vol 3. Pp.46-59. P. 55

⁹⁸ Observatory of Public Sector Innovation, 2019, Migrant Worker Support Network (British Columbia pilot initiative). Available at <https://oecd-opsi.org/innovations/migrant-worker-support-network-british-columbia-pilot-initiative/>. Accessed 20 December 2021.

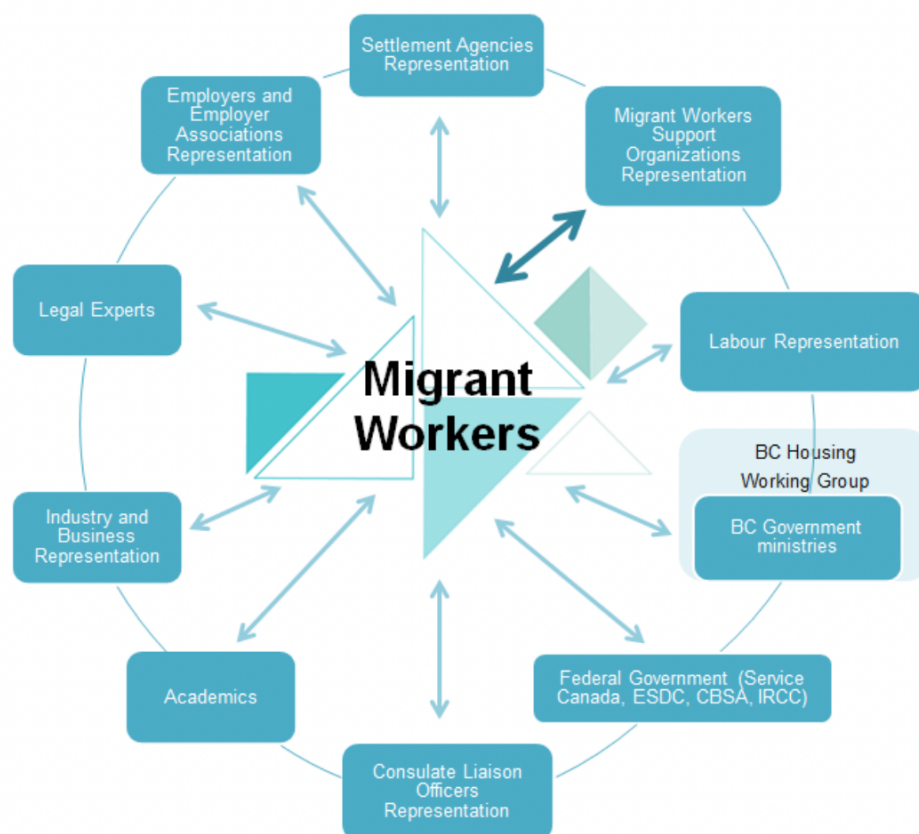
⁹⁹ Migrant worker hub, Migrant Worker Support Network. Available at <https://migrantworkerhub.ca/about/migrant-support-network/>. Accessed 20 December 2021.

¹⁰⁰ Government of Canada, 2018, Survey: Design of a Migrant Worker Support Network Pilot in British Columbia. Available at <https://www.bcfga.com/files/MWSN%202018%20Grower%20Survey.pdf> (accessed 20 December 2021). P.1

¹⁰¹ Government of Canada, 2020, Protecting Temporary Foreign Workers and Enhancing Employer Compliance with Requirements Under the Temporary Foreign Worker Program. Available at <https://www.canada.ca/en/employment-social-development/news/2020/07/protecting-temporary-foreign-workers-and-enhancing-employer-compliance-with-requirements-under-the-temporary-foreign-worker-program.html>

¹⁰² Government of Canada, 2021, Budget 2021: A Recovery Plan for Jobs, Growth and Resilience. Part 2 – Creating Jobs and Growth. P.219

Figure I. MWSN network structure¹⁰³



The funding for MWSN was accompanied by a package of resources delivered to non-governmental organisations (NGOs) to support temporary migrant workers to exercise their rights and to help employers to understand their obligations.¹⁰⁴ In addition, funding has been provided to NGOs to facilitate migrant worker engagement with the new Canadian Open Work Permit for Vulnerable Workers. Some worker representatives are critical of MWSN and the government funding to NGOs. Some raise concerns about the implications of the government programme, believing that the funding to NGOs curtails organisational independence to critique the Government of Canada's temporary migrant work programmes and for organisations to advocate on behalf of workers.¹⁰⁵ Some also critique the programme's approach, noting the superficiality of providing training and education to workers without reviewing or challenging the constraints created by temporary migration programmes. Others noted that the organisations that are funded do not have the capacity to adequately represent and support workers which can cause workers more harm than good.¹⁰⁶ Despite these reservations, MWSN and related support for NGOs offers an example of significant government intervention in migrant worker support and to a limited degree representation.

Lessons from this work

¹⁰³ Ibid. p. 4

¹⁰⁴ Migrant worker hub, Migrant Worker Support Network. Available at <https://migrantworkerhub.ca/about/migrant-support-network/> (Accessed 20 December 2021)

¹⁰⁵ Research interview data

¹⁰⁶ Ibid

CFU successfully pioneered a 'community unionism' model throughout the 1980s recruiting large numbers of migrant agricultural workers and making progress on law and policy change. This particularistic trade union model appealed to migrant workers as people, in their communities, addressing constraints posed by wide ranging issues such as racism, gender discrimination or migration frameworks. Grassroots groups in Canada today, drawing on the model put forward by CFU offer a powerful counter narrative to the mainstream representation of migrant workers.

The growth of groups like J4MW and WAC has meant that temporary migrant workers have increasingly had a voice in advocacy to government and in the media. The community unionism model now drawn on by WAC ensures that the migrants with whom they work are engaged in their communities about issues such as race and gender and that self-organisation is promoted as a first principle. This transformative approach has brought about a migrant worker led movement which conducts campaigns and advocacy which in turn has led to greater public and political engagement with and understanding of migrant workers.

The work of UFCW has led to the ongoing documentation of worker treatment and working conditions, which has informed its advocacy work. Through AWA, UFCW has also sought to support and represent workers through the establishment of migrant support centres in provinces where migrant worker recognition and representation is prevented in law. This example demonstrates an evidence-based model of trade union representation for temporary migrant workers. It also demonstrates a hybrid model of representation as UFCW has both recruited temporary migrant agricultural workers as members and established worker support centres for those workers that are not members. Critiques of this model underline that UFCW has low numbers of temporary migrant workers as members and that as a result is not sufficiently representative of them to engage in advocacy and communications work.

Finally, Government led support and representation has been piloted in Canada. MWSN has brought together a range of different stakeholders including workers, employers and government. Funding has also been provided to migrant support, including to facilitate engagement with the new Open Work Permit for Vulnerable Workers. However civil society organisations raise serious concerns about the capacity of the organisations in receipt of funding and the risk of reduced scrutiny of government migration policy by these organisations. However, MWSN and support for NGOs, does provide resource stability for a range of migrant support organisations in recognition of the risks associated with temporary migrant worker programmes.

Lessons for Scotland

- **The concept of 'community unionism'** has been well tested in Canada with important effect for the voice and representation of temporary migrant workers. This form of unionism which draws on community development principles and works in solidarity with trade unions rises to the challenges faced by migrant workers, moving beyond just labour rights to reflect wider social barriers to migrant workers' enjoyment of their human rights. The transformative nature of this work is striking, as migrant workers are supported to become leaders and to take forward campaigns and advocacy for change.

- **Mainstream trade union flexibility** has served to engage temporary migrant agricultural workers. UFCW has been able to engage temporary migrant agricultural workers by conducting grassroots mobile organising and where organising is prevented in law, by establishing worker support centres.
- **Government intervention in migrant support and representation** can offer important funds for frontline organisations and provide advocacy spaces. It is notable that MWSN includes migrant workers and now provides interpretation to ensure workers can communicate freely in such spaces.

Brazil: Participatory policy making

Background

The 1988 Brazilian constitution established principles and guidelines for social participation by means of representation of the public in all levels of policy making and delivery.¹⁰⁷ A range of policy forums and processes, such as the Brazilian participatory budgeting processes, have sought to achieve high levels of public participation in policy spaces. In addition, some participatory forums such as the ‘national policy councils’ (*conselhos gestores de políticas públicas*), pre-date the 1988 constitution but were expanded as a result of Brazil’s constitutional commitment.¹⁰⁸ Brazil’s national policy councils provide a space for civil society organisations, citizens and the State to formulate, advise on and monitor implementation of public policy.¹⁰⁹ Public policy councils cover a wide range of issues including health, education, labour, science and technology and rural development. They are multi-levelled with local level participation leading to elections of delegates for state level conferences at which further elections lead to national level delegates. The proposals from each stage are compiled and deliberated before final policy recommendations are produced.¹¹⁰

Brazil’s National Conference on Migration and Refuge

One example of a national policy council is Brazil’s National Conference on Migration and Refuge (COMIGRAR) which first took place in 2014. This national conference was jointly coordinated by the Ministry of Justice, Ministry of Labor and Ministry of Foreign Affairs. The first COMIGRAR ultimately involved 788 people and comprised of 202 preparatory conferences, including 2840 proposals which fed into the national deliberations.¹¹¹ Topics discussed included migrant access to services and rights, protection and economic integration. Those represented at COMIGRAR included social organisations and

¹⁰⁷ Constitution of the federative Republic of Brazil 1988 Article 14. Available at

<https://www.globalhealthrights.org/wp-content/uploads/2013/09/Brazil-constitution-English.pdf>

¹⁰⁸ Pogrebinschi T & Tanscheit T 2017 Moving backwards: What happened to citizen participation in Brazil?

Available at [https://www.latinno.net/media/publications/Moving_Backwards-](https://www.latinno.net/media/publications/Moving_Backwards-What_Happened_to_Citizen_Participation_in_Brazil_.pdf)

[What Happened to Citizen Participation in Brazil .pdf](https://www.latinno.net/media/publications/Moving_Backwards-What_Happened_to_Citizen_Participation_in_Brazil_.pdf) (accessed 20 December 2021)

¹⁰⁹ Walker A P P & Friendly A 2021 *The value of participatory urban policy councils: engaging actors through policy communities*. International Institute for Environment and Development. Available at

<https://doi.org/10.1177%2F09562478211031705> (accessed 04 December 2021)

¹¹⁰ Pogrebinschi T & Tanscheit T 2017

¹¹¹ UNODC 3 June 2014 *Conference gathers 788 people to discuss migration and refugee policies in Brazil*. Available at <https://www.unodc.org/lpo-brazil/en/frontpage/2014/06/03-comigrar-reune-788-pessoas-para-discutir-politica-nacional-de-migracoes-e-refugio.html> (accessed 05 November 2021)

movements, academics, Brazilian migrants overseas, Government and immigrants to Brazil.¹¹²

There were some concerns raised about the COMIGRAR process, including the ability of civil society groups to represent all migrant workers. In addition, some felt that the engagement of international organisations and inter-governmental agencies contributed to a focus on borders and security.¹¹³ However, COMIGRAR was ultimately judged a success for its contribution to the positive elements of Brazil's new Migration Law, 2017, which repealed the 'Foreigners Statute', regressive legislation implemented during Brazil's military dictatorship. The new Migration Law included protections to migrants and provided migrants the right to unionise and engage in political demonstration. Importantly, COMIGRAR was generally judged positively with respect to its engagement of social movements and the participatory nature of the process adopted.

Sugarcane sector specific initiative for improved working conditions

In 2005, the Brazilian government convened a minimum wage roundtable devoted to improving working conditions on sugarcane farms that resulted in a national tripartite pact (herein after 'the Pact') for the sector.¹¹⁴ The roundtable was comprised of a range of trade unions including those representing rural and agricultural workers, Government and business representatives. The Pact was entitled, the National Commitment to Improve Labour Conditions in the Sugarcane Industry and was launched in June 2009. It was approved by two major trade unions, the Federation of Salaried Rural Employees of the State of São Paulo (*Federação dos Empregados Rurais Assalariados do Estado de São Paulo*) and the National Confederation of Agricultural Workers (*Confederação Nacional dos Trabalhadores na Agricultura*) and two of the main sugarcane producer industry groups.

The Pact included improvements to business standards, collective bargaining, housing, health and safety and transport. It also banned the use of labour intermediaries. Over 80% of the sugarcane sector became signatories to the Pact. However, despite strong commitments on paper, the Pact lacked enforcement and follow through in terms of holding its signatories to account.¹¹⁵ This ultimately contributed to its failure. It is not clear from the research carried out for this paper whether temporary migrant workers were included in the dialogue leading up to the adoption of the Pact. In addition, important questions have been raised about the ability of trade unions in Brazil to adequately represent transient, marginalised and precarious workers.¹¹⁶ However, this sector specific and participatory initiative offers an interesting structure to consider for its potential to offer spaces for engagement of temporary migrant workers in policy.

¹¹² International Labour Organization 2017 *1st National Conference on Migration and Refuge (COMIGRAR)*. Available at https://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=192 (Accessed 05 November 2021)

¹¹³ Interview research data and see Feldman-Bianco B 2018 *Brazil facing the global regime of migration control: Human rights, securitization and violence (O Brasil frente ao regime global de controle das migrações: Direitos humanos, securitização e violências)*. Available at <https://www.corteidh.or.cr/tablas/r38868.pdf> (accessed 04 November 2021)

¹¹⁴ Bignami R, Coslovsky S, Pires R 2017 *Resilience and Renewal: The Enforcement of Labor Laws in Brazil* in *Latin American Politics and Society* vol 59(2): 77-102

¹¹⁵ Reporter Brasil 2009 *Brazil of Biofuels: Sugarcane impacts of crops on land, environment and society*. Reporter Brasil, Brazil.

¹¹⁶ See Gomes A V and Prado M M 2012, *Flawed freedom of association in Brazil: How unions can become and obstacle to meaningful reforms in the labour law system* in *Comparative Labour Law and Policy Journal* vol 32: 843-889 and de Oliveira R V 2018 *Brazilian Labour Reform in Historical Perspective* in *Global Labour Journal* 9 (3): 319-338.

Lessons from this work

The two examples of COMIGRAR and the National Commitment to Improve Conditions in the Sugarcane Industry (The Pact) highlight the opportunities available for multi-levelled public participation in policy spaces. COMIGRAR delivered an extensive deliberative policy forum which engaged migrants, migrant representatives and experts. The process was felt to be participatory and to ultimately guide evidence-based policy.

The Pact offers an example of a sector specific commitment to improved working conditions that included the engagement of trade unions. Whilst the level of temporary migrant worker representation is hard to judge, the process itself offers an interesting template that could be used to facilitate the engagement of temporary migrant agricultural workers in policy making and oversight. The failing of the Pact to deliver meaningful change because of a lack of an enforcement mechanism indicates the importance of monitoring and enforcement.

Lessons for Scotland

Participatory policy forums that have a long history in countries like Brazil offer tested examples of how to ensure policy beneficiaries, including marginalised individuals such as temporary migrant workers, are included in policy making, delivery and oversight.

Sector-specific commitments to improved working conditions based on tripartite engagement between workers, employers and the State can contribute to improved working conditions if accompanied by monitoring and enforcement.

Commentary

This policy paper has reviewed work conducted to represent temporary migrant workers in four country contexts, Ireland, Germany, Canada and Brazil. It has drawn lessons from examples of worker representation and power in each country and summarised lessons for Scotland. The research underlines that there is no perfect solution to this issue. Temporary migrant visas create a major barrier to workers engaging in trade unions, or trade unions seeking to engage with workers, or other representative organisations. This obstacle is compounded by common factors such as: the absence of a common language amongst workers; the low and insecurely paid nature of the work; the dispersed and isolated location of the workers; and the hostility demonstrated by agricultural employers towards trade unions. However, the case studies have provided cause for hope, through deliberate, targeted and in some cases radical efforts, civil society organisations and governments have identified effective strategies to overcome these barriers. This final section reviews lessons learned from the case studies and identifies strategies that can be nurtured for temporary migrant agricultural worker representation in Scotland.

In both Ireland and Canada, temporary migrant worker organising, representation, and engagement in policy spaces started with **grassroots movement building or community unionism**. In both the case of the Migrant Rights Centre Ireland (MRCI) and Justicia for Migrant Workers (J4MW) and the Workers Action Centre (WAC) in Canada

this movement building is transformative and political. For all three organisations, the engagement and organising work carried out seeks to support and empower migrant workers themselves to take the lead in advocacy, campaigns and communication. In both the case of MRCI and WAC, partnership with established trade unions has formed a core part of their efforts to mobilise and organise workers. In Canada this approach is labelled '**community unions**'. This model is both centred on building alliances between migrant-led groups and trade unions and on engagement with migrant workers as people in their communities, identifying the issues that matter most to them and promoting self-organisation as a first principle. Whilst J4MW follows a similar migrant-led model and community centred model its organisers feel that its analysis of the structural drivers of migrant vulnerability is incompatible with the approach adopted by mainstream trade unions.

By taking a grassroots-led approach to movement building and using transformative approaches to shift power from those who have it to those who do not, all three organisations in Canada and Ireland have served to greatly **raise the profile of temporary migrant workers in policy** and media spaces. In addition, in so doing, migrant leaders have **claimed power** to lead campaigns, communication and policy objectives. Where this approach has involved partnership and engagement with trade unions it has gained greater sustainability and in the case of Ireland, the Mushroom Worker Support Group's (MSWG) partnership with the Services, Industrial, Professional and Technical Union (SIPTU) led to tripartite negotiations for workplace agreements. However, the engagement of trade unions is not without challenge, as J4MW found in Canada, where the radical political change they sought could not be supported by the United Food and Commercial Workers Union (UFCW).

In Germany, the Industrial Union for Construction, Agriculture and the Environment (IGBAU) has **trialled flexible engagement models** for temporary migrant workers. Its initial efforts led to a parallel union structure separate from the main trade union. Lessons from the resultant European Migrant Workers Union (EMWU) showed that whilst workers engaged in its services and support, ultimately it was unable to recruit and retain workers as members. In addition, EMWU's ambition to become transnational was thwarted by the reluctance of trade unions in workers' countries of origin to cooperate. However, IGBAU has applied lessons from EMWU to its recent creation of a new hybrid membership model within the main trade union, with bespoke membership terms and fees. Temporary migrant workers are offered a reduced membership fee, with an automatic 12 month cut off and with a multi-lingual telephone hotline and information. This model is new and still un-tested, however IGBAU is hopeful it offers an additional resource to support workers. In addition it indicates a level of **flexibility and responsiveness** on the part of this major German trade union.

Similarly to IGBAU, in 2000, the United Food and Commercial Workers Union (UFCW) in Canada developed a flexible approach to organising temporary migrant agricultural workers under the banner of the Agricultural Workers' Alliance (AWA). This work was informed by the grassroots activism of a leading migrant labour activist, Stan Raper. Raper developed a recruitment and support model involving travelling between agricultural workplaces to better understand and document conditions. UFCW used this evidence to establish AWA which continues to produce an **annual evidence paper on the conditions faced by temporary migrant agricultural workers** and which operates eight **worker support centres** in five Canadian provinces. These worker support centres have been established in provinces where agricultural worker unionisation is not permitted, as well as those where it is, offering support services to members and non-members alike.

Migrant worker support centres, such as those offered by AWA in Canada can create a foundation for workers to come forward, receive support and consider joining and engaging in the work of trade unions. The German organisation, *Arbeit und Leben*, is separate to yet sponsored by both the German Trade Union Federation and the German Adult Education Association. *Arbeit und Leben*'s worker support centres conduct outreach and offer support to migrant workers, on the enforcement of labour rights. This work enables *Arbeit und Leben* to address any practical barriers to labour rights that migrant workers are facing. In addition, jointly with the trade unions, *Arbeit und Leben* operates the Fair Agricultural Work Initiative, **a network of migrant support organisations and trade unions** that conduct outreach, offer information, conduct trade union recruitment and document working conditions. **This network initiative** reaches large numbers of temporary migrant workers and evidence gathered informs communications and policy advocacy work.

Migrant worker support centres can offer a one stop shop for temporary migrant agricultural workers, who otherwise have very few avenues for information or support. However, this research cites examples of trade unions focussing too heavily on this **servicing model** to the detriment of organising and mobilisation. As a result, both SIPTU and UFCW are accused by some of becoming top-down and unrepresentative of the workers on whose behalf they purport to act. Those who critique these organisations note the importance of ensuring migrants with temporary migrant work experience are employed by trade unions and integrated in organisational hierarchy in order to ensure their work is migrant worker needs-led and that principles of self-organising are promoted.

Turning to the role of **government funding**, both *Arbeit und Leben* in Germany and the Migrant Worker Support Network (MWSN) in Canada provide examples of government funded organisations. In the case of *Arbeit Und Leben*, government funding has provided long term stability and enabled continuous service delivery of a sustained standard and scale. For MWSN, statutory funding has been used to initiate and pilot this multi-stakeholder network model of support for migrant workers. The Government of Canada has just increased its funding to the programme, effectively expanding the pilot from the province of British Colombia, to the whole of Canada. However, whilst statutory funding can provide sustainability and scale, many of those interviewed for this research criticised the limitations it placed on migrant support work. Receipt of government funding can come with limits on organisational independence to conduct policy advocacy. *Arbeit und Leben* works around some of the limitations it faces by working closely with trade unions and other advice organisations through networks like the Fair Agricultural Work Initiative.

Finally Brazil provides an alternative approach to temporary migrant worker representation and power. The Brazilian national policy councils offer a **participatory, deliberative and multi-layered model** that has been applied to labour, migration and rural development. In the case of COMIGRAR, migrants, migrant representative organisations and academics together with government, deliberated and decided on migration policy. The National Commitment to Improve Conditions in the Sugarcane Industry (the Pact) demonstrates how a participatory policy process can be targeted at a specific sector, creating a binding agreement that can serve to prevent labour abuse and exploitation. However, the example of the Pact highlights the importance of enforcement, without which it ultimately failed. Brazil's participatory policy forums offer an example of direct State action to create spaces for power for individuals who may have traditionally been marginalised and excluded from policy.

Conclusion

This policy paper explores the options for Scotland to ensure temporary migrant agricultural workers are empowered and represented in policy spaces. In so doing it considers models for worker representation and power adopted in four country contexts, Ireland, Germany, Canada and Brazil. This paper finds that there is no single solution, rather a series of strategies that show success if adopted in combination. The paper identifies five key strategies for temporary migrant agricultural worker representation in Scotland. These strategies are: grassroots movement building and ‘community unionism’; migrant worker support centres; flexible trade union approaches to worker representation; statutory funding, free from limitations on policy advocacy; and participatory and deliberative policy spaces.

None of these strategies will work in isolation. When grassroots worker engagement seeks to transform power dynamics to promote self-organisation then temporary migrant workers can start to lead campaigns and advocacy. When this grassroots engagement seeks to connect with migrant workers in their communities and centres work around structural drivers of vulnerability, it holds more relevance and more migrants are encouraged to participate. If migrant workers are offered support and information through worker support centres that seek to meet their needs and provide security and safety at work these workers gain stability. When trade unions offer flexible organising models to these workers, so that they might join, be represented and engage in collective action, workers gain power through solidarity as well as representation in social dialogue. Finally, when governments facilitate migrant worker representation and power by supporting these initiatives, offering funding and creating participatory policy spaces, worker support becomes more sustainable and temporary migrant workers can play a key part in policy.