THE ENDS OF UNION SOLIDARITY:
UNDOCUMENTED LABOUR AND
GERMAN TRADE UNIONS

MARKUS KIP

A DISSERTATION SUBMITTED TO
THE FACULTY OF GRADUATE STUDIES
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

GRADUATE PROGRAM IN SOCIOLOGY
YORK UNIVERSITY
TORONTO, ONTARIO

February 2016

Abstract

This dissertation focuses on the contested practices of union solidarity with undocumented migrant workers in Germany. Unionists part ways when it comes to the practical meaning of solidarity with workers who lack work permits. To some union members, undocumented migrant workers ought to be included in the bonds of union solidarity by virtue of being workers. To others, undocumented migrant workers are primarily illegal and unfair competitors undermining existing practices and institutions of solidarity. Since 2008, six union centres for undocumented migrant workers called *MigrAr* (German "*Migration & Arbeit*", English "migration & labour") have been established by labour activists. Their institutionalization under the umbrella of German unions continues to arouse controversies among their members.

This research builds on an activist ethnography following the Extended Case Method. The researcher is positioned as an activist in the *MigrAr* centre in Berlin. In a critical encounter with Jürgen Habermas's work, the research charts the significance of instrumental and normative rationalities in union controversies around undocumented labour, since it became a topic two decades ago. The fieldwork shows that activists' engagement for expanding union solidarity cannot be properly understood in relation to Habermas's account of instrumental and normative rationality alone.

The dissertation, moreover, contests Habermas's dismissal of material reproduction, especially in relation to work and citizenship, as significant for the development of solidarity. Contrary to Habermas's premise of symmetrical reciprocity in his notion of solidarity, this research

demonstrates that activists understand their own practice as being premised on conditions of asymmetry. Differences pertain among activists, as to whether this requires holding on to established labour standards and union procedures, or whether specific measures are required to practice union solidarity under the condition of undocumented workers' legal, economic, and social vulnerabilities. Affirming the latter approach, activists in the Berlin centre encounter multiple obstacles to implement it in union organizations as the ethnography details. Drawing on participant observations and interviews, I argue that the activist practice of solidarity is motivated by what I call political imagination; the ability to imagine activist practices as a contribution towards realizing an alternative form of union solidarity.

Solidarität

Uns fehlt nicht die Zeit, uns fehlt nicht die Kraft
Uns fehlt nicht das Geld, uns fehlt nicht die Macht

Was wir wollen, können wir erreichen
Wenn wir wollen, stehen alle Räder still
Wir haben keine Angst zu kämpfen
Denn die Freiheit ist unser Ziel
Denn die Freiheit ist unser Ziel
Alles, was uns fehlt, ist die Solidarität
Alles, was uns fehlt, ist die Solidarität

Uns fehlt nicht die Hoffnung, uns fehlt nicht der Mut
Uns fehlt nicht die Kraft, uns fehlt nicht die Wut

Was wir wollen, können wir erreichen
Wenn wir wollen, stehen alle Räder still
Wir haben keine Angst zu kämpfen
Denn die Freiheit ist unser Ziel
Denn die Freiheit ist unser Ziel
Alles, was uns fehlt, ist die Solidarität
Alles, was uns fehlt, ist die Solidarität

[English translation]

Solidarity

We don't lack the time, We don't lack the strength
We don't lack the money, We don't lack the might

What we want, we can achieve
If we want, all wheels stop turning
We are not afraid to fight
Because freedom is our goal
Because freedom is our goal
All we lack is solidarity
All we lack is solidarity

We don't lack the hope, we don't lack the courage
We don't lack the strength, we don't lack the rage

What we want, we can achieve
If we want, all wheels stop turning
We are not afraid to fight
Because freedom is our goal
Because freedom is our goal
All we lack is solidarity
All we lack is solidarity

Ton Steine Scherben, Solidarität (1971)

ACKNOWLEDGEMENTS

Although at times I felt that my involvement and activist fervour distracted me from the actual research project, in the end, it was the supportive environment that helped me stay on track and remain convinced that my research addressed something real and meaningful. Without the trust, open-mindedness and interest of these comrades, this work, of course, would not have been possible.

Discussions with other (activist-) scholars has been extremely important to inspire me, to situate my research within broader debates, to receive helpful material and feedback, and to be alerted colleagially about the dead-ends my research occasionally ventured in. Here, I would like to explicitly thank Nouk Bassomb, Anna Basten, Norbert Cyrus, Shannon Gleeson, Michael Hölzl, Dagmar Lieske, Thorsten Mense, Heike Oevermann, Lisa Riedner, Christoph Sommer, AK Thompson, Ted Walker and Holger Wilcke. A big thank you to the heroes who read chapters of the final draft and helped me with copy-editing, linguistic clarity and feedback: AK Thompson, Alan Bourke, Anthony Pappas, Jesse Carlson, Mary Dellenbaugh, Sheryl Peters, Ted Walker, and Tia Dafnos.

There are also several institutions that have provided me with key resources. More than a dozen different public libraries in Toronto, New York and Berlin were uplifting workspaces for several thousand hours. For the past year and a half, I appreciate having been able to work in the office of the Georg-Simmel-Zentrum for Metropolitan Studies at the Humboldt University in Berlin. Through the Canadian Centre for German and European Studies at York I was also able to receive indispensable financial support for this research. The Catholic Worker houses in New York City were a wonderful community to live and work in and a source of inspiration to draw

from long after I had moved to Berlin. Without my own experiences at the day labor corner in Williamsburg and the friendship of those workers, it is hard to imagine that I would have ever focused my research on solidarity in the context of undocumented labour. Every time I think of this topic, even when in the most abstract terms, I am reminded that some parts of me are still there at the corner.

Last but not least, it is difficult for me to express my gratitude toward those persons closest to me: my partner Miriam and my children, Bennett and Lucy, and my parents, Ernst and Christine. They have accompanied me throughout the ups and downs of the research process and have given me the gift of home.

Berlin, March 9th, 2016

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

LIST OF ILLUSTRATIONS

Chapter 1: Introduction: All We Lack is Solidarity!

For unions to survive and thrive, the principle of solidarity must not only be redefined and reinvented; workers on the ground must be active participants in this redefinition and reinvention (Hyman 2011, 29).

Solidarity involves mutuality despite difference [...] From this perspective, there is an obligation on the strong to support the weak - either on the pragmatic rationale that the roles might on some occasion be reversed, or through a more diffuse recognition of the human condition. This [...] approach may turn solidarity into a synonym for charity, implying pitying support for passive victims. This is far removed from the socialist view of solidarity as active and collective; but can aspects of this approach be used to inform and enrich the solidarity of labour movements? (Hyman 2002, 2).

If Richard Hyman (2011, 25) considers the concept of solidarity to be a key for rethinking unionism[1] in times of neoliberal capitalism, I propose that a critical test case for such reinvented vocabulary is to analyze the unions' relationship with undocumented migrant workers. Such a test case raises fundamental questions about union solidarity and its ends, strategies, and boundaries. This dissertation focuses on a German case study and the analysis is therefore circumscribed by historically and geographically specific patterns of unionism, industrial relations, and migration management. At the same time, the conceptual discussion about the sources and ends of union solidarity, and its relationship to instrumental and ethical considerations, is relevant beyond this particular case study and applies to contexts with different union and migration histories. My goal therefore is to engage a broader academic and activist audience interested in renewing union solidarity at a global scale.

---

[1] There is, of course, a wide range of unionisms, with strikingly distinct legacies, constitutions, and political outlooks. In the following, I will focus on what are also referred to as trade and industrial unions. I refer to them interchangeably as "unions" or "trade unions" as catch-all terms for a spectrum of different union organizations, particularly in Germany, but also in Sweden, the US and Canada. Syndicalist, Catholic or other Christian unions are not part of this discussion.

Undocumented migrants have been thought of as symbolic or dystopian figures of the current social and political order. The circulation of such ideas range from the works of Jacques Rancière (1995), Etienne Balibar (2004), or Giorgio Agamben (1995), to blockbuster movies such as *Children of Men* (2006) directed by Alfonso Cuarón or *Elysium* (2013) directed by Neill Blomkamp. From this vantage point, thinking about union solidarity thus requires us to situate solidarity within the context in which large numbers of workers have been stripped of rights and resources. The actual disenfranchisement of undocumented migrants can be regarded as an extreme effect of systemic trends that have been affecting the working population at large, including increasing precariousness of labour, legal vulnerability and experiences of rights violations, economic hyper-exploitation, as well as socially fragmenting employment regimes and work processes (see, for example, B. Anderson 2010; Berg 2014; Standing 2011; for Canada, see Vosko 2006; Pupo and Thomas 2010). In this way, thinking about union solidarity in relation to undocumented migrant workers may be a revealing perspective on the challenge of union solidarity in this "brave new world of work" (Beck 2000).

As Wolfgang Streeck (2008) points out for Germany, capital has increasingly gained independence from unions. For some decades after World War II, several factions of capital appreciated unions as "social partners" and for their function of disciplining the workforce (for the US context, see also Clawson and Clawson 1999). However, since about the 1970s, capital and state increasingly withdrew from institutional arrangements with unions, thereby divesting unions of institutional power. In recent years, labour activists and scholars have called on unions to "revitalize" on the basis of membership recruitment and activation. With a similar thrust, Bill

Fletcher, Jr., and Fernando Gapasin (2008) suggest that within neoliberal capitalism the fates of unions and the working class have become intertwined more than ever. Union solidarity among workers is placed front and centre in these strategies (Turner 2005; Turner 2004). Fletcher and Gapasin (2008) emphasize the need to develop union solidarity that is not divided along occupational, racialized, gendered, or other group identities. An encompassing practice of union solidarity thus is considered as the source of power capable of prevailing against the attacks of neoliberal capitalism (see also Munck and Waterman 1999; Munck 2004). Unions that seek to gain privileges at the costs of other workers are eventually bound to be crushed by the organized power of capital. A legacy of labour internationalism has long recognized that labour organizing ought not to stop at the national border or to distinguish between citizenship (Waterman and Wills 2002; Munck and Waterman 1999). The insight of this activism is that international coordination between unions in different countries is of utmost importance (Bronfenbrenner 2007).

Historically, one important dividing line among workers has been citizenship, as it discriminates between workers in terms of their entitlements and liberties. Stephen Castles (2011), for one, argues that the legal concept of citizenship is a powerful tool in the new inter- and transnational division of labour that upholds social and racialized hierarchies among populations in a context of cross-border mobility. Since around the turn of the millennium, a growing number of labour scholars and activists realize that increased labour mobility requires a specific union approach to organize with migrants (Choudry and Thomas 2013; Milkman 2000). Just how far such a strategic shift should go and where solidarity ends has led to heated controversies within unions.

This dissertation will specifically focus on the contested practices of union solidarity with "undocumented migrant workers". Unionists part ways when it comes to the practical meaning of solidarity with workers without proper work permits. To some union members, undocumented migrant workers ought to be included in the bonds of union solidarity by virtue of being workers. To others, undocumented migrant workers are primarily illegal and unfair competitors undermining existing practices and institutions of solidarity. But beyond such polarity of ideas, another challenge emerges with respect to how idea(l)s of solidarity are to be implemented organizationally. How many organizational resources are to be mobilized for the sake of organizing undocumented workers? How many services specifically tailored for the needs and challenges of undocumented migrants are warranted? Are undocumented workers to be treated differently than other workers? What is expected of undocumented workers?

These questions, of course, are variants of what Rinus Penninx and Judith Roosblad (2000) describe as the trade union dilemmas with regard to migration. While conceived with regard to immigrant workers more generally, the dilemmas are pertinent, if not even more acute, in relation to undocumented migrant workers. Penninx and Roosblad (2000, 4) state the dilemmas as follows:

> The first relates to immigration itself: should trade unions cooperate with employers and authorities in the employment of foreign workers or should they resist? The second dilemma emerges as soon as foreign workers appear: should trade unions include them fully in their ranks or exclude them as a special category? If trade unions in principle follow a line of inclusion, they are confronted with a third dilemma: should they advocate and implement special measures for these immigrants or should they insist on general, equal treatment for all workers?

These and several other questions create a broad spectrum of differentiated takes on union solidarity with undocumented migrant workers. As the term "dilemma" indicates, Penninx and

Roosblad are aware of the various motivations that are at stake and of the impossibility of reconciling them. Something needs to be sacrificed. In examining rationalities of solidarity from the vantage point of union centres for undocumented migrant workers, I consider the dilemmas as conflicts between instrumental rationality, on the one side, and normative (moral or communicative) rationality, on the other. Three questions are key for this research:

1. *Is the practice of union solidarity with undocumented migrant workers rational?*

2. *If so, what significance do instrumental and normative rationalities play in the practice of such solidarity?*

Jürgen Habermas's conceptualization of rationality, as I will try to show, is too thin to account for MigrAr practice of solidarity. This eventually leads me to consider this question:

3. *What is the motivational source of the activism to bring unions to practice solidarity, if neither moral predispositions among union members nor instrumental rationality are sufficient?*

The answers to these questions have significant consequences for the practice of union solidarity. Are unions to found a practice of solidarity on the expectation that solidarity will be a "win-win" situation for unionized "regular" workers and undocumented workers who are to be unionized? The apparent moral alternative, highlighting solidarity's implicit concern with the most vulnerable within the ranks, raises the question of whether such normative appeals are enough to assuage the various concerns and reservations, if not outright hostility, towards undocumented workers. The critical question is how these two rationalities relate to each other when in conflict. Consider how the normative idea of solidarity with undocumented migrant workers would require unions to engage in expensive practices (organizing campaigns, political campaigns for

5

legalization, etc.). In a context of scarce union resources, the financing of such measures would require a certain sacrificing of other union interests. What if there is no guarantee that such practices of solidarity will bring concrete gains for unions to compensate the financial expenditures? Will the measures of union solidarity be instituted?

Implicitly, these questions are at the heart of various debates about unionism, in particular those under the label of social movement unionism (Moody 2001; Moody 1988) and social justice unionism (Scipes 2014). Habermas's theory of communicative action and, in particular, his take on solidarity constitute the conceptual framework to disentangle instrumental and normative considerations in my fieldwork and to dig out the sources of norms and values in action. My goal therefore is to deepen our understanding of the character of unions in view of the rationalities involved. The study of union solidarity in the context of undocumented labour thus promises to reveal conditions and dynamics at work within unions. It also brings the theoretical problem of generating solidarity in *asymmetrical constellations* to the fore, which Habermas's premise of reciprocity does not properly address.

I study the contestation around labour solidarity from the perspective of the trade union centre for undocumented migrant workers, widely referred to as "MigrAr"[2]. Since 2008, trade union centres for undocumented migrant workers have been established in six major cities in Germany: Hamburg, Berlin, Munich, Frankfurt, Bremen, and Cologne. The centres' mandate was to offer legal counselling to workers regardless of their residence or work permit status, as a means to

---

2 Abbreviation for "*MIGRation und ARbeit*", in English "migration and work". Even though not all centres call themselves MigrAr, it seems to be the closest to a common label for these different centres.

protect labour standards and to ensure that labour rights apply to all workers. Their practice is often taken as emblematic of a recent reversal of trade union stances towards undocumented migration and migration control. Nevertheless, as I show in subsequent chapters, it took a concerted effort of these activists to overcome resistance within local trade unions to establish these centres. Further, once these centres were institutionalized, activists repeatedly became frustrated by the unions' organizational inertia standing in the way and sometimes explicitly contradicting the operation of these centres.

This research seeks to help bring back "solidarity" as a key notion to understand social processes. This is a challenging task according to Sally Scholz (2008) for whom solidarity is one of the most misused concepts. Kurt Bayertz writes that the concept "shares the same fate as other concepts within ethical and political terminology, namely that of not being defined in a binding manner, and consequently of being used in very different and sometimes contradictory ways" (Bayertz 1999a, 3). Nevertheless, the concept has recently found (again) greater interest in sociology (Sennett 2012; Kurasawa 2007; Touraine 2000) and related disciplines (Featherstone 2012; Pensky 2009; Bayertz 1999b; Honneth 1996; Gaztambide-Fernández 2012; Wilde 2013; Brunkhorst 1997; 2005; Laitinen and Pessi 2014; Hölzl 2004). Exploring multiple layers of solidarity, from international law and human rights discourse to welfare state institutions, organized labour, activist movement initiatives, and activists' personal narratives, this research explores the conditions of possibility for labour solidarity by engaging Jürgen Habermas's account of communicative rationality. Crucially, this dissertation draws on an "activist ethnography", including a committed participation in a trade union centre for undocumented migrant workers in Berlin. Building on Michael Burawoy's "Extended Case Method", my

approach allows me to modify Habermas's notion of solidarity. Asymmetrical constellations in terms of vulnerabilities and privileges, such as between workers with official permits and undocumented workers, pose a challenge to conceptions of solidarity that are built on symmetrical relationships as found in Habermas (1990a) and other theorists in the legacy of Critical Theory, like Axel Honneth (1996) and Hauke Brunkhorst (2005; 1997). Michael Hölzl (2004), I think, is right to argue that an asymmetrical constellation does not disqualify it from considerations of solidarity, even more, "[a]symmetrical forms of solidarity are real acts making the ideal forms of solidarity possible."

In this introduction, I will briefly outline the academic discussion around transnational solidarity and argue that a sociological conceptualization of solidarity is largely missing. Next, I justify my choice to focus on undocumented labour as a revealing entry point into debates on union solidarity as well as why Germany amounts to an interesting case study in this respect. Finally, I close by offering an overview of the subsequent chapters of this dissertation.

Context of discussion: Transnational union solidarity

The conundrum at the core of this dissertation is the juxtaposition of sociological diagnoses on rationality: On one side, we are told by a large following of Max Weber that we are dealing with an onward march of instrumental rationality. Adherents of this line of thinking are pessimistic about the prospect for union solidarity to emerge as form of mutual support and exchange among workers. In "Political Parties", published in 1911, Robert Michels (1966) was the first to

systematically apply Weber's thesis of rationalization on organizations, including unions. According to his "iron law of oligarchy", the development of a union bureaucracy contravenes solidaristic relationships and decision-making and instead promotes an elite group of leaders. Michels's account remained an important challenge for sociologists who were concerned about fostering union solidarity (Voss and Sherman 2000; Lipset, Trow, and Coleman 1977; Hyman 1975). On the other side, sociologists drawing on the likes of Karl Polanyi (2001) affirm that the social disruptions caused by neoliberal globalization bring new impetus to moral rationality. The experience of threats of free-market capitalism to society and its natural environment give way to movements that (implicitly) subscribe to the "moral argument that it is simply wrong to treat nature and human beings as objects whose price will be determined entirely by the market" (Block 2001, xxv). For several labour scholars, this insight is key for understanding new forms of labour activism and organizing (Munck 2004; Webster, Lambert, and Beziudenhout 2011; Webster 2008).

The critical question then is how these diagnoses relate to each other. What are the prospects for a morality to emerge that is strong and far-reaching enough to fuel encompassing union renewal? How deeply could the iron cage of bureaucratic and market domination possibly be broken? And do we even want that?

In the context of labour, a brief overview on accounts of solidarity suggests that instrumental and normative rationalities play a vital role in constituting union solidarity. With respect to instrumental rationality, it is not difficult to find reflections of it in portrayals of union solidarity.

Andrew Jackson of the Canadian Labour Congress, for example, approves of the solidarity calculus in the publication *In Solidarity: The Union Advantage.* Advertising trade unions, Jackson states that "[u]nions are an important force [...] for better wages, working conditions and social protections for all workers, and for a more equal distribution of wages. Unions improve workplace conditions for their own members, and balance the power of employers" (Jackson 2003, 17). Even Neo-Gramscian scholars like Bieler, Lindberg and Pillay (2008b, 272), for example, support a similar perspective on cost-benefit calculations as an irrefutable strategic ingredient. Contemplating the prospects of transnational solidarity, they conclude that "unless there are some immediate, tangible results, it will be difficult to hold together large alliances for change."

Much of the organizing and social movement unionism literature builds on the idea of a virtuous circle between short-term union "successes"— usually measured in terms of palpable wage or workplace improvements for members—and mobilizing capacity (Turner 2004, 5–6). In this view, success in attaining a certain end reinforces unions' legitimacy and serves as a major boost for further organizing campaigns, which in turn increase the likelihood for expanded success, and so on (Johnston 1994). The diagnosed crisis of trade unionism (see, for example, Milkman 2013; Upchurch, Taylor, and Mathers 2012; Upchurch, Taylor, and Mathers 2008; Eidelson 2013; McAlevey 2014) raises further urgency for unions to kick off such a virtuous circle since there is the impending danger for unions to fall further into organizational decline and towards social insignificance. The shrinking numbers of a union's core constituency due to the shift towards non-standard jobs confronts unions with the decision to reinvent themselves and take serious the challenge of recruiting and activating members beyond workers in "standard

employment relations" (Vosko 2006). Putting this situation in a nutshell, Rachel Sherman and Kim Voss (2000) have taken up a slogan of the Black Workers for Justice from the early 1980s: "Organize or die!" In other words, extending solidarity to the "unorganized" is presented to be a precondition for the survival of unions and thus in the very self-interest of union organization.

The outlook is no different in Germany. The pressure for unions to deliver tangible results, in order to hold members or to attract new ones, is widely described in various empirically informed studies. In recent research on the consciousness of wage workers in Germany, Klaus Dörre, Ingo Matuschek, and Anja Happ (2013) highlight a statement of a young leased labourer as emblematic of a prevailing attitude towards organizing drives: "We give the union a chance, but we want to see that something is in it for us" (quoted in Dörre 2013, 105).[3] Similarly, Heiner Dribbusch finds that unions are successful in recruiting new members to the extent that they achieve good results for their members (Dribbusch 2011).

Already in 1914, Robert Hoxie criticized the prevalence of a narrow definition of workers' interests based on the "here and now" of "higher wages, shorter hours, and better working conditions" (Hoxie 1914, 212). Socialist Leonard Nelson powerfully describes the paradoxical results of such an instrumental outlook in the following comment from the 1920s. Long before Mancur Olson (2001) described the free-rider dilemma, Nelson had criticized social democracy's implicit postulation that the material interest of the proletarian class translates into solidaristic action:

> Because if considerations of purposeful rationality and not responsibility (this moral

---

3   Henceforth, when quoting a German source, the translation is mine except when stated otherwise.

crutch) lead the worker, he will just be concerned about others—as many as possible, of course—waging class struggle, so that he himself won't have any disadvantage from the failure of class struggle. (He will wisely remain silent on his secret and won't take away his comrades' illusion, that it is advantageous for them—and not for him—to bleed to death as a class warrior on the battlefield of proletarian honour.) Through smart manoeuvring, he himself will secure a comfortable position at the service of the capitalist, so that he is covered on both sides (quoted in Bayertz 1998, 44).

In a similar vein, Bill Fletcher, Jr., and Fernando Gapasin decry the predominant union approach in US towards international solidarity. They, too, detect the instrumental orientation of such solidarity practice, when they write:

> this form of solidarity has a "corporate" outlook in the literal sense of the word (rather than in the sense of a "corporation") in that it looks for shared interests to maximize the respective power of each union or union movement in an interaction. As such, each side cooperates on the basis of its immediate material interests. No larger view informs this type of solidarity; it forms around the needs of the moment. Both sides treat each agreement akin to a business decision, rather than see their activities as part of a larger struggle for power and against a common opponent (Fletcher and Gapasin 2008, 195).

Within the literature committed to a "social unionism", "social movement unionism", or "organizing", it is clear that moral commitment is an indispensable ingredient for union solidarity to go beyond "business unionism". Ian Robinson characterizes social union action as based on a "moral economy" and invokes "the importance of moral commitments of labour-movement members, leaders, and supporters" (Robinson 1993, 21). Only on such moral foundation is it possible, as Stephanie Ross (2007, 18) notes, to "go beyond [...] the narrow, instrumental economism and sectionalism of 'business unionism.'" This resonates with Gay Seidman (1994, 2), according to whom, social movement unionism is oriented towards class-interest rather than those that unionists may define individually. However, the morality of social unionism does not only allow sublation of self-interest into a form of enlightened self-interest that is embedded in a collective project. It also implies a "moral critique of the existing order" serving as the basis for the endeavour to struggle for social interests more generally, including

those of non-union members (Robinson 1993, 21).

The strategic difficulty that receives far less attention within this literature is how to foster moral obligation where it cannot be presupposed. Aziz Choudry, Jill Hanley and Eric Shragge recognize in their edited collection "Organize! Building from the Local for Global Justice" (Choudry, Hanley, and Shragge 2012b) the problem that there are no moral categories readily available among workers. In contemporary capitalist societies, they argue, the available categories of action "are designed to help people either meet their needs or make gains within the existing structures and processes" (Choudry, Hanley, and Shragge 2012b, 8). Ultimately, such an accommodationist orientation, however, prevents solidarity from crossing these structural positions and going beyond bureaucratic procedures. Social movement union scholars charge the prevailing union models to foster this kind of orientation among workers, whether in critiques of "business" (Moody 1988; Hattam 1993), "corporatist" (Della Porta 2006), or "social partnership" (Turner 1997) union models. Notably, the community of interest in all these models is confined to the dues-paying membership and encompasses social change.

If this is the real existing condition in which unions have been operating, organizing cannot but work from the cracks and contradictions of the system. The frustrated, immediate interests of workers and citizens thus are an important starting point. Choudry, Hanley and Shragge note:

> The process of the struggle for short-term immediate gains or resistance to a situation […] is a way that people can be part of collective action, break the learned isolation and competition that is so dominant in capitalist societies, and begin to critically analyze their interests in relation to that of the dominant class and state (Choudry, Hanley, and Shragge 2012a, 10).

Summarizing their concern with organizing, the editors thus write that (2012a, 10) "organizing is

a balance between the struggle for short-term gains and the longer-term objective of social transformation. For us, the links between the two are crucial". In this context, Richard Hyman (2004) emphasizes the significance of economic crises as catalysts. He argues that demobilization is not a necessary result of unions' reliance on instrumental rationality. Hyman contends that at moments of economic crisis, when the limits of an accommodationist strategy become evident, trade unions may become a catalyst for counter-hegemonic movements. In a dialectical move, Hyman thus emphasizes the importance of seeking economic victories, even if this implies a temporary accommodation with capital. The organizational foundation that is being built, meanwhile, may become the basis for counter-hegemonic movements to develop. Crisis is also key for Lowell Turner's (2009) ideas about militancy. He, however, has the organizational crisis of unions in mind. In "Institutions and Activism: Crisis and Opportunity for a German Labor Movement in Decline," (Turner 2009) he discusses how a situation of organizational decline can also lead to institutional innovations to support rank-and-file activism and initiatives such as the support of and collaboration with undocumented migrant workers that are aimed at increasing "autonomous union capacities" (Kahmann 2006).

Unfortunately, Richard Hyman as well as Aziz Choudry, Jill Hanley and Eric Shragge fail to specify the transition from short-term to long-term orientation or from accommodation to counter-hegemonic insurgency as a problem of morality. More specifically, none of them consider under what circumstances undocumented migrant workers could be perceived to be part of the solution—rather than the problem of solidarity (but see Choudry and Hlatshwayo 2015). Considering the widespread nationalist and chauvinist attitudes within German trade unions (Zeuner et al. 2007), it is far from being trivial that under circumstances of "crisis" union

solidarity will be extended to undocumented workers.

This brief sketch already suggests that there is a spectrum of responses within the literature that balances instrumental and normative considerations with different emphases. As abstract as the issue of instrumental and moral rationality may sound at first, it is at the basis of controversial union issues that have been politicized in recent years. How much bureaucracy is necessary in unions? Are unions supposed to sustain partnerships with the state, and if so, under what conditions? Depending on the trust in the steering and coordinating capacities of instrumental and normative rationality, the answers to these political questions differ. As we shall see, the role of undocumented labour in unions also puts these questions at the forefront in a way that forces unions to further define their relationship to the state; in fact it puts their identity and ends into crisis.

Crisis of trade unionism and the promise of transnational unionism

The reason for the politicization of such questions is that over the last few decades the conventional model of trade unionism that was institutionalized in Organization for Economic Co-operation and Development (OECD) countries has been found to be unable to cope with various trends—whether these trends are framed as "(neoliberal) globalization" (Fletcher and Gapasin 2008; Munck 2004; Moody 2001; Turner et al. 2001; Munck and Waterman 1999) or "precarious employment" (Milkman and Ott 2014; Thornley, Jefferys, and Appay 2010). In these analyses, unions' power and solidarity have been undermined as a result of union organizations'

holding on to their established "corporatist" (Della Porta 2006), "business" (Moody 1988; Hattam 1993) or "social partnership" (Turner 1997) models, which proved to be ineffective to counter the political economic changes (Moody 1988; I. Schmidt 2005).

The expectation for state and capital to come to unions' rescue as a "social partner" remained unfulfilled. Rather than being in solidarity with its "social partner", state and capital turned on organized labour in increasingly aggressive ways (Jessop 2002). Moreover, the model was unable to reverse decreasing union membership. Since 1990, in all OECD countries except for Spain and Belgium, union density rates have been falling, in some cases dramatically (OECD 2015). Since the reunification, the German Trade Union Confederation [*Deutscher Gewerkschaftsbund – DGB*] has been losing members from 11.8 million members in 1991 to 6.1 million members in 2014 (Deutscher Gewerkschaftsbund 2015). This corresponds to a decrease in union density from 36 percent in 1991 to 17.7 percent in 2013, cutting union density in half. The decline is stark even in relation to other deplorable union developments as, for example, in Canada (from 35.1 to 27.2 percent), Sweden (from 80.1 to 67.7 percent), the U.S. (from 15.5 to 10.8 percent) or the average of all OECD countries (from 26.3 to 16.9 percent) (OECD 2015).

Disillusioned with the idea of reviving the good old times of Fordist unionism, social unionism and organizing has been discussed as an alternative union model to bring about a union revitalization and mobilize union strength to confront the changing tides in industrial relations (Bronfenbrenner et al. 1998; Milkman and Voss 2004; Heery et al.; Turner and Cornfield 2007; Brinkmann et al. 2008; Birke 2010). In this context, "transnational labour solidarity" has become a catch-phrase within labour studies and trade unions. Considering statements by trade union

officials, it seems as though chauvinistic frames of trade unionism have long been overcome, and that the need for transnational solidarity has become common-sense. As early as 1991, Richard Trumka, secretary-treasurer of the American Federation of Labor – Congress of Industrial Organizations (AFL-CIO), exhorted that "If we're going to be able to effectively challenge companies like Shell or Exxon or DuPont and other corporations which operate without regard to national boundaries, we have to redefine solidarity in global terms" (quoted in Herod 2004, 507). In similar fashion, German trade unionists customarily posture for border-crossing solidarity. Not too long ago (2013), *ver.di*, the services sector union and Germany's largest, displayed a large poster on its federal building that read "solidarity knows no borders."

Ambiguous foundation

The urgency for transnational labour solidarity is also reflected in the large body of literature on the topic that has been written over the past two decades. Some authors frame the challenge of fostering labour solidarity that crosses nation-state boundaries in terms of "transnational labour solidarity" (Bieler and Lindberg 2011; Bieler, Lindberg, and Pillay 2008a; Gajewska 2013; Fougner and Kurtoğlu 2011), and others in terms of "internationalism" (Bronfenbrenner 2007; Novelli and Ferus-Comelo 2009; Waterman and Wills 2002; Herod 2001; Herod 2004). Typically, considerations of labour internationalism involve trade unions in two different countries and their relationship to each other. At times, the consideration of such union internationalism is mediated by a common concern with a transnational corporation (Greer and Hauptmeier 2008), transnational supply chains (M. P. Thomas 2011), or by an engagement with a supranational organization such as the European Union (EU) (Gajewska 2013). This literature

focuses on the problem of transnational collaboration on national trade unions' jealous guarding

of their national jurisdictions as a main obstacle (Croucher and Cotton 2009; Platzer, Müller, and

Hans-Böckler-Stiftung 2009). These accounts, however, lack a theory of solidarity.

In the literature, the concept of solidarity is mostly used as a synonym with "cooperation",

"mutual support" or "collaboration" and lacks any sociological depth as to why and how this

specific kind of social relationship develops. While these accounts usually make reference to

strategic and moral considerations, the meaning of the term remains highly ambiguous. This

problem, to be sure, is not limited to the keyword "solidarity" (Kip 2016) but relates to its

various other (more or less synonymously) used terms. This is hardly a match for Hyman's call

for "[n]ew vocabularies which give meaning to the identity, standing and programme of trade

unionism" (Hyman 2011, 25). I should note that this research does not explicitly address the

broader "political economy of scale" that the question of transnational solidarity (Herod 2004;

Keil and Mahon 2010) raises. For reasons of scope, I focus on MigrAr practices of solidarity

aimed at local and national levels of union organization.

In the following, I provide two brief examples that point to the ambiguous rationality in

transnational organizing, involving both self-interested as well as morally-oriented motivations:

one example reflects the more conventional frame of international solidarity, the other reflects

the sense of transnational solidarity with migrant workers. Both accounts discuss solidarity that

crosses state (or citizenship) boundaries in the context of inequalities. I begin with Kate

Bronfenbrenner's (2007) work in her edited collection *Global Unions: Challenging*

Transnational Capital through Cross-Border Campaigns. Bronfenbrenner argues that

transnational collaboration is necessary in order to match the growing leverage of transnational corporations to play workers in different countries against each other. On the one side, she appeals to the self-interest when she writes emphatically: "Without question, a united global labor movement is the single greatest force for global social change and the single greatest hedge against the global race to the bottom when the unions reach across borders to realize that potential" (Bronfenbrenner 2007, 225). In this scenario, most of labour, both in the Global North and in the Global South, is thought to be negatively affected by this trend. She identifies the problem of realizing such unity as requiring "fundamental ideological and cultural changes" (Bronfenbrenner 2007, 15) within trade unions. It remains ambiguous what these changes actually entail.

A recurrent theme within the featured chapters of the edited book is the distrust between trade unions in the Global North and South. Campaigns of unions in the North, that present themselves as "solidarity" with workers in the South, are distrusted by the latter, given their Eurocentric approach. Rebecca Johns, for example, has detailed how international solidarity functioned as a ploy that effectively concealed protectionist motives in anti-sweatshop campaigns of US unions (Johns 1998). Bronfenbrenner's call for "fundamental ideological and cultural changes" might be interpreted as a problem of perceiving the right scale of trade union action. She writes, "For too long most union members and their leaders tended to see their collective bargaining environment as truly limited by the national boundaries of their own labor laws and the interests of their dues-paying members" (Bronfenbrenner 2007, 6). This describes the problem of conservative bureaucratic attitudes in terms of a misperception ("see"). As a remedy, it is suggested that perception may be changed by showing how the collective bargaining environment has long

reached beyond national boundaries and that an enlightened self-interest requires unions to move in that direction.

On the other side, Bronfenbrenner points out the moral dimension that might be in tension with the instrumental dimension. In her concluding two pages, Bronfenbrenner raises an important point when she writes:

> [E]ven the most effective global organizing, bargaining, and political campaigns cannot assume that unions can raise the living standards of those in the Global South without sacrificing some of what they have in the Global North. Years of colonialism, imperialism, and environmental degradation come with a price. Labor's greatest chance of building a strong and vital global labor movement is sharing its power and wealth, because unions and workers in the Global North need the solidarity and power of unions and workers in the Global South just as much as those in the Global South need them (Bronfenbrenner 2007, 224–225).

This challenge remains remarkably neglected in the entire volume and raises a whole different set of problems in view of "fundamental ideological and cultural changes." Nowhere else is there a discussion on what such sacrifice might mean, particularly when institutionalizing it at the organizational level. How can the union membership be mobilized to be willing to "sacrifice some"? What would be the moral foundation, when unions simultaneously position themselves as a "hedge against the global race to the bottom"?

Besides internationalism, unionism also needs a reconceptualization in the face of transnational labour mobility. In such cases it is not about union solidarity with brothers and sisters in distant countries, but about foreign workers in the same country, city, or even worksite. As William I. Robinson (2006, 82–83) comments, the

> division of the global working class into 'citizen' and 'noncitizen' labour is a major new axis of inequality worldwide, further complicating the well-known gendered and racialised

hierarchies among labour, and facilitating new forms of repressive and authoritarian social control over working classes.

Roland Erne's (2010, 90–94) study of the labour market in Berlin's building sector illustrates this. Erne finds that of the approximately 90,000 construction workers in 2000, only 23,000 were permanent residents, while 30,000 came from Southern Europe and another 30,000 from Central and Eastern Europe. In most cases, temporary workers were "posted" to Berlin by foreign companies with lower labour standards, at times creating a situation of cut-throat competition at the same building site.

An important author in rethinking unionism in the context of such transnationalization of labour is Ruth Milkman. Her main focus has been to analyze union organizing with migrant workers, particularly undocumented Latino migrants in California (see, for example, Milkman 2000; Milkman 2006) and, more recently, in New York (Milkman and Ott 2014). Milkman appeals to the common-sense of survival in her plea for US labour to organize migrant workers (including undocumented ones). If workers wish for their unions to survive and become a strong collective force — if only for their own self-interest — "organizing immigrants" is the logical conclusion. She writes:

> In the 1990s, as the crisis [of trade unions] deepened to the point where its very survival was threatened, the labor movement finally began to reorient itself. [...] [R]ecapturing formerly unionized territory—much less making inroads into newer sectors that have never been organized, where foreign-born workers also have a huge presence—requires the labor movement in California to confront the issue of immigration head-on (Milkman 2000, 10–11).

Similar to Bronfenbrenner, Milkman highlights wrong perceptions as a main explanation as to why trade unions hesitate to change in the face of pressing realities. Milkman states:

> Because of their vulnerability to deportation, one might expect the undocumented to be more fearful about the risks involved in union organizing, particularly when confrontations with state authority are likely. Yet this may be less of an obstacle to union mobilization than is generally presumed (Milkman 2000, 8).

Pointing to Héctor Delgado's (1993) study and survey data as well as her own research, she emphasizes the fact that "Mexican and Central American immigrant workers have more favourable attitude towards unions than do US-born workers" (Milkman 2011, 117).

While these arguments suggest organizing migrants to be a "win-win-strategy" for trade unions and (undocumented) migrants that produces benefits for both, Milkman also views moral considerations as an important aspect to generate solidarity. She considers it a crucial motivation of labour activism, as has been illustrated by the "Justice for Janitors" campaign as well as, more recently, the rise of worker centres (Milkman 2013, 657). To her it is indispensable that labour activism is framed around questions of justice as it allows for broader collaboration. She argues that "appealing to cherished 'American' values of hard work and family as the primary drivers of immigration, and invoking the rule of law in challenging employer violations of workplace laws and regulations, ... immigrant labor activism can win public sympathy" (Milkman 2011, 123). Strategically, this makes sense. The problem I see is that there are many other conflict values (in the US and elsewhere) committed to a law-and-order approach (rejecting undocumented migrants on grounds of their illegality) or White supremacy. Milkman also doesn't address that it is often challenging to make moral appeals for an immigration friendly environment in times of economic crisis, unemployment, wage cuts and public austerity measures. Moral appeals thus might represent an opportunity to broaden union solidarity, but their reach and efficacy also seems to be limited (see also Jenkins 2002). The question thus is: what kind of moral appeal is most successful? Furthermore, besides the question of framing, is there a moral foundation or

basis at all that can be relied upon? If so, how do the principles embodied in a particular union

organization relate to such a basis?

Focus on undocumented labour and Germany

To begin with, I should briefly sketch the contours of the debate around the political implications

of particular terminology and justify my usage of the term "undocumented labour" and

"undocumented migrant workers".

Nicholas De Genova (2002, 420) rejects "illegal migration" as a language of the state and a form

of "epistemic violence", which (anthropological) research should not adopt. Jörg Alt (1999)

claims that the denominator "illegal" translates into public discourse as a general conflation

between the "illegal" fact of residence and a general suspicion about criminal behaviours.

Andreas Fischer-Lescano, Eva Kocher and Ghazaleh Nassibi (2012b) argue that "illegal

migrant" is wrong, since the illegality is only specific to the residency status, but does not

preclude that they are also legal subjects endowed with rights. In order to address this, and to

circumvent the stigmatizing effects of the term "illegal" as well as to avoid the notion of legality,

other terms have been brought into the debate. Michael Willenbücher (2007, 35) notes that the

term "irregular" has gained predominance in the research literature. Since this literature is mostly

produced for political decision-makers and NGOs, he believes that the critical distance to the

state that De Genova calls for, has long been lost. In fact, "irregular" is commonly related to a

perspective of migration management (see, for example, Ghosh (1998)). As an alternative, other

scholars have employed "undocumented" as well as translated variants of "*sans-papiers*" (for

example, "paperless" (English), "*Papierlose*" (German), "*papperslösa*" (Swedish) or "*sin

papeles*" (Spanish)"). However, for Serhat Karakayalı (2008, 24), "undocumented" and "*sans-*

papiers" are also not innocent since they are part of the *dispositif* to regard migration under the

perspective of capturing and documenting migration movements. Even an explicit critique of

"illegal migration" as exemplified in the slogan of the transnational network "no one is illegal"

does not escape state logic, particularly as it plays into humanitarian discourses on migration.

Karakayali claims that humanitarianism has become a crucial component in state discourses on

"illegal migration" governing migrants as victims. This, as he argues, has considerable effects on

subverting the recognition of migrants' agency and undermines a politicization of the "regime of

undocumented migration".

The Associated Press criticizes the term "undocumented" migrant for being too vague. The issue

is not that migrants have no documents; the point is that they do not have the proper ones for

entry or residence. Interestingly, in the AP Stylebook 2013 (Associated Press 2013), they urge

their reporters to drop the term "illegal" immigrant for being a label not a description of

behaviour. The entry on "illegal immigration" reads:

> Entering or residing in a country in violation of civil or criminal law. Except in direct
> quotes essential to the story, use *illegal* only to refer to an action, not a person: *illegal
> immigration*, but not *illegal immigrant*. Acceptable variations include *living in* or *entering
> a country illegally* or *without legal permission*. Except in direct quotations, do not use the
> terms *illegal alien*, *an illegal*, *illegals* or *undocumented*. Do not describe people as
> violating immigration laws without attribution [Emphasis in original].

Weighing all options, I will adopt the terms "undocumented" *and* "illegalized". In my view,

these terms address the state's main concern with capturing and regulating movements of

migration and allow us to problematize the practices of illegalization as a result of lack of

acceptable documentation.

Within the contestations around the proper directions for unionism, a focus on undocumented

labour sharpens the conflict between instrumental and normative rationality even further. As the question of solidarity among workers gains prominence for union survival, the question is where undocumented migrant workers fit in all this: "Colleague or competitor?"[4] The discussion in Germany, in fact, was strongly influenced by experiences and experiments abroad, in particular in North America.

In the US, the Justice for Janitors (J4J) organizing campaign of the Serivce Employees International Union (SEIU) that started in 1985 and that included undocumented migrant workers as core constituents (Waldinger et al. 1996; Milkman 2006) implied a critical departure from conventional corporatist unionism. With the J4J strike in Los Angeles in 1990, the US unions' view on undocumented migrant workers began to change significantly. If undocumented migrants had previously been framed as mere tools in a capitalist strategy of cut-throat competition, studies of the J4J campaign as well as others (Delgado 1993; Milkman 2000; Milkman, Bloom, and Narro 2010; Ness 2005; Jayaraman and Ness 2005) have emphasized the proactive role of migrant workers in redefining and revitalizing a labour movement that had been on a decline. As such, undocumented migrants have been welcomed by several scholars of the organizing approach as harbingers of a new unionism, a revitalized labour movement (Sahlström 2008; Milkman 2000). Significantly, the organizational shift towards organizing undocumented migrant workers in the SEIU happened because of a collusion of rank-and-file grassroots activities as well as decisive top-down support (Voss and Sherman 2000; Hurd, Milkman, and Turner 2003). Through this combined force, it became possible to remove obstacles to change, for example, in the form of local officials and staff.

---

4 This has been as the title of an article on undocumented labour in the membership magazine of the services sector union "ver.di" in 2007 (Welzel 2007).

Inclusive approaches to undocumented migrant workers are often favourable to new forms of unionism with an emphasis on organizing. By contrast, exclusionary responses are more likely to be associated with a more corporatist character of unionism. Nevertheless, a closer look suggests a more complicated picture. It is true that the US labour movement has turned into one of the most important allies of immigrant rights groups (Milkman 2011) and even the historically protectionist trade union confederation AFL-CIO's (Amercian Federation of Labor and the Congress of Industrial Organizations) reversed its turn on immigration matters to become one of the most powerful advocates of pro-migrant policy reforms. The relationship between unions and undocumented migrant workers, however, is not without difficulties in the US. Research on worker centre organizing among day labourers (Gordon 2005; J. Fine 2006; Theodore, Valenzuela, and Meléndez 2009; see also Benz 2014) shows the sometimes supportive, sometimes competitive, relationships with trade unions. Moreover, in spite of benevolent statements, US unions also continue to have a hesitant relationship to organize undocumented domestic workers (Bapat 2014).

Organizing with undocumented migrant workers also happened outside of the US (V. Schmidt and Schwenken 2006), such as in France (Esquerré and Rondeau 2009; Quintin 2009), Great Britain (B. Anderson 2000; Schwenken 2006), South Korea and Italy (Choi 2011), Spain (Sahlström 2008), Switzerland (Ağtaş, Amler, and Sauviat 2007) and Sweden (Ness 2014, 176–178). In her comparison of French, Italian, and Spanish trade unions, Watts (2000) finds that trade union support for undocumented migrants has been considered a key variable in determining whether amnesties and legalization policies are instituted by the state. In this vein,

Sahlström (2008) claims that in Spain trade unions were a leading force in the movement that eventually led to an amnesty for 600,000 paperless workers in 2005.

In Germany, since the late 1990s, the growing interest among labour activists and unions in the experience and approach to organizing in the US has generated concern for the situation of undocumented migrant workers (Lüthje and Scherrer 1997). Fully aware of the role of undocumented migrant workers in the success of organizing campaigns in the US, the editors of a key book on organizing in Germany, Peter Bremme, Ulrike Fürniß and Ulrich Meineke (2007, 12), consider organizing as "independent from national boundaries": Labour should not restrict its boundaries of solidarity to those the state draws.

One of the key differences between Germany and the US, for example, when focusing on the service sector unions *ver.di* and *SEIU* is that while decisive top-down support for organizing (regardless of citizenship status) has been instituted in the latter, the same cannot be said of the former, as this research details. Another difference is found in the degree of illegalization, the legal vulnerability and the likelihood for undocumented migrants and workers to be identified and punished by state agencies (see chapter 4). This situation correlates with an invisibility of undocumented labour that is even more pronounced in Germany. To begin with, there is great ignorance about actual numbers of undocumented workers, their distribution in sectors and regions, and their work experiences (Vogel and Aßner 2011). For one, the data basis for estimating the numbers of illegally residing migrants is weak. The foremost expert on statistics and estimates in Germany, Dita Vogel (2014) estimates the numbers of illegally residing migrants to be between 150,000 and 415,000 for 2012. Moreover, it is important to note that the

populations of illegally residing migrants and undocumented migrant workers are not congruent. Not every illegally residing migrant engages in wage work, although it is expected that the large majority of illegally residing migrants does work, given their precarious economic status. By contrast, not every undocumented migrant worker resides illegally. In fact, there may be a large number of persons with temporary residency status or acceptances that are employed without having a working permit. This is what anecdotal evidence of union consultation for workers without permits suggests; however, there are no statistics that are methodically reliable, even remotely. It can be assumed that economic, political and social inequalities between workers with and without papers are immense (see also chapter 4). Further, not unlike in the US, a disproportionate number of undocumented workers work individually or in small workshops, and have short-term employment contracts (Cyrus and Vogel 2006; Cyrus 2005).

Choosing Germany as the site to study labour solidarity with undocumented migrant workers means facing a highly asymmetrical constellation between regular and undocumented workers due to severe practices of illegalization. Legal and political repression against undocumented migrant workers in Germany is high compared to many other liberal democracies, especially in the Anglo-Saxon or the Mediterranean context (Vogel and Cyrus 2008; Nijhawan 2005). Given the requirement to carry ID papers and present them to authorities in contexts of "reasonable suspicion", any contact with state enforcement carries a high chance of being discovered as living or working undocumented. The broad reporting obligations of public authorities in the instance of illegal residency also raise the likelihood that the discovery of a lack of residency status will be forwarded to the agency that decides over and executes deportations. Notorious in this respect, labour inspections in Germany check for residency status and work permits, leading

to several thousand legal proceedings against workers for "illegal employment" or "illegal residence" (see chapter 4). Germany is an illuminating case for other contexts insofar as policy developments in other countries (consider e.g. Arizona SB 1070 (Campbell 2011)) as well as at the EU level (Velluti 2014) reveal a similar trend towards such inter-authority collaboration with the goal of combating undocumented migration and labour.

The comparatively intense state response to undocumented labour in Germany renders labour solidarity and organizing a difficult and yet pressing challenge. Other things being equal, the higher the legal vulnerability of undocumented migrant workers, the more difficult it becomes to organize them. Concerning the situation in Germany, Helen Schwenken (2006, 144) argues with respect to migrant workers with precarious status that:

> Limits to the exercise of political rights to organization and articulation (for example, limits to the right to association, demonstration, and mobility) and their surveillance (by the secret service) make many migrants hesitant to become politically active.

In this sense, Manuela Bojadžijev (2002, 134) also emphasizes how the potential threat of deportation circumscribes the possibility of political engagement (including the engagement in labour conflicts) for migrants with precarious status. The vulnerability of undocumented workers is compounded by German unions' reluctant if not hostile position towards them that only gradually and partially changed over the past two decades as I detail in chapter 5.

To complicate matters even further, the economic interest of regular and undocumented workers differs structurally, particularly in view of collective agreements and minimum standards. While migrant workers from countries with lower wage levels would arguably appreciate higher wages, often they find substandard pay rates already to be an improvement for them—compared to their country of reference (see, for example, Treichler 1998). Moreover, their undocumented status

makes their employment *per se* a substandard breach of standards with regard to taxation or contribution to social insurance. Besides this, undocumented migrant workers are often aware that they find employment on the basis of being considerably cheaper and earning lower wages than regular workers (Riedner and Zehmisch 2009). Further, their lack of social welfare securities or their dependency on job referral networks creates a different burden to engage in labour action against the employer (Cyrus and Vogel 2006; Alt 1999; Alt 2003). One result of this constellation, thus, is that the incentive for migrant workers to engage for the application of the collective agreement is arguably a different one than for a German national.

In short, what makes the research on solidarity among unions and undocumented migrant workers empirically interesting is that, *prima facie*, reasons can be found for union members to be for and against extending solidarity. Reasons *for* include the awareness about the contingency of birth and citizenship status and thus as insufficient grounds for discrimination. Moreover, more pragmatically, including workers with precarious status in unions also can be considered a hedge against the risk of cutthroat competition among workers and a safeguard to protect established standards. By contrast, reasons *against* entail the conviction that any democratic governance requires boundaries to distinguish between members and non-members. Frequently, it has been argued that unions undermined their own foundation if they supported workers who willingly enter into illegal employment relationships. Moreover, a reason that may not be spelled out explicitly, but nevertheless has currency is the fact that organizing undocumented migrant workers who are employed in niches markets and small workplaces produces considerable costs (to reach out to, to support in their conflicts and so on); meanwhile the organizational benefits (dues, gaining organizational leverage in employment sectors etc.) are low—at least in the short-

term. These and various other reasons compete in union discussions and my empirical research investigates how they play out and how activists rationalize their own engagement in such conflict.

In fact, controversies around unions' positions towards undocumented migrant workers in other OECD countries such as the US, Canada, and Sweden, show that the polarities in the union debate are comparatively acute in Germany. The trade union centres for undocumented migrant workers ("MigrAr") have often been at the centre of the controversy around whether undocumented migrant workers are "colleague or competitor"—and if the former, under what conditions. This German case study thus promises to be suitable to address the question of how union solidarity in a highly asymmetrical situation could be rationalized.

The argument and chapter outline

The following development of theory draws on Habermas's understanding of solidarity as a cooperation and commitment among individuals resulting from communicative deliberation. My specific focus on union solidarity in view of undocumented migrant workers calls for further theoretical extensions. *First* of all, the idea of union solidarity implies an opposition that can be captured with the notion of counterpublic. In the research case at hand, it becomes clear that the aspect of opposition is not only related to employers, but also to state policies and social forces that promote the illegalization of migrant workers. *Second*, union solidarity involves both instrumental and normative rationalities. Normative rationality, in Habermas's account of the postmetaphysical situation is based in intersubjective communication. Insight grounded in the universality of norms that are validated in deliberation is a factor of central importance for the

commitment to reciprocal relations. Moreover, normative rationality provides standards of justice to critique the institutionalized discrimination of undocumented workers. Instrumental rationalities relate not only to the bread and butter union interests of better wages and working conditions, but also to the endeavour of challenging systemic inequalities through political campaigns aimed at legal change or the overcoming of prejudices. *Third*, this reconstruction addresses a pitfall of Habermas's theory since it is not able to understand solidarity activism in contexts of asymmetry, i.e. in situations when actors have not established communicative interactions due to various obstacles. To address this problem, I make the case for the concept of political imagination as a capacity and motivation that has a complementary function to communicative rationality, although it itself cannot be justified on rational grounds. In this respect, political imagination thus can be the activist motor to create the virtuous circle for realizing the material conditions for deliberation to occur in freedom and equality.

This argument develops throughout the following chapters. I begin with the methodological and theoretical exposition, then continue with the empirical study of solidarity practices with undocumented labour moving from the abstract towards more concrete elements of activism. In **chapter 2,** I present and discuss the empirical research design and the methods employed. This research builds on an activist ethnography drawing on Michael Burawoy's Extended Case Method, where, as the researcher, I am also positioned as an activist in a MigrAr centre in Berlin. Faced with the challenge of expanding solidarity with undocumented migrant workers within a union organization, this activist research takes, as a starting point, controversies among labour activists and organizers around the question of whether to focus on instrumental or moral rationality of union members. The data for this research is drawn from historical documents,

participant research, and interviewing methods. Following the extended case method, this research does not produce new theory, but rather "tests" and modifies theory – in this case, Jürgen Habermas's account of solidarity.

Chapter 3 conceptualizes the dilemma between instrumental and normative (moral and communicative) rationality by drawing on the work of Jürgen Habermas. My point is to show that, on the one side, the framework is highly sophisticated and adequate to address the distinction between instrumental and normative rationality. On the other side, it is not fully adequate to understand the existing union solidarity practices with undocumented migrant workers. One problem is that Habermas neglects the significance of labour struggles in the emergence of broader forms of solidarity. This also corresponds to a neglect to consider forms of solidarity that are in opposition to other social interests. In this context, the idea of counterpublics can usefully be applied to unions as well as the corresponding insight in the significance of instrumental rationality in their operation. Another challenging problem is that Habermas does not account for solidarity in asymmetrical constellations such as the one between undocumented migrant workers and unions. His presupposition of symmetry in rationalizing solidarity fails to consider how solidarity in support of others can be substantial acts to realize symmetry.

Chapter 4 addresses the figure of the "undocumented migrant worker" from a Habermasian perspective by showing how imperatives of the political and economic subsystems collude to construct this category of worker. In addition to the legal and economic vulnerability that results from this colonization of the workers' lifeworld, I also address social vulnerability that points to

an insufficiently rationalized lifeworld of workers and their social environment. This lack of

rationalization becomes evident through the structural impediments for undocumented migrant

workers to access the infrastructure of civil society, such as organized interests or legal supports.

From this vantage point, the practice of the MigrAr centres can be considered to be a strategy to

address the vulnerabilities of workers as a precondition for establishing a ground for common

organizing within unions. Vulnerabilities are engaged by offering legal support directly and by

politicizing and removing obstacles to relate to the broader social infrastructure of civil society.

Chapter 5 situates this practice historically and looks at the emergence of MigrAr centres. This

chapter focuses on the ambiguous relationship between union solidarity and the law. Laws

circumscribing *de jure* and *de facto* rights of migrant workers are presented as historically

contested. The establishment of the MigrAr centres is but one aspect in the contested terrain of

ongoing dynamics of undocumented labour, state practices of illegalization and activist practices

of labour rights. Unions are shown to be highly ambiguous with respect to their "conflicting

commitments" towards the universal applicability of labour rights, on the one side, and, their

partnership with a repressive state apparatus, on the other. Although the argument that

undocumented migrant workers have (labour and social) rights has largely prevailed within the

German trade union movement—which is also the condition for MigrAr's operation—

contention around solidarity has cropped up in other ways. Over the last three years or so,

scepticism grew whether MigrAr centres will continue to inspire and expand, or, in contrast,

have reached a limit given the organizational reluctance to further support the work of the

centres. The question of solidarity has primarily centred not on whether undocumented migrant

workers (ought to) have rights, but instead on whether unions should consider these workers potential union members.

Chapter 6 reconstructs a discussion among activists who are distinguished by their general agreement that unions should be open to include undocumented workers. The analysis highlights two "camps" of argumentation that are differentiated for their relationship to established labour standards, union procedures and bylaws. For these arguments, I demonstrate certain congruency with conceptions of instrumental and normative rationality. While these amount, for one group of activists, to being a non-negotiable precondition for making union solidarity possible, the other group emphasizes the uneven conditions between undocumented workers and most other union members that warrant a more context-sensitive handling of such standards, including possible exceptions. Interestingly, both groups implicitly justify their politics as a precondition for establishing (and protecting) arenas for communicative deliberation. During the first three years of the MigrAr centres this opposition was subdued by a hope in a virtuous circle of unionizing undocumented migrant workers that would reconcile the interest in protecting standards, on the one side, as well as the interest to improve the situation of this group of workers, on the other.

Even though several MigrAr activists have stopped their engagement as a result of this conflict, many MigrAr activists did continue to work towards bridging these two approaches. The analysis of the solidarity practices of the MigrAr centre in Berlin, run by the Working Group Undocumented Labour in Berlin, in **chapter 7** sheds light on the rationalities involved. The ethnographic case of MigrAr support based on my personal involvement illustrates the relevance

of undocumented workers vulnerabilities, on the one side, and the centre's precarious balancing of instrumental and normative logics, on the other. The difficulty of establishing and sustaining communicative interactions with undocumented migrant workers is further explored in in-depth discussions with activists involved. This chapter points to the significance of political imagination fueling MigrAr activism. In such imagination, the activism is connected to a vision of broader social and union change to which it contributes. This imagination is subjected to historical conjunctures, as concrete experiences require activists to adjust their expectations.

The concluding **chapter 8** relates these insights to Habermas's theory of solidarity. Contrary to Habermas's premise of symmetrical reciprocity, I sketch the contours of a theory of solidarity under conditions of asymmetry. Based on the empirical evidence, for activists, the practice of solidarity cannot be adequately grasped by the pragmatic fiction of a symmetrical argumentative relationship between union members and undocumented migrant workers. Rather, solidarity practices are oriented towards overcoming the illegalization and structural discrimination of undocumented workers. While Habermas values the work of movement activists who struggle against situations of injustice, his account of rationality is not able to capture their activism as rational. I therefore propose the notion of political imagination as a capacity that complements rationality insofar as it produces the motivations necessary to realize the conditions for communicative action.

Chapter 2: On Being an Activist Researcher: Activist Ethnography as Method

In this dissertation, I seek to develop a critical conception of union solidarity that draws on the work of Jürgen Habermas. Habermas (1990a, 244) characterizes solidarity as "the reverse side of justice", highlighting that normative considerations are intrinsically connected with the empirical realities of social relations (Pensky 2009; Wilde 2013, 13). This chapter offers a methodological reflection on the interrelation between researcher and research context. I begin with a brief account of how I entered the field for my ethnographic research and became an activist. Next, I justify my personal commitment towards an emancipatory research along the lines of Critical Theory and my involvement as an activist researcher. The last part discusses Michael Burawoy's "extended case method" as a suitable approach for the research of this dissertation.

Entering the field / Becoming an activist

It was in 2009 that I first heard about the MigrAr centres. My contacts in Frankfurt told me about new union centres for undocumented migrant workers in Hamburg and Berlin that just had been established, as well as the centres in Munich and Frankfurt that were about to be opened. The establishment of four centres within less than two years signalled to me that there was a movement within unions seeking to change the meaning of union solidarity. How did this come about? This development sparked my interest because several years earlier in North America, I had worked for almost two years as a day labourer alongside other migrant workers, many of whom, like me, lacked proper work or residency papers. I was involved in an organizing effort that was guided by the idea of building a day labourers' union. Established unions did not show any real interest in what we did. Our effort failed, yet the concern about creating union solidarity

inclusive of undocumented migrant workers concerns stayed with me. Against this backdrop, I was fascinated to hear when in 2009 the question of organizing undocumented worked started to be discussed within the German labour movement.

At first, I focused on the MigrAr centre in Frankfurt. Since Saskia Sassen (1990) argues that international labour migration and capital mobility are related and Frankfurt is designated as Germany's "global city" (Sassen 2011), the city appeared to me as a useful starting point to investigate undocumented labour in Germany. I began to interview activists and functionaries a few weeks prior to the opening in September 2010. The interviewees expressed optimism that supporting and unionizing undocumented workers could lead to a win-win situation for unions and undocumented migrant workers. I found it difficult, however, to get a deeper understanding of the development and actual operation of the centres. Union activists and staff were kind enough to meet me for one or two interviews about the centre and their volunteer activity. Nevertheless, most of them also inquired about the rationale for the interview. Potential interviewees wanted to make sure that their time spent for an interview ultimately served a purpose, besides supporting my own academic career. Having become an activist in a MigrAr centre myself, I also realized how precious the few time resources are that a group of volunteers have available in the face of constant challenges. Interview requests, therefore, are regularly viewed critically in view of their potential to subtract important resources for the activism. However, in that situation in 2010, as someone dependent on interviews in order to receive vital information to make sense of the institutionalization of the MigrAr centres within the larger union organization, I felt stuck in moving forward.

Once my relocation from Toronto to Berlin was settled in late 2010, I decided to join the MigrAr centre there. In March 2011, I was allowed to sit in on a networking meeting among the various MigrAr centres in Berlin, Bremen, Frankfurt, Hamburg, and Munich, and I took the opportunity to ask the representative from Berlin about possibilities for me to become involved as a member. The delegate from Berlin explained that at that moment the Working Group on Undocumented Labour in Berlin (*AK Undokumentierte Arbeit* aka *AK Undok*) experienced several uncertainties and changes. I would have to be patient before they could settle on a process of including new members. Two months later, in May, I was invited with a group of six other potential candidates who were interested to participate in the Working Group. The fact that six people were apparently eager to participate, waiting several weeks before they could even meet the Working Group for an information meeting, confirmed my expectation that this kind of solidarity work stroke a particular chord. For people to accept being on a waiting list for activism was pretty impressive to me, given that there are so many activist opportunities, including in the field of migration and labour.

By the end of 2012, my perspective on activism had changed considerably. The Working Group seriously considered leaving the union organization altogether out of frustration and was largely in doubt about the right strategies in the face of limited resources. It was also in this period that my influence within the group grew. By that time, I had already been involved in the group for a year and a half, had developed a firm grasp on the topics and processes of the MigrAr activism and established a network of activist and union contacts. Even if my capacities had been limited due to the recent birth of my daughter, the mere fact that I continued to be present in meetings and occasionally in consultation for undocumented workers helped to secure a minimum of

activity to keep the group alive in this critical period. At the time of writing, I have become one of the three longest serving members of the *AK Undok*.

Objectivity and validity

Building on the legacy of Critical Theory, a key premise of my research is to conceive of knowledge as always situated, historically and geographically (Habermas 1990b, 303). As Max Horkheimer (1972) argues in his famous essay "Traditional and Critical Theory", research is inevitably interest-driven and political, hence being partisan is a common feature to any research. This insight, to be sure, is not limited to Critical Theory. Howard Becker (1967) discredits any scholarly claim to remain "neutral" for inevitably playing in favour of the status quo. Situating research within a social context, however, is not to say that research is a merely relativistic affair and an appendix to political organization. Alvin Gouldner (1976, 5) holds on to a notion of objectivity as a "critique of the cognitive vulnerabilities generated by people's struggle on behalf of their everyday interests", a sense of "realism" that obligates researchers to "fac[e] the bad news and not exaggerat[e] the good news" (Gouldner 1976, 5). Accordingly, Gouldner conceives of the researchers' task "to help people to remain critical and sceptical of *good* news, to insist that even this be double-checked and, correspondingly, to help people to accept bad news and to *remember* it" (Gouldner 1976, 7 emphasis in original).

With Habermas (1990b), I frame the goal of emancipatory research as fostering communicative rationality, an orientation towards creating open and horizontal interactions based on the better argument, thus a form of social interaction that rejects influence or domination based on status, force, or wealth. In this respect, an emancipatory strategy also needs to address the material

conditions that impede or distort such communicative interactions. Nancy Fraser (1990) expresses discontent with Habermas's neglect to analyze the conditions of possibility for overcoming such distortion, a shortcoming left unaddressed in his work following *The Structural Transformation of the Public Sphere* (originally published in 1962). Fraser, therefore, proposes the notion of "counterpublics" as discursive arenas of subordinate groups that affirm both the ideal communicative rationality inherent in speech acts—within counterpublics; and the political struggle against structural distortions in the dominant public sphere. This research, while having an orientation towards the public sphere, is simultaneously situated within the union counterpublic (more on the notion of counterpublic in chapter 3).

"Activist ethnography" as I conceive it, is not only a theoretical commitment, but seeks to dialectically connect research to practice (Kip 2011). It builds on Horkheimer's insight who notes:

> There is [...] no theory of society, even that of the sociologists concerned with general laws, that does not contain political motivations, and the truth of these must be decided not in supposedly neutral reflection but in personal thought and action, in concrete historical activity (Horkheimer 1972, 222).

I entered the field with the conviction that the relationship between unions and workers in precarious employment situations is central for the future of unionism. Committed to class-based unionism, I sought to contribute to a broader understanding of the significance for unions to proactively engage and organize workers at the margins of the labour market as a necessary and urgent requirement to confront capital in a context of transnational labour relations. At the same time, I hoped that fostering reflection on broader political and theoretical implications through my inquiries and activist input could also be a benefit for union activists. From my earlier organizing experiences I remember the frustration of concrete failures. In such situations, I found

reflecting on the political aspirations of my own activism to be an important motivation. And finally, I was eager to support the day to day tasks of the activism of the MigrAr centre and to contribute my expertise as an academic researcher to the MigrAr network.

While I entered the field with certain idea(l)s, I did try not to impose my academic questions on the MigrAr activism. The activist research that I sought to engage in was to combine questions that emerge in the context of movement activity with a relevance for academic discourse (Shukaitis, Graeber, and Biddle 2007; Bevington and Dixon 2005). It is for this reason that activist scholarship involves an ethnographic approach of participant observation, in which meaning is reconstructed by interacting with actors in the field (Blumer 1969). Hence, meaning is learned by doing and sharing activist practices with actors in the field. Understanding meaning implies having a sense of what social facts are relevant and of what amounts as a problem in the activist practice.

A sociological perspective à la Pierre Bourdieu and Loïc Wacquant (Bourdieu and Wacquant 1992) requires a constant shift in status between participant and observer in order to reflexively objectify the researcher's relationship to the field. My research should be distinguished from an "ethnography of activism" that focuses primarily on the experience of being an activist. While my roles of scholar and activist overlapped to a large extent, both also retained their distinctive logics and commitments. The research method employed is thus an "activist ethnography" (Lyon-Callo 2004; Frampton et al. 2006; Smith 1990; Hussey 2012) as the research was conducted while being an activist. The research is also activist insofar as it was intended to be useful for the activism. At the very least, combining my activist engagement simultaneously with

my professional development as a researcher has allowed me to spend considerable time as an activist and to make use of my research skills, for example, in the publication of the report of the centre; including an analysis of statistics and activities of the centre over the course of roughly six years (AK Undokumentierte Arbeit 2015, see also the appendix). With respect to this dissertation, the "final product" of my research, it is difficult to anticipate how useful this research will be for activists in the field, given that its theoretical interest is, admittedly, far fetched from the actual day-to-day concerns of union activism. Nevertheless, the theoretical analysis is also intended for reflection among activists, including those who do other kinds of solidarity work in a context of inequality and oppression.

A critical question is how can methodological rigour be maintained in light of my solidarity activism. Was I only researching a phenomenon that my research produced? No. I maintain that the solidarity activism of the MigrAr centres, particularly the *AK Undokumentierte Arbeit* (*AK Undok*) in Berlin is an object in its own right that my approach investigated methodically. As I justify below by drawing on Michael Burawoy's work, it is a scientific approach.

Indeed, as a fairly active member and, by now, one with the longest history of involvement in the Working Group on Undocumented Labour (*AK Undok*) in Berlin, I did shape the agenda and politics of the group, through my ideas, interests and abilities. Nevertheless, I do not think my involvement had qualitatively altered the activism in substantial ways. From the beginning of my fieldwork in 2011, I disclosed my status as a PhD student and my research interest. I realized that I was not the only one within the Working Group who combines academic research interests and activism. Most MigrAr group members were academics. Nevertheless, my role and endeavours

produced some scepticism, which I had underestimated at first. In 2012, a few members of the group *Respect Berlin* had left the Working Group. *Respect* is a founding organization of the *AK* and has supported organizing among migrant domestic workers (see chapter 5). Members of *Respect* had grown frustrated with various aspects of the MigrAr activism, which they detailed in a memorandum (Respect Berlin 2012b). This happened only about one year after I became active within the group and given the rotating presence of the four members of *Respect* at the monthly Working Group meetings, I had hardly come to know them. One complaint they mentioned was their discomfort about not knowing the motivations of group members for being active in the group. In this context, their statement pointed out the problem of the activism being researched (by me, apparently) and not knowing for what ends. I had heard about this grievance for the first time then and felt baffled about it. Why didn't they address this with me openly? I would have been happy to talk more about my research intentions and motives if anyone had indicated further interest or concern. The rationale of *Respect Berlin* to leave the *AK Undok*, as I detail in chapter 7, however, was not due to my presence, but out of disappointment about the centre's inability to function as a platform for migrant workers' self-organizing and the unions' lack of commitment toward this group of workers. My connection of activism with a research interest was rather one aspect further down a longer list of grievances they had with the *AK Undok* and an illustration of their structural concerns, such as a lack of transparency. At any rate, after the event, I tried to be more proactive about my research to inform or remind people of my research background, if only to engage possible irritations about my position early on. I also did my best to prove myself to be a worthy and honest activist through my engagement.

The important point is that my presence was not a significant aspect for anyone's decision to

participate in the *AK Undok* or not and, if so, in what fashion they would be active. Against the possible suspicion that the shifting organizational dynamics of the *AK Undok* (from an emphasis on outreach and public engagements towards greater involvement in the union organization, see chapter 7) could have been the result of my participation, I would point out that there are striking parallels in the development of other MigrAr centres. Moreover, chapter 7 details activists' intrinsic motives and imaginaries of solidarity, as well as their inner quarrelling with the virtual impossibility to do justice to the three dimensions of the *AK Undok*: individual case support, community outreach, and political engagements. In particular, as the research shows, the asymmetry between undocumented workers and the *AK Undok* poses a challenge in realizing solidarity as a horizontal relation of mutuality. All of this is to indicate that my role hardly influences what drives and concerns people in the group. In chapter 7, activists make their perspectives on larger issues explicit such as the desire to foster a kind of unionism that is sensitive to the various forms of social discrimination and committed to foster equality among workers.

Indeed, I contend no other scientific method than activist ethnography could have been suitable to understand this practice of solidarity in its historical, geographical, and organizational situatedness. Much of the data I couldn't have possibly gathered other than through activist research. I noted early on in the field that the mere interviewing of activists and other experts hardly allows me to arrive at a detailed description of the problem. It would have required hundreds of hours of interviewing until I would have attained a similar understanding of the practices, problems, and imaginations—an impossible task given the limited availability of MigrAr activists and supporters. Moreover, from an epistemological point of view, following

Kurt Lewin's (1946; 1947) founding insights for the development of "action research" or "participatory action research", the actual engagement with an organization reveals so much more about hindrances and opportunities than a merely observational stance. It is only until you try that you find out the actual response, the strength in which an action is resisted or supported, as well as the dynamics that are set into play. Being a participant observer, who intervenes in the field, is not simply a distortion, but a probing into social reality. The idea of an actual interaction between researcher and researched that is situated from a "real location" is also key to understand Michael Burawoy's Extended Case method, which I explain further below. Burawoy notes that "A social order reveals itself in the way it responds to pressure. Even the most passive observer produces ripples worthy of examination, while the activist who seeks to transform the world can learn much from its obduracy" (Burawoy 1998, 17).

Contestation and counter-knowledge

The activist stance allows for a closer assessment of the meaning of solidarity. Like so many other "keywords" of social action (Fritsch, O'Connor, and Thompson 2016b) involving a set of sometimes contradictory propositions (Fritsch, O'Connor, and Thompson 2016a), "solidarity" has a socially contested meaning, too (Kip 2016). In this respect, the practical engagement with solidarity activism allows for a clearer idea of pretense and reality, claims and actual power relationships in the work of solidarity. As Herbert Marcuse outlines in his introduction to the *One Dimensional Man* (1968), social contradictions are the condition of possibility for any subaltern (or critical) knowledge to emerge. A consciousness of contradiction allows for a critical distance to the status quo and dominating knowledges and discourses. In fact, trade unions themselves, as Richard Hyman (1979; 1994) and Rainer Zoll (1976) argue, are the institutionalization of such

contradiction. Trade unions "produce a structured antagonism of interests between capital and labour" (Hyman 1979, 428). Contradiction by itself, however, is not sufficient to account for critical analysis. Marcuse (1968), for example, also emphasizes a (collective) self-consciousness about the antagonism as a condition for counter-knowledge. In this respect, unions have an ambiguous role. A long-standing Marxist critique conceives of unions (particularly trade unions) in their function to integrate workers into capitalism and to process and accommodate capitalist contradictions (Hyman 1975; Panitch and Swartz 2003). Richard Hyman (1979, 422) also points to unions' role in capitalism that "simultaneously organizes workers collectively (since the capitalist labour process is essentially collective in character), and hence generates the material basis for effective resistance to capital and the priorities of the capitalist mode of production". Unions, in such a view, are also partly conditioned by capital's form of organizing work and workers. They can become functional to capitalist production, insofar as they organize and discipline workers and foster a sense of common interest of employers and workers. Alternatively, they can also disrupt such collaboration and leverage their organization against the interests of capital. Zoll (1976) captures this ambiguous possibility as the double character of trade unions, on the one side as a *Ordnungsfaktor*, a power that produces order in capitalist social relations and, on the other as a *Gegenmacht*, a counter-power.

What I think this account of subaltern knowledge does not properly recognize is the dimension of affect (Seyfert 2012). Affects definitely shaped the way in which I intellectually and practically engaged the field. In retrospect, I realized how much the activism absorbed me without me always being fully conscious about it. Although I fulfilled a very different activity compared to Loic Wacquant in his ethnography of boxing, I also realized that I did not only

become (cognitively) *embedded* in the interactions of the activist group, I also started to *embody* this activism (Wacquant 2006). In various situations of my fieldwork, I felt excited, concerned, responsible, angered, and so on, and acted on the basis of these impressions. I became truly drawn into the activism, put in energy and passionately engaged in activities without contemplating on whether and how the particular involvement strategically fit into my research. I was personally convinced that whatever I was doing made sense in itself, irrespective of the research. At the same time, my bodily engagement was a strong motivator in keeping me interested intellectually in the activism. I felt its relevance. Part of what I am doing here in writing is giving it a name.

I hesitate to use the terminology of "participant observer" since I have read other ethnographies of participant observation that are more goal-oriented towards producing academic output. Lisa McIntyre's (2005, 217) description of "participant observer", for example, hardly fits for me in that the participant observer is "free (and expected!) to ask lots of questions, take notes, and even record conversations." I am convinced that other MigrAr activists in Berlin have not perceived me in that way. Nobody ever told me about her expectation that I "ask lots of questions" or that I "record conversations." Moreover, taking notes was not an activity specific for me, but rather something that mostly everyone was doing when we met.

This dissertation is not only a pure manifest of counter-hegemonic knowledge. As Rubén Gaztambide-Fernández and Adam Howard (2013) emphasize in the case of privileged students' social justice activism; from a privileged position any work against the suffering of others also carries the benefits of a good moral standing. In my case, this dissertation is (also) part of my

professional career building and the need to make it fit into established parameters of academic

discourse. Michael Burawoy notes:

> Our mission may be noble—broadening social movements, promoting social justice, challenging the horizons of everyday life—but there is no escaping the elementary divergence between intellectuals, no matter how organic, and the interests of their declared constituency. In short, relations of domination [...] are [...] always there to render our knowledge partial (Burawoy 1998, 23).

"Activist" scholarship should not be mistaken to mean that this research has been collectively

decided upon. At the same time, my interest in theory is not to produce strategic prescriptions for

activists to follow. As Habermas (1973, 39) notes, theory may contribute to reflections around

strategic action, but it "does not contain any information which prejudges the future action of

those concerned". More importantly, by fostering self-reflection, the "practical consequences" of

theory "are changes in attitudes which result from insight in the causalities in the past"

(Habermas 1973, 39). Anarchist scholar David Graeber, in spite of his political differences with

Habermas's work, agrees with him on the communicative intent of scholarship. Applied to the

practice of activist ethnography, Graeber (2004, 11–12) states:

> It is also because the practice of ethnography provides at least something of a model, if a very rough, incipient model, of how non-vanguardist revolutionary intellectual practice might work. When one carries out an ethnography, one observes what people do, and then tries to tease out the hidden symbolic, moral, or pragmatic logics that underlie their actions; one tries to get at the way people's habits and actions makes sense in ways that they are not themselves completely aware of. One obvious role for a radical intellectual is to do precisely that: to look at those who are creating viable alternatives, try to figure out what might be the larger implications of what they are (already) doing, and then offer those ideas back, not as prescriptions, but as contributions, possibilities—as gifts.

Chapters 5, 6 and 7, in particular, are my modest attempts in that direction.

The challenge of researching solidarity is to pay heed to both analytical dimensions, empirical

and normative, and make sense of the lived synthesis. As I have already indicated, in the initial

phases of my research, I had difficulty moving beyond normative declarations in interviews with

trade union experts. These statements were full of "solidarity". At the same time, as I engage in

fieldwork, "solidarity" is rather sparingly, if ever, used by activists to account for their own

doings. A useful approach to these two levels is offered by Fuyuki Kurasawa in his book *The

Work of Global Justice* (Kurasawa 2007). Working within a Habermasian framework, Kurasawa

offers his useful methodology of "critical substantivism" to research various practices of justice

(including one realm that he identifies as solidarity). Reviewing academic research on

cosmopolitan practices of solidarity, Kurasawa distinguishes between normative accounts of

global justice, on the one side, and empiricist accounts, on the other. Offering prescriptions

"from above", the former approach is not able to make sense of "the arduous processes that lead

to [...] constitution [of global justice] in specific moments and places", according to Kurasawa

(2007, 6). By contrast, the empiricist descriptions "from below", "does not supply a sufficiently

substantive, action-theoretical perspective on global justice—that is to say, a consideration of the

patterns of sociopolitical and ethical doing and thinking" that are being enacted (Kurasawa 2007,

7). A description "from below", of the actual engagements of solidarity activism, thus needs to

be complemented by a reconstruction of the norms of solidarity that these actors seek to enact.

I seek to address the dialectic of prescriptive and descriptive analysis at various scales. First, in

chapter 4 I look at the construction of the undocumented migrant worker in Germany as a result

of legal norms and institutions, on the one hand, and practices of migrant workers and

supporters, on the other. Then in chapter 5, I examine the genealogy of the trade union centres

for undocumented migrant workers (*MigrAr*) by emphasizing its controversial role in realizing

labour laws, i.e. its actual struggle for legal norms to be applied to undocumented migrant workers. This is followed in chapter 6 by a focus on the debates among activists and supporters of *MigrAr* centres. While this concentrates on prescriptive arguments, the reasons offered often relate to assessments of actual union dynamics and politics. Chapter 7 narrows the focus even further on one centre, the *AK Undok*, a group of activists in Berlin. It discusses its short history of activism in light of activists' personal and collective (normative) assessments. In particular, the question is raised on the empirical sources for activists to actually implement normative ideals in this particular form of activism.

Extended case method

In view of gathering and analyzing empirical data, I have mostly relied on Michael Burawoy's "Extended Case Study" (Burawoy 1998; Burawoy 2000; Burawoy 1991), while also mixing in what Burawoy considers methods of positive science, in particular interviews and document analysis. In contrast to positive science, Burawoy frames the extended case study as a form of "reflexive science" that

> sets out from a dialogue between us and them, between social scientists and the people we study. It does not spring from an Archimedean point outside space and time; it does not create knowledge tabula rasa. It starts out from a stock of academic theory on the one side and existent folk theory or indigenous narratives on the other. Both sides begin their interaction from real locations (Burawoy 1998, 7).

The dialogue is strongly framed by the theory that the scientist brings into the field. In opposition to grounded theory (Strauss and Corbin 1990; Glaser and Strauss 1967) that offers a method for constructing theory on the basis of qualitative data, the extended case method starts from a given theory that the researcher seeks to elaborate on. Burawoy, therefore, advises "to lay

out as coherently as possible what we expect to find in our site *before* entry" (Burawoy 1991, 9 emphasis in original). This method is aimed at observations that might conflict with existing theories and which could fill "theoretical gaps and silences" (Burawoy 1991, 10). The goal is to rebuild or improve theory through a case study. In the research at hand, Habermas's account of solidarity constitutes the theoretical framework that I wish to problematize and expand on. How are we to understand and situate the union solidarity activism of the MigrAr centres within this framework, or in what way is a revision necessary and possible?

It is important to note that my fieldwork research didn't start out as an extended case investigation. Although I never admitted it to be one, in retrospect my actual approach to the field was much closer to grounded theory (Glaser and Strauss 1967; Strauss and Corbin 1990). From this perspective my research question emerged after having collected lots of data (documents, notes from conversations, observations etc.) and having sorted that data in preliminary fashion into different areas of activity, groups of actors, conflicts etc. Though never systematically applied, the actual collection and processing of data was abductive (Peirce 1998), with empirical findings and conceptualizing in a constant process of refinement. The knowledge gathered and produced in this dissertation is the result of a longer ethnographic process with several turns, dead ends, surprises and accidents that are rather difficult to trace. The research didn't follow a strict schematic development. At the *initial stage of my research*, as an outsider, I was curious to *explain the emergence and growth* of the MigrAr centres as an intriguing phenomenon in the context of German unions. In the early period, after I had done more than a dozen interviews with various union professionals in Frankfurt, Berlin, and Stockholm, I had the strong sense that virtually anyone affirmed the idea that undocumented migrant workers ought to

be welcomed as colleagues and encouraged as union members. In this respect, I did not notice

any significant difference between Sweden and Germany. I was ready to believe that it is only a

matter of time until the ranks of undocumented union members would swell and that, therefore,

MigrAr centres and their counterparts in Sweden would continue to grow and gain in

organizational significance.

After more than a year into my research, I started to wonder why I had heard so little about

developments from MigrAr cases in Frankfurt or elsewhere. Rather than waiting for someone to

tell me, and because personal life circumstances had made it possible, I decided to join the centre

in Berlin. At *a later stage of my research*, particularly in the role as an activist scholar, I

developed a more differentiated understanding of the organizational operation of unions, of

various allies and opponents of MigrAr centres, but also of unions' peculiar functioning as a

democratically legitimated, yet also bureaucratic and slowly moving mass organization. I

became interested in understanding the various *obstacles for the MigrAr centres* and its practices

of solidarity; from institutional hindrances in unions to real-life challenges for undocumented

migrants approaching trade unions. I gained a better understanding of internal discussions within

the group of MigrAr activists. Realizing the gap between proclaimed solidarity ideals with

undocumented workers, on the one hand, and existing organizational obstacles to actualize such

solidarity, on the other, I had to change my research interest rather drastically (I address this in

chapter 6 and 7). It was then that I (re-)discovered Habermas as an author who offers a

theoretical approach that could illuminate the controversies, in particular the instrumental and

normative dimensions (see chapter 3). Or was it the other way around: I discovered the

contestations of the instrumental and moral dimensions of solidarity, because I had been

sensitized through my earlier reading of Habermas...?

Activist fieldwork

My fieldwork as a "participant observer" included participating at the bimonthly meetings of the MigrAr Working Group in Berlin, staffing the counselling office and documenting the cases that workers brought forward, doing research on employers for individual cases, communicating with workers (face-to-face, via telephone or skype), organizing or participating at public events, designing flyers, offering workshops on labour law and undocumented labour, discussing plans and strategies with union professionals or activists from other groups and writing public comments. The informal feel of the Working Group Undocumented Labour—a friendship binds many within the group together—clearly makes it sometimes difficult to delineate activist-related and informal exchange. A significant part of observations in my fieldwork were actually done "online" through email exchanges of the working group. Moreover, as an activist I found out about documents, including blog entries, open letters, union publications, grey literature, that I had not been able to find as an outside researcher.

My activist fieldwork spanned more than four years, from April 2011 to November 2015. I was very careful that the only observations that made it into these pages were either made in a public context of open events or publications or were explicitly agreed to by my "informants", especially members or former members of the Working Group on Undocumented Labour in Berlin and at MigrAr Frankfurt. This agreement or consent was given to situations that were consensually defined as a research interview or focus group.

Interviewing methods

Tactics to render this research endeavour more dialogical and collective involved the use of individual and collective conversations. In dozens of informal conversations, I was able to gather facts about the activism and bounce off ideas for feedback. Formal and official interviews were only a relatively small part of my data collection, but an important one, since they allowed me to use quotes. In all of these cases, "Informed Consent Forms" were handed to the interviewees to read and sign in order to ensure that the participation and information given in the interview was voluntary and deliberate. In the case of the Berlin centre, I decided to anonymize the names of activists in order to facilitate a less prejudiced reading by someone who might be familiar with them. The interviews were semi-structured and allowed a high degree of openness in terms of exploring and elaborating on topics (McIntyre 2005, 206–231; Babbie 2007, 303–311). Between 2010 and 2014, I conducted six single interviews with different activists and union staff in Frankfurt, two focus-group interviews and one single interview in Berlin. In early 2013, in some cases one or two years after having conducted the interviews, I listened to interviews again and partially transcribed them. At this moment, I had sharpened my research question considerably which allowed me to select the parts of the interviews that are pertinent to this research.

Complementing individual interviews, the strength of the focus groups is to investigate "complex behaviours and motivations" (Morgan 1996, 139). As David L. Morgan (1996, 139) further notes, "[w]hat makes the discussion in focus groups more than the sum of separate individual interviews is the fact that the participants both query each other and explain themselves to each other." Morgan and Krueger (1993) highlight that focus groups allow for a more nuanced understanding of the level of consensus, diversity, and disagreement among

participants. The analysis of individual interviews would require a greater deal of speculation in this respect. Given the small numbers of four participants and the familiarity of them with each other, my role as a moderator was de-emphasized and I participated in the discussion as well. With respect to the possible downsides of focus groups in terms of domineering by certain participants (Babbie 2007, 309), I considered them to be of limited relevance in my research since the participants already knew and respected each other well, had a high reflexivity about communicative dynamics, and had already developed a mode of discussing respectfully. Moreover, the other possible weakness of focus groups that people will hold back their real views on "sensitive topics" due to the dynamics of group pressure (Morgan 1996; Babbie 2007, 309), also hardly applies to this instance. Throughout the years, even in informal exchanges I haven't come across such "sensitive topics". The focus group discussion fit well into a longer meeting the group had scheduled to discuss long-term perspectives of the activism. My "sociological imagination" (Mills 2000) of the data gathered from interviews and the first focus groups were also partly revised in collaboration with activists in a second focus group. An earlier draft of chapter 7 that provides a more detailed look at the solidarity practices of the Working Group Undocumented Labour in Berlin was also made available to group members for modification and comment.

Reflexive science principles

Burawoy identifies four different characteristics, or "reflexive principles", of the extended case method, each of which carry specific "power effects" that the research design and implementation need to deal with. He contrasts them with the principles of positivist science: reactivity, reliability, replicability, and representativeness, all of which he finds to be "violated"

in his own ethnographic research (Burawoy 1998, 10). At the first level, Burawoy states that any kind of research is an *intervention* that exerts influence within the observed field—unlike the prescribed non-intervention in the experimental methods of the natural sciences. For this reason, my research does not pretend reliability and replicability—an unrealistic ambition given how much the MigrAr centres and the union discussions around undocumented labour have developed in only a matter of years, and the fact that any other participant researcher would almost certainly engage their fieldwork differently. As Burawoy (1998, 11) states: "History is not a laboratory experiment that can be replicated again and again under the same conditions." The gathered data was very much contingent on my social location as male, White, academic, native German, heterosexual, thirty-something, able-bodied, and so on. Given these contingencies, the extended case method allows for (unpredictable) processes in the fieldwork. The "power effect" of domination (within the field) that such intervention entails, arguably, can never be neutralized. However, the effects can be reflexively analyzed and limited. Burawoy advises to reconstruct these specific social situations into processes and to analyze the way in which forces (such as gendering, racialization, class etc.) structure these processes.

The second reflexive principle of *process* explicitly goes against standardization as employed in positive science. One of the lurking problems related to the reconstruction of social situations into processes is the possible silencing of voices within the research, voices that are not heard because the particular configuration of the fieldwork has left them out. "Since silencing is inevitable", Burawoy (1998, 23) writes, "we must be on the lookout for repressed or new voices to dislodge and challenge our artificially frozen configurations, and be ready to reframe our theories to include new voices but without dissolving into a babble." One way to meet this

challenge has been to seek out an interview, conversation with former activists of the MigrAr group that had left the group since I became an active member. Clearly, my research would have greatly benefited also from soliciting voices of undocumented migrant workers themselves, voices that are admittedly silent in this research. But I simply found this endeavour to be beyond my capacities and scope for this research. For example, to ask undocumented workers who approach the centre, to participate in a doctoral research in sociology as well, would have arguably risked their willingness to work with unions. Moreover, for me as a MigrAr activists who is in a position to offer some support, it would have been ethically problematic to ask a highly vulnerable person for an interview. In such instance, it seems difficult to make sure that the interview is based on consent and not simply on the fear that the willingness of support could be withdrawn otherwise.

To identify how external forces *structure* the field, the third principle of the extended case method, I engage in historical comparisons within the activist field. (In chapter 7, I propose a periodization of the short history of MigrAr activism, distinguishing a first phase of enthusiasm, followed by a phase of disenchantment, and a third phase of renewal propelled by migrant activism.) Moreover, I offer occasional comparisons with union relations towards undocumented migrant workers, particularly from the U.S., Canada, and Sweden. In all three countries, I have conducted research on this kind of labour activism on undocumented labour that I use to highlight differences in terms of processes and forces. Identifying these forces, as Burawoy warns, carries the danger of exaggerating and "objectifying" them. With an interesting nod to Habermas, Burawoy (1998, 23) claims that objectification "reflects the very real power exercised by political, economic, and cultural systems over lifeworlds." At the same time, such

objectification of forces conceals lifeworld processes elsewhere and the proper methodical response is to be on the look-out for internal contradictions or social movements that in turn shape these forces.

In contrast to other case studies' orientation to representativeness (Yin 2013), the extended case method as already mentioned facilitates the *reconstruction* of existing theories, the fourth principle. The MigrAr phenomenon is rather marginal within the union context, and yet it engages and sets up a complex debate on union solidarity with undocumented migrant workers. In this respect then, my research challenges Habermas's generalized preconceptions of unions as "old politics" or as already succumbed to system imperatives (and instrumental rationality). The risk of such reconstruction that Burawoy identifies is that its revision may also end up "normalizing" certain accounts. Clearly, the risk in research that leaves out the voices and practices of undocumented migrant workers is that it plays into prevalent stereotypes of the "victim" of criminal organizations or the "perpetrator" of cut-throat competition, etc. Throughout this work, I seek to unsettle such perceptions.

The following chapter lays out Habermas's concept of solidarity that provided the theoretical framework for my fieldwork observations. As I already understood before entering the field, Habermas's concept of solidarity contains some gaps and biases, in particular the dismissal of struggles for material reproduction. Throughout my research, moreover, I gained awareness that Habermas's premise of symmetry poses another serious problem when trying to relate his theory to the MigrAr practice of union solidarity.

Chapter 3: Toward a Theory of Union Solidarity: A Habermasian Perspective

Solidarity is at the core of labour's self-understanding and identity. The term, however, is used in a variety of political contexts, which range from conservative trade unions and Catholic social teaching to nationalist and racist politics. This variety immediately raises the question whether any substantial conception of solidarity exists. To add to the complication, the concept is also marked by an ambiguity between its descriptive and prescriptive aspects. The challenge I address in this chapter involves devising a critical conception of solidarity that accounts for actually existing practices while discriminating between various normative claims.

More specifically, this chapter attempts to conceptualize solidarity through a critical engagement with the work of Jürgen Habermas and an assessment of the relationship between workers with regular work permits and undocumented workers. In order to set the groundwork for an empirical engagement with the Habermasian framework, I first discuss Habermas's take on the Dialectic of Reason and, in particular, his differentiation of reason in instrumental and communicative rationality. While holding on to Habermas's decoupling of "system" and "lifeworld," I point toward the need for a materialist reading of Habermas's theory. Developed during the 1970s and 1980s, Habermas's account suggested that symbolic reproduction was the focal point for solidarity (Habermas 1985b, 391–396). In contrast, material reproduction was seen as no longer being a political issue in welfare states. More recent movements (from the alter-globalization movement at the turn of the millennium to Occupy or the Fifteen Dollars for Fairness campaign in Toronto), however, have proven this assumption to be wrong—as have the struggles around undocumented labour. By placing greater emphasis on the roles of citizen and worker, I argue that Habermas's framework can be made suitable for engaging the relationship

between unions and undocumented migrant workers. In this context, I defend Habermas's universalist pragmatics against recent criticisms, which disregard the significance of difference in solidarity. Taking cues from scholars who have built on Habermas's conception and applied it to situations of social conflict (e.g. Andrew Arato, Jean L. Cohen, Nancy Fraser, Ratiba Hadj-Moussa, Alexander Kluge, Oskar Negt and Rainer Zoll), I develop an alternative conception of solidarity. The chapter concludes by considering Michael Hölzl's challenge to Habermas, in which the latter's take is charged with being unable to conceive of solidarity in asymmetrical relationships.

In the concluding chapter of this dissertation, I draw on the empirical insights of this research to further flesh out what such a materialist take on Habermas implies. In particular, I criticize Habermas's rationality as being too thin to account for movements against injustice like the MigrAr activism in solidarity with undocumented migrant workers. In response, I propose that a focus on political imagination might help us to understand how actors might become motivated to make contributions toward a collective good. Although it is not a faculty of reason, political imagination may nevertheless be complementary to it. In the case of union solidarity with undocumented workers, it may well be an indispensable element.

Conceptualization between facts and norms

Echoing the title of his secong magnum opus (1998), it might be said that Habermas consciously and purposively located his conceptualization of solidarity *between facts and norms*. More plainly, he recognized that sociology (and social science more generally) is part of the

phenomena it seeks to describe. Indeed, social scientific discourse implies both observing as well

as engaging in communicative deliberation. From this perspective, the paradox of the social

sciences is that every description of a social "fact" is already embedded in normative premises.

Considering this relationship with respect to the concept of solidarity, Max Pensky notes:

> The distinction between normative and descriptive accounts of solidarity is ultimately itself
> referred to ongoing social practices insofar as the very idea of such a distinction—what
> counts as an "ought" statement, what doesn't—is reflective of actual practices of
> justification, practices that are deeply socially and institutionally embedded (Pensky 2009,
> 5).

To Pensky and Habermas, the tension between descriptive and normative moments in the

conception of solidarity is at once irreducable and productive of deepened analysis and

practice. For this reason, deliberations about the concept of solidarity must be understood

as already amounting to a social practice.

For Habermas, solidarity can be fostered or even created by appealing to reasonable grounds (i.e.

through insights that have been generated and validated in a free and open discourse among

equal participants). Far from being at the mercy of whim, solidarity can thus be purposefully

produced. In this way, Habermas moves beyond the historical position that has either viewed

solidarity as being based either in sentiments related to likeness or in the functional requirements

of social integration. As Pensky argues, both discourses have the "inevitable effect of

foreshortening the *agency* of social actors" (Pensky 2009, 9 emphasis in original)—an issue

Habermas seeks to address with his theory. As a result, Habermas tirelessly emphasized the

intersubjective constitution of language and consciousness. Rather than assuming that actors are

subjective monads with (pre-given) interests, he argued that the intersubjective process by which

understanding is achieved goes beyond a "negotiation of interests" (Habermas 1990a, 231).

Instead, understanding shaped the lifeworld actors' very sense of self, world, and interest. Applied to our current investigation, this foundation suggests that engaging in reasonable argument may be enough to foster solidarity between undocumented migrants and workers with legal status.

Because it takes the differentiation of reason into different modes of rationality seriously, Habermas's work is useful when engaging the union debate around solidarity. In modern societies, the split between system and lifeworld is marked by prevailing rationalities. Instrumental rationality organizes economic and political subsystems by maximizing money and political power while avoiding legal punishment. In contrast, the lifeworld is characterized by the prevalence of strategic-instrumental, moral, aesthetic, and communicative rationalities, with the latter enabling social cohesiveness and coordination. In what follows, I focus on instrumental rationality and communicative rationality as the key rationalities for unions' manoeuvring in the social world divided into system and lifeworld.

Habermas's take on the prospects for solidarity and emancipation builds on the ambivalence between system and lifeworld and the two fundamentally different forms of rationalization mentioned above.

Dialectic of rationalization I: The onward march of instrumental rationality

Building on Max Weber, Habermas underscores how the ongoing process of rationalization helped to bring about the conditions of modernity (Habermas 1990b). The onward march of

instrumental rationality predicted byWeber suggested that attention in social interaction was devoted less toward ends and more toward how these ends might be attained.

Weber saw the roots of this rationalization in religious developments, particularly in Protestant theology and practice. In *The Protestant Ethic and the Spirit of Capitalism* (Weber 2009), he described how this action orientation arose from ascetic self-restraint. Elaborating Kant's philosophical distinction between the true, the good, and the beautiful, Weber described how Western rationalization split traditional lifeworlds into the autonomous value spheres of science, law, and aesthetics. With the undermining of the religious origin of this rationality, it becomes increasingly difficult to return these spheres to unity (Habermas 1985a, 249; Pensky 2009, 21). "Since Nietzsche," Weber wrote, "we realize that something can be beautiful, not only in spite of the aspect in which it is not good, but rather in that very aspect" (Weber 1946, 148). While values such as beauty or ethics become increasingly fragmented, private affairs, Weber noted that scientific truth and positivist law became increasingly relevant to social life. Meanwhile, the growing complexity of science, law and aesthetics becomes increasingly unmanageable for social actors, who experience the situation as a loss of meaning. Weber notes that:

> The progress of social differentiation and rationalization therefore [...] means a wholesale widening separation of those practically affected by rational techniques and rules from the rational foundation of those rules, which on the whole, is likely to be more mysterious to those affected than the meaning of the sorcerer's magical procedures is to the 'primitive'. [...] The 'primitive' knows infinitively more of the economic and social conditions of his own existence than the person usually called 'civilized' knows of his (Weber 1981, 178).

In this account, society becomes an "iron cage". The rationalization of social action in the political and administrative realm makes bureaucracy the new social bedrock. The metaphor of iron (or steel) also signals the virtual impossibility of acting on motives other than purposive rationality. In turn, such instrumentally rational performances reproduce and expand social life's

64

bureaucratic institutionalization. Robert Michels (1966) elaborated on this insight when he proposed his "iron law of oligarchy." According to this law, organizations—including socialist parties and trade unions—fall victim to this process. Contrary to their pretensions of greater democracy and participation, these organizations are managed by a self-serving elite.

Habermas emphasizes the analogy between Weber's insight into the political realm and Karl Marx's account of the economic realm. Following Marx and Engels's (2008, 6) dictum[5], the development of the market economy creates a context in which values "melt into air". Indeed, the extension of exchange value as the medium of social interaction has propelled the onward march of instrumental rationality.[6] According to Habermas, the political administrative apparatus and market economy have developed into subsystems that coordinate social action without the need of reaching a prior understanding. Instead of communicative coordination through language, money and power coordinate social action through instrumental calculations (Habermas 1985b, 341–342).

Dialectic of rationalization II: Communicative action beyond tradition and convention

In order to understand the process of rationalization, Habermas deploys a different dialectic from Frankfurt School predecessors like Max Horkheimer and Theodor W. Adorno. Significantly, Habermas is more optimistic about the possibility that the process of rationalization might

---

[5] "All fixed, fast frozen relations, with their train of ancient and venerable prejudices and opinions, are swept away, all new-formed ones become antiquated before they can ossify. All that is solid melts into air, all which is holy is profaned, and man is at last compelled to face with sober senses his real condition of life and his relations with his kind."

[6] These two accounts are brought together in Georg Lukács' treatment of Marx and Weber, as well as in the later work of Max Horkheimer and Theodor W. Adorno.

contribute to emancipation. He therefore criticizes Weberians, (neo-)Marxists, and post-structuralists for reducing rationalization to its instrumental dimension and overlooking its emancipatory potentials (Habermas 1990b). For Habermas, the rationalization of the lifeworld makes it possible to question traditional or conventional orientations, whether in terms of science, law or art. Specifically, the ability to question implies the expectation of reasonable arguments and justifications. Drawing on speech act theory, he argues that justification reflects the inherent properties of communication as a deliberative context in which participants can freely express themselves and judge validity claims. In contrast to instrumental rationality, the ends are not simply given or accessible through a logical deduction of facts. Indeed, they are open for deliberative generation. This communicative rationality is rooted in what Habermas calls the lifeworld, a system of sorts that is concerned with its own symbolic reproduction, differentiated in the tasks of cultural reproduction, socialization and social integration. In contrast to the steering media of money and power in the economy and political administration, solidarity is the core medium of the lifeworld.

Habermas's analysis of the lifeworld takes many insights from Emile Durkheim and George Herbert Mead. For Durkheim, solidarity is key to understanding social reproduction. Durkheim distinguishes between "mechanical" and "organic" solidarity, noting that each has distinctive moral features. In mechanical solidarity, societies are governed by morals that emphasize conformity with traditions and that are backed up by coercive and punitive means (Durkheim 1997, 60). Given these sanctions, mechanical solidarity may seem hardly to constitute a morality at all. This is particularly true when considered from the perspective of Kant's categorical imperative, which grounds obligation in practical reason and not in the calculation of

consequences. With mechanical solidarity, however, the coordination of action is not organized

around moral validity claims but the risk of punishment. Under conditions of organic solidarity,

however, morality assumes a different function (Durkheim 1997, 83). Rather than restricting

behaviours, organic solidarity is geared toward enabling new social practices and fostering new

relations. This solidarity is based on mutual recognition and the affirmation of individual

freedom. Individuality is therefore not opposed to social cohesion; instead, it helps to foster the

unfolding division of labour in society (Durkheim 1997, 85).

In *The Social Division of Labour* (1997), Durkheim described the intensifying social division of

labour, its growing specialization of occupations and the resulting diversity of social tasks. The

individual pursues her interest increasingly independent of collective considerations and

conventions. Durkheim writes:

> As evolution advances, the bonds that attach the individual to his family, to his native heath, to the traditions that the past has bequeathed him, to the collective practices of the group—all these become loosened. Being more mobile, the individual changes his environment more easily, leaves his own people to go and live a more autonomous life elsewhere, works out for himself his ideas and sentiments (Durkheim 1997, 332–333).

The morality of organic solidarity permits individuals to go about their own business even as

general standards and conventions become less suited to evaluating or even understanding these

specialized processes. The social value of particular individual contributions cannot be measured

against conventional standards—and not least since these particular tasks have not existed

before. Instead, they both require and facilitate a greater freedom (and self-responsibility) for the

individual in performing this task. According to Durkheim, organic solidarity "requires only" for

people

> to be charitable and just towards our fellow-men, to fulfill our task well, to work towards a state where everyone is called to fulfil the function he performs best and

will receive a just reward for his efforts. The rules constituting this morality have no constraining power preventing their being fully examined (Durkheim 1997, 338).

In contrast to the enthusiasm for the division of labour expressed by utilitarian and contractualist thinkers, Durkheim emphasized that it was not enough to rely on economic mechanisms to account for the cohesion of society. Moral consciousness is required to make institutions function properly within this division and to enable individual freedom to flourish. "The contract is not sufficient by itself, but is only possible because of the regulation of contracts, which is of social origin" (Durkheim 1997, 162).

For Habermas, Durkheim's account in *The Social Division of Labour* runs into problems by trying to explain the moral force of organic solidarity through reference tosocial differentiation alone. For this reason, Habermas argues that Durkheim adopts a new path in his later work, *The Elementary Forms of Religious Life (Durkheim 2008)*. Here, intersubjective interaction is presented granted increasing significance as the traditional lifeworld gives way to a secular one. Habermas writes:

> According to Durkheim, this increasing individuation and growing autonomy of the individual are characteristic of a new form of solidarity that is no longer secured by prior value consensus but has to be achieved by virtue of individual efforts. In place of social disintegration through belief, we have a social integration through cooperation (Habermas 1985b, 240).

Such cooperation is guided by normative ideas, and Habermas follows Durkheim in relating their binding power to the origin of the sacred. For Habermas, "The aura of rapture and terror that emanates from the sacred, the spellbinding power of the holy, is sublimated into the binding/bonding force of criticisable validity claims and at the same time turned into an everyday occurrence" (Habermas 1985b, 77). Although he builds on Durkheim's ideas,

Habermas departs from his notion of cooperation, which does not differentiate between systemic and communicative forms of action.

In *Theory of Communicative Action, Volume 2,* Habermas approaches George Herbert Mead's contributions as a microsociological supplement to Durkheim. In particular, Habermas draws on Mead's approach to develop a communicative theory of individuation (Pensky 2009, 22). Offering a theory of ontogenesis in which the individual is the result of symbolic interaction with a generalized other (Mead 1967b), Mead's approach serves as a foundation for Habermas's account of the lifeworld's subjection to rationalization albeit of a different kind than that operating in the systems of economy and political administration. The crucial dialectic in Mead consists of the relationship between the "generalized other" (Alter) and the spontaneous self (Ego). Alter teaches Ego social identity, norms and value orientations. Alter is based on abstractions of particular group behaviours, while Ego acts upon constructed (self) interests. As categories of pragmatic philosophy, Alter and Ego are not static but constantly evolving in the context of new experiences and relationships. These in turn consistently challenge our tentative understandings of Ego and Alter, "Us" and "Them". Conflicts between Alter and Ego may emerge and propel moral learning provided that Ego's interests and Alter's prescriptions can be resolved by developing "higher" and more abstract resolutions. Here, Ego learns to realize a more extensive congruence with Alter's sense of self (see also Brunkhorst 1997, 46). This dynamic allows for individuals to change and to expand their understanding and practice of solidarity. Highlighting Jesus' role as a social and religious leader who resolves the conflict between Ego-group identity and Alter in the form of the stranger, Mead notes:

> Jesus generalized the conception of the community in terms of the family in such a
> statement as that of the neighbor in the parables. Even the man outside of the community

will now take that generalized family attitude toward it, and he makes those that are so brought into relationship with him members of the community to which he belongs [...] New conceptions have brought with them, through great individuals, attitudes which enormously enlarge the environment within which these individuals lived. A man who is a neighbor of anybody else in the group is a member of a larger society, and to the extent that he lives in such a community he has helped to create that society (Mead 1967a, 216–217).

Once the lifeworld is rationalized, moral and communicative rationality become differentiated. In Habermas's sense, moral rationality evaluates an action on the basis of shared and given norms. This rationality, however, cannot claim universal validity in modern societies, i.e., in a postconventional stage. Morality (in the Hegelian sense of *Sittlichkeit*) can no longer be assumed to be shared among all members of society. The lifeworld contexts of Ego and Alter increasingly differ. Consequently, Habermas argues that communicative rationality becomes necessary for normative coordination at the societal level. Communicative rationality operates at a more abstract level than moral rationality. It is oriented towards communication and developing common norm (Cohen 1985, 707). A key difference between moral and communicative rationality thus arises at the level of argumentation. Here, the question "Is the norm properly interpreted and applied" is counterposed to the question "How can a consensus about a particular norm be achieved among the various stakeholders?" At times, when their difference is not relevant to the argument, I will subsume both notions under the term "normative rationality".

Solidarity and universality

As a procedural and dialectical concept, solidarity cannot be subjected to considerations of justice, although it is certainly not independent of it. According to Habermas (Habermas 1994; see also Rehg 1997), the process of mutual recognition through deliberation reinforces a sense of solidarity. Consequently, Habermas emphasizes open deliberation free from domination and

discrimination. Discursive ethics implies that everyone potentially affected by a collective decision must have a real chance to engage in an argument about it. In other words, such a decision would only be valid if it was based on the (free) consent of everyone involved. If not, it would violate the inherent ethics in speech acts.

Discourse in the Habermasian sense also presupposes subjects with self-reflexivity and the capacity for communicative rationality. Drawing on Karl-Otto Apel's transcendental pragmatics, Habermas (2001) extracts discursive rules that are implicit in the very act of argumentation. These rules function as ideals, but also as the condition of possibility enabling any argument to make sense. Reasoning is premised on the ideal that any affected person is able to freely participate regardless of social status and that arguments are evaluated on the basis of their validity (which must be established by the participants themselves). In view of the participants, it is required that they have a clear sense of their interests and identity, and that they are able to articulate them in discussion (see Benhabib 2002). On the other hand, subjects are open to discursive will formation, which implies the capacity to learn from and understand other interests and interpretations. This openness points to the intrinsic relation between discourse ethics and solidarity. As Habermas (1990a, 247) writes, "without the empathy of each person in the situation for everyone else, which is derived from solidarity, no resolution capable of consensus could be found." Or, as Jean Cohen and Andrew Arato formulate it: "Solidarity involves a willingness to share the fate of the other, not as the exemplar of a category to which the self belongs but as a unique and different person" (Cohen and Arato 1997, 472). This learning process includes the possibility of changing one's interests and identity in light of new knowledge and perceptions.

A curious circularity can be detected in the argument, since discourse both requires and potentially fosters solidarity. For this reason, solidarity is the "reverse side of justice" insofar as it allows for any deliberation about the substance of justice to occur (Habermas 1990a, 47). However, as my research shows, Habermas tends to neglect that the opposite is also true: Justice is the reverse side of solidarity. In other words, justice is also a prerequisite for solidarity.

Rather than presupposing the interests of "others", the discourse allows for participants' individuality to become concrete by requiring them to articulate their own identity and interests. Furthermore, a discourse establishes which differences and commonalities are to be recognized and considered relevant. Thus, for Seyla Benhabib (1985), the universal pretence of discourse ethics and the recognition of difference are not contradictory; instead, they are integrated aspects. Solidarity therefore becomes the bridge between universality and difference, the generalized other and the concrete human being. In such a process of discursive will formation, common interests may be developed, strategies to pursue these interests devised, and strategies to deal with existing differences realized.

By way of communicative rationality, background assumptions, derived from tradition or convention can and must be queried and replaced by discursively validated ideas and statements. As a result, solidarity can no longer be based on arbitrary criteria such as birth, gender, ethnicity, citizenship, religion, and the like. But while this makes solidarity postnational and cosmopolitan in principle, Habermas has never argued for the abolition of borders or of citizenship. In his essay "Kant's Idea of Perpetual Peace: At Two Hundred Years' Historical Remove" (Habermas

2000b), Habermas affirms the ideal of the political community as a bounded one, in which members of the *demos* legislate their own laws. Consequently, he fails to overcome the Arendtian paradox of human rights, in which claims for universal validity remain dependent upon the recognition of delimited and self-determining collectives (see also Benhabib 2004). Elaborating on Habermas's cosmopolitanism, Pensky argues that—in the context of postnational constellations—liberal nation-states are increasingly under pressure to provide justification for excluding others and, as a result, can no longer devise migration policies in a unilateral fashion (Pensky 2009, 55). As both Pensky (2008, 82, 136) and Benhabib (2004, 177) conclude, a precarious residency status does not justify the violation of human and, consequentially, labour rights, nor does it strip them of their identities of humans or workers.

And yet, it is on the bases of differences such as citizenship that injustices occur and universal solidarity is violated. Constructed on the basis of an ideal situation of symmetry, Habermas's solidarity faces critical problems when confronted with forms of solidarity forged through confrontations with injustice. In order to understand why, it is first necessary to understand how the de-coupling of systems from communicative interactions constrains the potential of solidarities to form.

De-coupling of system and lifeworld

The rationalization of the lifeworld places an increasing burden of symbolic reproduction on actors to come to a mutual understanding. Rather than drawing on ideas, values, and processes that had been passed on to them, the meaning of existing differences has to be established in discourse. In the face of advancing social complexity, this becomes increasingly challenging.

Modern societies have partly relieved themselves of this task by shifting material reproduction of society onto the nonlinguistic social systems that eventually develop their autonomy and split off from the lifeworld. Nevertheless, the media and the system remain indirectly tied to the lifeworld since the de-coupling of systems needs to be justified. For his part, Habermas claims that this de-coupling is an irrevocable aspect of modernity implies a rejection of visions that would replace market or state with full participation (see, for example, the proposal by Albert 2004). Instead, in Habermas's account of democracy (Habermas 1998), markets and states are subject to regulatory mechanisms coordinated by a democratic public. Under such condition, the symbolic and material reproduction of society form a symbiotic co-dependence.

According to Habermas, the emancipatory potentials of the lifeworld and its development into a postconventional state arise by releasing it from economic and political steering necessities (Habermas 1985b). This is possible since material reproduction can be functionally organized (Habermas 1985b, 319). Efficiency increases in technology, research, and process-management have been achieved by unburdening economic and politico-bureaucratic systems of normative and aesthetic considerations. Moreover, Habermas points out that the functional differentiation of society has also made it possible to solve complex moral problems (e.g. the misery of hunger of hundreds of thousands in the Third World) (Habermas 1998, 149). Although individuals are morally overburdened by such problem, modern societies have the organizational capacity to institute effective responses.

Unburdening the lifeworld of economic and administrative concerns has made it possible for actors to spend more time deliberating about common interests, ends, and identities, and to

coordinating an organized course of action. As a result, conventional grounds for solidarity (e.g.

kinship, nation, gender, or race) have been questioned, thus paving the way for a

postconventional solidarity. Here, collaboration and reciprocity arise from discursive

deliberation.

The de-coupling of system and lifeworld, however, is a process marked by conflict. From this

vantage, Habermas sets out his diagnosis concerning contemporary social movements in the

second volume of his *Theory of Communicative Action* (Habermas 1985b, 374–404). In

particular, lifeworld communication is revealed to be under threat from economic and political

systems whose constant expansion requires a "colonization of the lifeworld". Habermas traces

this expansive dynamic to the self-reproduction of systems. In 1962's *Structural Transformation

of the Public Sphere* (Habermas 1991), Habermas analyzed how state and market intruded into

and deformed civil society. Given this diagnosis, the question becomes one of determining how

such colonization might be undone if the lifeworld is already compromised. In the second

volume of *Theory of Communicative Action,* Habermas positions new social movements like the

feminist, ecology, peace, youth, minority, antinuclear, and citizen initiative movements as the

lifeworld's defenders against colonization (Habermas 1985b, 393). However, he does not

consider these movements in terms of their ability to restore and expand communicative

interactions in realms lost to systems logic (Cohen and Arato 1997, 526). Jean L. Cohen and

Andrew Arato thus deplore that Habermas

> construes the attempts of collective actors to come up with counterinstitutions within
> the lifeworld to limit the inner dynamics of the economic and political administrative
> systems not only as "reactive" but as tendentially antimodern communalist projects
> of dedifferentiation and withdrawal (1997, 529).

In his later *Between Facts and Norms* (1998), Habermas picks up on this criticism and highlights

the capacities of the public sphere to self-correct against forms of domination. "Anarchic" and

75

with great "sensitivity" to a variety of causes, the public sphere can foster solidarities to resist

the dominating logics of both bureaucratic (state) administration and the market (Habermas

1998, 307). However, Habermas also continues to note that the public sphere is "vulnerable to

the repressive and exclusionary effects of unequally distributed social power, structural violence,

and systematically distorted communication" (Habermas 1998, 307–308). Moreover, the premise

that "equal rights of social citizenship" in the public sphere "have become socially effective"

seems problematic in the context of undocumented labour.

One main mechanism for safeguarding solidarities against such vulnerability to systemic

intrusions is the law. For this reason, Habermas considers the possibility that solidarity might

expand via the law. Describing the relationship between solidarity and law, he writes:

> [The law] functions as a kind of "transmission belt" that picks up structures of mutual
> recognition that are familiar from face to face interactions and transmits these, in an
> abstract but binding form, to the anonymous, systemically mediated interactions among
> strangers. Solidarity—the third source of societal integration besides money and
> administrative power—arises from law only indirectly, of course: by stabilizing behavioral
> expectations, law simultaneously secures symmetrical relationships of reciprocal
> recognition between abstract bearers of individual rights (1998, 448–449).

In contrast to Weber, for whom the law constituted a building block for the "iron cage", the

passage cited above points to the potentially significant role that law might play in building

solidarity. This possibility is reflected in union engagements with the law. As we shall see in the

following chapters, union solidarity is fundamentally aimed at either changing the law or at

realizing existing rights. Unions, however, have also been constrained by the law.

Unions find themselves operating in the split between system and lifeworld. As a result, union

solidarity takes on an ambivalent form. It is aimed both at fostering communicative interaction

among workers and at instrumental action directed toward influencing economic and political subsystems. But despite their differences, both aspects are related to each other.

Politics and the institutionalization of solidarity through law

The law functions as the threshold between instrumental and normative rationality. In the form of social and labour rights, the law encodes social solidarity as a moral norm. It regulates societal responsibilities towards the individual while managing the latter's legal claims. As Gøsta Esping-Andersen has recounted, welfare law secures the decommodification of workers to the extent that it makes their reproduction independent from the market through entitlements. Decommodification sets the indispensable condition for an individual to actually communicate in a public setting, to become involved in political matters, and to deliberate about goals and laws (Esping-Andersen 1990, 28). At the same time, the law carves out the space in which self-interested and instrumental action is allowed, possible, or even expected. The law intervenes into systems and translates values and goals into enforcement mechanisms to regulate social behaviour.

The law can foster both labour solidarity and labour demobilization. Where asymmetrical social realities violate the ideal of symmetrical relationships, rights provide workers with a vocabulary with which to devise common interests (Buckel 2008). By contrast, the law can also invoke the state's monopoly on the legitimate use of violence to secure inequalities by cracking down on attempts to counter the status quo. According to Klaus Dörre (2013), inscribing class compromises into law pacifies class conflict. In committing to the law, labour thus gives up on a certain degree of its spontaneity, temporarily subscribes to the status quo, and commits to certain

77

behavioural expectations. Even if Habermas' later work suggests the possibility of solidarity using the law to go against the colonizing thrust of the two sub-systems, it is far from being clear which sources would be strong enough to push back against political and economic subsystem colonization. In this respect, Lawrence Wilde (2013, 85) criticizes Habermas's later work for failing to recognize how the law papers over inequalities and conflicts created by the systems. "We are invited to identify with a civic community of formally equal citizens, but the equals are not really equal at all. [...] Habermas reverence for the discursive ideal found in constitutionalism causes him to elide real social tensions." For Wilde, however, such a situation is unlikely to yield solidarity unless inequalities are put on the table: "The sources of solidarity are to be found not in a commitment to the constitution or the state, but rather in the motivating force of overcoming perceived injustices in a range of arenas" (Wilde 2013, 85).

Worse yet for the prospects of union solidarity, Habermas considers organized labour as part of the "old politics" – in contrast to the emergence of the "new social movements" – and thus with dim prospects for a revitalization of solidarity (for a critique of the "old" versus "new" dichotomy, see Pichardo 1997). The "old politics", as he calls it in his *Theory of Communicative Action Volume 2* (1985b), mainly recruited its activists among "entrepreneurs, workers, and the professional middle class". It involved struggles around the distribution of welfare and "social, domestic and military" security, i.e. issues first and foremost concerning the material reproduction of society. According to Habermas, the welfare state was able to pacify these "old politics" (class-) conflicts through material compensations. As a result, new "immaterial" conflicts broke out around the logic of the administrative system and its colonization of the lifeworld. Such conflicts focused on "problems of quality of life, equality, individual self-

realization, participation, and human rights" (Habermas 1985b, 392). In contrast to the "old politics," these new protests are less likely to become institutionalized, since it is impossible to resolve these issues with material compensation.

This, of course, was Habermas's perspective in the 1980s, and it is not difficult to pinpoint the shortcomings of such a view today. For instance, pacifying class-conflict through material compensation is clearly no longer the preferred politico-administrative response. In Germany, as in most other countries, socio-economic cleavages have deepened (Butterwegge, Lösch, and Ptak 2008). The Keynesian national welfare state framework (Jessop 2002) that Habermas presupposed has been transformed into what Bob Jessop has called the Schumpeterian postnational workfare regime. Although these devlopments do not invalidate Habermas's theoretical framework, his sociological diagnosis must be viewed in its historical context brought up to date.

Revisiting work and citizenship in Habermas's theory

The realms of system and lifeworld maintain exchange relations through the corresponding system steering-media of power (state apparatus) and money (economy). The economic system exchanges wages against labor and goods-services against demand. Accordingly, the social roles of *employee* and *consumer* develop. The state administration exchanges government performance against taxes and political decisions against mass loyalty or legitimacy. In turn, the roles of *client* and *citizen* correspond to these exchanges (Habermas 1985b, 320). Since the latter are mediated by power or money, lifeworld has to adapt its inputs and outputs to the steering mechanisms of the four social roles mentioned above. Habermas calls this process "the

mediatization of the lifeworld" (Habermas 1985b, 305).

When subsystems maintain the material reproduction at the expense of symbolic resources, lifeworld pathologies emerge. The systemic imperatives of material reproduction can take over areas of the lifeworld through those exchange channels. Like colonial rulers, steering media invade the lifeworld and suppress communicative rationality. And, since symbolic reproduction cannot be properly sustained, pathologies emerge. The threshold between "mediatization" and "colonization" cannot be analytically determined. Instead, it requires rather an empirical investigation of the "real abstractions".

Drawing on Marx, Habermas points to the forms of reification that he calls "real abstractions". Habermas notes:

> Just as concrete work has to be transformed into abstract labor so that it can be exchanged for wages, use-value orientations have to be transformed, in a certain sense, into demand preferences, and publicly articulated opinions and collective expressions of will have to be transformed into mass loyalty, so that they can be exchanged for consumer goods and political leadership. The media of money and power can regulate the interchange relations between system and lifeworld only to the extent that the products of the lifeworld have been *abstracted, in a manner suitable to the medium in question,* into input factors for the corresponding subsystem, which can relate to its environment only via its own medium (Habermas 1985b, 322).

Adapting a critical distance to Marx's theory of value (in which "real abstractions" became generalized), Habermas emphasizes that "'Real abstractions' now make up instead an object domain for empirical inquiry" (Habermas 1985b, 375). Real abstractions are at the core of what (new) social movements struggle for. They determine the extent to which realms of social life are to be subjected to the imperatives of the political and economic subsystems. The category of "undocumented migrant worker" can be considered a derivation of the real abstractions of

"worker" and "citizen." In the following chapters, I will detail the struggles that have been fought over the category of the undocumented migrant worker and the real abstractions they imply. Are undocumented migrant workers to be shaped by the political system that registers them as "illegal" and the economic system that treats them as "labour"? It is precisely such real abstraction that MigrAr centres and the migrant justice movement seek to contest.

Materialist reading of Habermas's colonization

According to Habermas, the roles of consumer and client are especially threatened by colonialization in advanced welfare states (Habermas 1985b, 351). In these roles, persons are treated by state and economy as mere objects without regard to their social context. Furthermore, monetary or therapeutic compensations cannot adequately solve problems that require procedures oriented toward a mutual understanding. However, in Habermas's account of late-capitalist societies, the roles of employee and citizen have already been abstracted from the communicative lifeworld context. By expanding the roles of consumer and client in compensation, the welfare state largely emptied these roles of participatory demands.

This consequential decision in Habermas's work essentially sets aside "labour" and "citizenship" as pacified and neutralized. He writes

> On the basic assumptions of our model, [mass consumption and state-client relations, MK] are the two channels through which the compensations flow, which the welfare state offers for the pacification of the sphere of social labor and the neutralization of participation in political decision-making processes (Habermas 1985b, 351).

This decision shapes his oeuvre in the decades to come. While Habermas addresses the role of citizenship to a degree in *Between Facts and Norms*, he never engages the question of work in

any substantial manner. As Habermas himself notes, this is a "basic assumption". However, it is not one that resists modification. Recent developments vividly demonstrate that the question of labor is far from pacified, or that the issue of citizenship has been neutralized. Several authors have argued that class conflict is, in fact, increasingly on the public agenda. Even the *New York Times* has discovered that "class matters" (New York Times correspondents 2005). The Occupy movement and recent transnational protests against the EU crisis regime have also underscored the importance of class and economic conflicts (Korpi and Palme 2003). Trade unions, however, no longer occupy the dominant role in interpreting these conflicts. Largely defeated in the struggles from the 1970s to 1990s, the power of organized labour has been significantly weakened by aggressive capital (I. Schmidt 2005; Turner 1997).

I think Habermas is right to argue that questions of economic redistribution and the legal entitlements of citizenship are of a different kind than those pertaining to the symbolic order of the lifeworld. Redistribution and citizenship law cannot replace the need for democratic deliberation. At the same time, in disregarding struggles around welfare and citizenship rights, Habermas fails to consider how the reproduction of the lifeworld depends on both symbolic and material aspects. Put simply: if someone is required to work 60 instead of 35 hours to ensure her material reproduction, it is obvious that there are 25 hours less in which to reproduce the symbolic structures of the lifeworld. Or, with respect to citizenship: if undocumented migrants have to hide themselves from state authorities, their ability to engage in meaningful exchanges within the broader social and political environment is heavily restricted. The point this dissertation makes with respect Habermas's framework is that justice in its economic and political dimension is not just a substantive issue for discussions of the lifeworld; it also

constitutes the condition of possibility for the lifeworld discussion to have any meaning.

Revisiting the role of work and citizenship in Habermas's framework also requires one to consider the asymmetries and inequalities these roles imply. The issue of work brings up the issue of class division, and citizenship raises the specter of migration and non-citizenship. Highlighting the significance of class and citizenship in contemporary social struggles implies revising Habermas's assessment from the early 1980s; however, it does not necessarily require that his framework be abandoned. For this reason, I hope to show its suitability for grasping the peculiar challenges of union solidarity with undocumented migrant workers.

Recognizing the significance of material inequalities requires that we determine how asymmetries might be conceptualized in Habermas's theoretical architecture. Indeed, criticism has been launched against Habermas for relying on an ideal of discourse that is unrealistic with respect to its openness, since social power structures create different chances for participating. Instead of providing tools for critique, Habermas's idealization of the bourgeois public sphere of the late 18th century and his emphasis on discourse ethics glosses over real differences and conflicts in society (see, for example, Fraser 1990). In the following, I engage some of these criticisms but ultimately defend Habermas's transcendental pragmatics. I subsequently build on the work of Andrew Arato and Jean L. Cohen and Nancy Fraser to develop the idea of counter-publics. Such a politics constitutes the basis on which Rainer Zoll's idea of unions as discourse organizations might be entertained.

Critiques of Habermas's approach to solidarity

As several scholars (see, for example, Teubner 1989) have already pointed out, conceiving discourse as a norm-producing process leads to a circular argument (Q: How do we know a norm to be legitimate? A: Because it was produced through a discourse. Q: How do we know that the discourse was legitimate? A: Because it was following a norm... and so on). Discursive ethics, therefore, presupposes a normative setting it cannot account for. This makes instituting an actual discourse between unequal actors (e.g. unions and undocumented migrant workers) such a challenging task. How can a decision be made about the proper rules and conditions for such discourse? It is true that Habermas argues that discourse ethics are inherent to speech acts; however, if the application of these ethics means different things to people facing different degrees of discrimination, communication becomes difficult.

Several post-structuralist authors have been critical of Habermas since they consider instrumental and communicative dimensions to be indistinguishable under postmodern conditions (Hardt and Negri 2000, 33, 404). Although geographer David Featherstone (2012) does not engage with Habermas's work directly, his *Solidarity. Hidden Histories and Geographies of Internationalism* is useful for engaging criticisms of Habermas's account of solidarity. To begin, Featherstone views solidarities as being constructed in contingent ways and sometimes forged through conflict: "It is necessary in this regard to see forms of solidarity and contestation as co-constituted" (Featherstone 2012, 246). In this way, Featherstone takes a different path than Habermas, pointing out that—rather than arising from equal participation in a discursive community—inequality and difference are in fact the constitutive features of solidarity. Referring to Chandra Talpade Mohanty's (2003) critique of solidarity in socialist

labour and feminist histories, Featherstone argues that claims to "universality" have concealed cleavages between male and female workers and between workers from the Global North and Global South. Rather than conceiving solidarities as instantiations of universal values, struggles for solidarities are viewed as constructing new values and identities, however limited in scope they may be. In this respect, solidarity is the concrete work of social interaction among different actors.

Featherstone's account usefully reverses the argument that solidarity is based on norms. Instead, solidarity *produces* norms. As Mohanty (2003, 7) put it, "solidarity is always an achievement, the result of active struggle to construct the universal on the basis of particulars/differences". In contrast to rational choice frameworks or normative prescriptions, Featherstone's (2012, 22) account foregrounds the social, ethical, emotional and other aspects involved in building human relationships. He draws on the work of Geraldine Pratt (2008), who emphasizes the "intimacy and emotionality" of solidarities (Featherstone 2012, 36–37). Consequently, Featherstone positions solidarity as a "political relation that is 'without guarantees'. That is to say, it is an open relation that can be articulated and configured in different, potentially conflictual ways" (Featherstone 2012, 245).

At this point, we could conclude that the question, on what kind of rationality solidarity might be constructed between actors such as trade unions and undocumented migrants is undecidable. From this perspective, the debate between instrumental and normative rationality appears to be a mirage. Whether and how solidarities develop depends on many contextual aspects, including emotionality, affects, identity and so on. There is simply never a pure "instrumental rationality"

or "universal morality" that could somehow decide the debate. Featherstone's critical attitude toward vanguardist politics suggests that research should refrain from advancing prescriptive theories. Whether trade union solidarity with undocumented migrant workers emerges depends on circumstances. There are no recipes, nor are there universal norms. Solidarity is not decided by abstract debates. Instead, it is a practice (see Fantasia 1988). As a consequence, the role of the researcher may be restricted to documenting and analyzing these efforts *ex post facto* in order to facilitate learning processes.

Reworking Habermas's theory

Featherstone's conceptualization of solidarity carries significant problems, not least because his rejection of universal values renders the normative dimension of his work ambiguous. Featherstone claims to be concerned with how solidarity has become "a central practice through which different political movements have shaped world-making processes in more just and equitable ways" (Featherstone 2012, 247). But what is justice and equity, if not a norm with universal pretense? How else could we decide, particularly in cases of conflict, if an actor or approach is more or less equitable? If everything is struggle, the question might be posed: what resources or leverage do labour movements have to rally supporters and prevail in an otherwise fairly unequal encounter with capital?

Habermas's embrace of Karl-Otto Apel's transcendental pragmatics is a central piece in his defense of a universal ideal of solidarity. Transcendental pragmatics works without assuming an ultimate justification (Habermas 2001) and, in Apel's own words, is based on

> The insight that certain evidence cannot be deductively grounded without having thereby presupposed itself [...] — this insight now proves to be [...] *a reflexive, transcendental-pragmatic insight into the uncriticizable foundation of argumentation itself*. If I cannot challenge something without actual self-contradiction and cannot deductively ground it without formal-logical *petitio principii*, then that thing belongs precisely to those transcendental-pragmatic presuppositions of argumentation which one must always have accepted, if the language game of argumentation is to be expected to retain its significance (Apel 1975, 264 emphasis in the original).

Although Habermas recognizes the difficulties in how the transcendental ideals of argumentation become implemented (Habermas 2001, 102–109), he maintains that the discursive rules inherent in speech acts continue to function as a corrective to power inequalities.

Habermas's assumption that communicative rationality stands as a foundation for solidarity thus appears indispensable. Although the problem of instituting a discourse free of discrimination remains, it could ultimately be seen as a practical political problem, rather than a theoretical one (see Habermas 1973). Unfortunately, Habermas does not consider what instituting the discursive ideal might entail. In order to address this omission, I turn to authors who have expanded Habermas's framework toward the idea of "counterpublics".

In their discussion of Habermas's account of new social movements (in *Theory of Communicative Action*, Vol 2.), Jean L. Cohen and Andrew Arato (1997, 523) suggest that social movements are constituted by instrumental and communicative action. They argue that

> all collective action also involves strategic, instrumental, and norm oriented activity. There is thus no reason why the analysis of the various logics of collective action should be seen as incompatible, so long as they are not construed as the sole form of rationality of collective action to the exclusion of others.

They propose a "Dualistic Social Theory" that builds on Habermas's theory and is "dualistic" insofar as it considers the system/lifeworld duality as constitutive of social movement and

solidarity politics.

Contra Habermas's theory of new social movements, according to which movements are generally concerned with "protecting" lifeworld conventions, Cohen and Arato affirm an "offensive" aspect of social movements that, usually via organizations, is directed at the political public sphere. In order to gain certain benefits, rights or recognition, these movements aim to regulate political and economic subsystem via legislative measures. In this respect, the movements' intention can be to constrain economic and administrative subsystems in order to facilitate greater autonomy for civil society.

Cohen and Arato discuss civil disobedience as an extreme version of such offensive tactics. While movements that engage in civil disobedience are oriented toward communicative action as an ideal, their protest actions aim at creating disturbances that are not publicly legitimated by following institutionalized procedures of political will formation. As Cohen and Arato (1997, 583–584) note:

> Civil disobedience involves illegal acts, usually on the part of collective actors, that are public, principled, and symbolic in character, involve primarily nonviolent means of protest, and appeal to the capacity for reason and the sense of justice of the populace.

In *Between Facts and Norms,* Habermas presents this conception as a constructive engagement with his earlier and more pessimistic account of new social movements in *Theory of Communicative Action.* A strategic-instrumental engagement by movements with their environment, however, implies a decision about who to include in movement deliberation—and whom to exclude. Habermas does not provide any clues about how such decisions could be brought into coherence with communicative rationality. At a first glance, the decision by social movements to close themselves off and engage with the rest of society in a strategic and

instrumental manner could be seen as a violation of the purported aim (e.g. communicative reason). More problematically, Habermas cannot rationalize the motivation to engage in efforts to confront the "repressive and exclusionary effects of unequally distributed social power, structural violence, and systematically distorted communication" (Habermas 1998, 307–308).

Nancy Fraser uses the term "counterpublics" to express this dialectic of deliberation and political exclusion. She describes these counterpublics as "parallel discursive arenas where members of subordinated social groups invent and circulate counterdiscourses to formulate oppositional interpretations of their identities, interests, and needs" (Fraser 1990, 67). In her account, the constitution of feminist counterpublics stands as a *sinequanons* for effecting changes in broader society. Fraser mentions the following example:

> Until quite recently, feminists were in the minority in thinking that domestic violence against women was a matter of common concern and thus a legitimate topic of public discourse. The great majority of people considered this issue to be a private matter between what was assumed to be a fairly small number of heterosexual couples [...] Then feminists formed a subaltern counterpublic from which we disseminated a view of domestic violence as a widespread systematic feature of male-dominated societies. Eventually, after sustained discursive contestation, we succeeded in making it a common concern (1990, 71).

From the perspective of solidarity, counterpublics foster bonds of solidarity among participants based on a shared understanding of their subalternity. Michael Warner (2002, 423) emphasizes this point when he described counterpublics as being "structured by different dispositions or protocols from those that obtain elsewhere in the culture, making different assumptions about what can be said or what goes without saying." At the same time, and as Fraser's example makes clear, the horizon of solidarity within the counterpublic can extend beyond the confines of the counterpublic to propose a social alternative that might contribute to a greater rationality in the public sphere more broadly. Although she takes Habermas's theory to be an "indispensable

resource" (Fraser 1990, 57), she points to the inherently political constitution of any discourse. For this reason, she has advocated a "post-bourgeois model of the public sphere" (Fraser 1990, 58). Motivated by a similar intention, Oskar Negt and Alexander Kluge have developed the idea of a "proletarian public sphere" in the age of mass media. By critically engaging Habermas' notion of the public sphere, they reflect on the problem of organization. And while they consider a strategic closing off of the proletarian public sphere to be necessary, they also point to the danger of the "camp mentality". They note:

> If the working class successfully organizes itself as a separate camp within bourgeois society, the potential is reduced for a proletarian public sphere that embraces the totality of society. If the organization of the proletarian context of living is not geared toward such a public sphere, this camp becomes subject to a curious dialectic: although its intention is to insulate itself from all forms of the bourgeois context of living, to immunize individuals against the latter, it unconsciously reproduces the mechanisms of the bourgeois public sphere: exclusion, pseudopublicity, dictatorship of procedural rules (Negt and Kluge 1993, 62–63).

Ratiba Hadj-Moussa's work (2003) on public space in Algeria also highlights the fact that the formation of counter-publics does not necessarily involve a conscious political strategy but can be related to the introduction of new media of communication. In the case of the Zapatist movement, Richard Gilman-Opalsky (2008) has shown the efficacy of a transnational counterpublic in securing emancipatory spaces under conditions in which Habermas's prerequisite of "equal rights of citizenship" do not exist.

Assuming that class and citizenship have once again become important matters in the formerly "pacified" welfare states, authors like Fletcher and Gapasin (2008) have questioned whether unions are capable of bringing unity to these struggles while recognizing other types of conflicts. In this respect, they also maintain a broad perspective on intersectionality (or, "totality of society" in Negt and Kluge's word) while organizing an opposition to capital. It is in this context

that Rainer Zoll's proposal for conceiving of unions as discourse organizations appears promising.

Trade unions as discourse organizations?

Zoll's work is strongly committed to a Habermasian framework. He attests that trade unions to have a "particularly intensive relationship to democracy." This is because their very existence is founded on constitutional democracy and their organizational legitimacy is derived from internal democratic process (Zoll 1991, 392). For this reason, he proposes to re-conceive trade unions as a "discourse organizations" in which participants can negotiate differences and commonalities. Conceiving of trade unions as a kind of "discourse organization" urges members to transcend their particular groups and lifeworlds (German male white collar professionals, Latina female domestic workers etc.) and assume the role and perspective of the other (see also Zoll 2000, 193–195). This is not just a strategic move; it also reflects socio-cultural changes and the industrial worker in post-war Germany's overcoming of traditional lifeworlds. According to Zoll, the challenge for trade unions is to harness already existing practices of solidarity within their organizations (Zoll 2000, 149–156).

In Zoll's account, the struggles around the reduction of the work week in Germany during the 1980s was a time of intensified rank-and-file participation. Accompanied by extensive deliberation among union members and their colleagues, these struggles saved German unions from organizational decline during the 1980s as other unions in Western Europe succumbed. Nevertheless, Zoll is critical of what he terms "simulated discourses" within union organizations (Zoll 1991, 394). These include campaigns initiated by the union leadership that invite

participation yet restrict engagement to predetermined terms and topics. Criticisms of this kind continue to be made today (Dörre and Schmalz 2013; Voss 2010).

Such motives largely fall in line with the ideas of (labour) organizing and social movement unionism (see chapter 1) that have been developed in recent years. The social movement unionism emphasis on rank-and-file democracy (Engeman 2015; Scipes 2014) bears a striking similarity to Habermas's ideal of deliberative democracy—except, of course, that it emphasizes class conflict. This is a critical question that Zoll circumvents: what criteria would justify trade unions in excluding certain persons from participating in organizational deliberation? Excluding people on the basis of class, for example, appears difficult to justify based on discourse ethics. In particular, Zoll's idea that unions are discourse organizations needs to be developed to recognize their capacity to impact material conditions (e.g. by interrupting economic production through strikes) thereby also affecting persons beyond the confines of the organization. This raises further questions about how such a counterpublic discourse is to be institutionalized. What conditions need to be in place so that deliberations might happen in a communicative fashion, i.e. without discrimination? How can trade unions organize such a process given their institutionalized patterns of gendered, racialized, ethnic discrimination (Zeuner et al. 2007; Mulinari and Neergaard 2004)? As I demonstrate in the following chapters, the MigrAr centres are a form of engaging and communicating between undocumented migrant workers and trade unions that acknowledges how structural and institutionalized forms of discrimination have shaped the relationship. The challenge becomes one of instituting a counterpublic that is inviting to undocumented workers. At the same time, the conflictual aspect of the counterpublic raises

the problem of arriving at a common understanding of which laws, norms, or values need to be changed—and of who the political enemy is.

Solidarity and the problem of asymmetry

Applying a Habermasian framework to the context of unions and undocumented workers carries two additional problems. First (and this will be detailed in the following chapters), there is hardly any communication between union activists and undocumented workers. The activism of the MigrAr centres and the courageous initiatives by undocumented workers to publicly demand rights could be viewed as attempts to foster such communication. These efforts, however, have not yet led to a sustained institutional conversation about needs, problems, and mutual expectations. As a result, the kind of union solidarity practiced by MigrAr centres is *prior* to communicative deliberation, not the outcome. Second, unlike in Fraser's idea of counterpublics, asymmetry in this context applies not only to the counterpublics' relationship with its environment but also to relationships *within* the counterpublic to be established.

In his illuminating critique of Jürgen Habermas's and Axel Honneth's take on solidarity, Michael Hölzl (2004) demonstrates that both authors conceive solidarity to be premised on relationships of symmetry. As Habermas writes, "This principle [of solidarity] is rooted in the realization that each person must take responsibility for the other because as consociates all must have an interest in the integrity of their shared life context in the same way" (Habermas 1990a, 244). Elsewhere, Habermas defines solidarity as pertaining to people's preparedness to "stand up *for each other*" (Habermas 2003, 97 emphasis in original), or to commit to the idea that "one person stands in for the other"(Habermas 2000a, 27). For Hölzl (2004, 49), this presumed symmetry is

problematic since he assumes that asymmetrical acts of solidarity are in fact the rule. As a limit

case, Hölzl elaborates how sacrificing one's life for the sake of others constitutes a highly

asymmetrical yet "intense" form of solidarity (Hölzl 2004, 49) that explodes Habermas's

conception. Considering the dilemma of three people in a boat that is only able to carry two,

Habermas himself admits to the limits of discourse ethics:

> the dilemma can be "resolved" only through a sacrifice that cannot be morally
> demanded of anyone—and thus could only be made voluntarily. Supererogatory
> actions—the term itself indicates as much—cannot be justified as moral obligations;
> and for this reason no discourse, insofar as it serves as a justification procedure, will
> be of any use (Habermas 1990a, 248).

Although the solidarity between undocumented workers and unions is not normally so dramatic,

it is similar in its asymmetry. Without any institutionalized communication links, neither unions

nor undocumented workers are certain that any effort to advance solidarity will be reciprocated.

From the perspective of undocumented workers, one line of concern could be: "If I risk that my

engagement in 'illegal employment' will become known to the authorities when I step up to

demand that labour rights be enforced, can I reasonably expect trade unions to support me? Will

they protect me from deportation or other sanctions?" From the side of union members, the

question could run like this: "If we support undocumented migrant workers in the enforcement

of labour rights by investing a lot of organizational resources, how can we be sure that these

workers will become steadfast union members rather than continuing to undercut existing

standards or seeking out help only when their individual strategies don't work out?" For each

party, then, the situation appears asymmetrical; they don't face each other on equal conditions.

It could be suggested that, without risk, a sustained relationship between unions and

undocumented migrant workers will never be actualized. By contrast, the willingness to take the

risk creates the conditions of possibility for establishing symmetrical relationships and communication. This is also what Hölzl (2004, 62) proposes: "Asymmetrical forms of solidarity are real acts making the ideal forms of solidarity possible." If such "sacrifices" cannot be properly justified within Habermas's account of discourse ethics, we must build a theory capable of accounting for these solidarity practices. In the conclusion of this dissertation, I propose that "political imagination" is necessary for creating solidarity under asymmetrical conditions. This is not to deny the significant role that instrumental and normative rationality play as a foundation of solidarity; however (and as Habermas himself admits), both forms of rationality are too weak to motivate engagement against injustices.

The discussion of Habermas's take on solidarity in this chapter highlights that his conceptualization presupposes an ideal situation of communication. Convinced that any argumentation is premised on such assumptions, Habermas perceives solidarity to be implicit in contexts of deliberation. This provides an orientation from which to critique existing relationships. Various authors have expanded his theoretical framework to pay heed to the fact that solidarity often becomes relevant in situations marked by conflict and material inequalities. The challenge that Michael Hölzl highlights is how acts of solidarity aimed at reducing asymmetries among actors who cannot be sure that others will reciprocate might be explained within Habermas's framework.

In the following chapter, I will outline the structures of asymmetry in the relationship between undocumented workers and unions. I argue that the construction of the undocumented migrant may be considered an intrusion of politico-bureaucratic concerns ("illegality") into the lifeworld.

This intrustion effectively hampers the creation of solidaristic relationships between workers with and without work permits. For this reason, solidarity among workers across the divide of legal status could be regarded as an instance in which communicative rationality seeks to "decolonize" the lifeworld. At the same time, their activism builds up civil society's associational infrastructure and thus contributes to rationalizing the lifeworlds of union members and undocumented migrant workers.

Chapter 4: The Construction of the Undocumented Migrant Worker in Germany

Undocumented labour is a political phenomenon. It presupposes a state that claims sovereignty over its territory, people, and the social and economic relations that prevail within the country (see also Schmitt 1976). Decisions on who, and under what conditions, may enter, reside, or work in the country, are political ones. Such decisions designate, for example, what documents may be accepted at border crossings, or as permits allowing someone to take up employment legally in the country. Political, too, is the decision of undocumented migrant workers to migrate and take up work against or in spite of such sovereign claims of the state. Even under adverse circumstances, undocumented migrant workers make an implicit claim to be part of a particular society. In this context, the efficacy of the state's claim to sovereignty should not be overestimated. As various authors following the idea of the "autonomy of migration" have argued (Papadopoulos and Tsianos 2007; Bojadžijev 2008; Karakayalı 2008; Moulier Boutang 2000) countries have only reacted to new forms of transnational migration that they seek to channel, but which they cannot fully control.

From a Habermasian perspective, we can consider the production of illegality (De Genova 2004), as an intrusion of non-communicative logics of the politico-bureaucratic apparatus into the lifeworld, hindering or interrupting the possibility that the "illegalized" will be able to take part in public deliberations. Earlier, I referenced Helen Schwenken's (2006) and Manuela Bojadžijev's (2002) assessments of how the looming threat of deportation hampers, if not completely preventing, migrants' engagement in civil society, particularly in labour conflicts. This problem, however, is not exclusively a problem for undocumented migrants. Workers with

legal status also find themselves cut-off from their non-status fellow workers, making it difficult, if not impossible, to communicate or coordinate with them. By hampering communication in such fashion, the illegalization of workers can foster suspicion or even outright rejection on the part of "documented" workers, and fear and withdrawal by the "undocumented." In this respect, the illegalization of workers functions as an obstruction to collaboration between workers with and without work permits. Working with Jürgen Habermas's theoretical framework, this research treats the illegalization of workers as an intrusion of systemic imperatives into the lifeworld. MigrAr solidarity practices then are directed against this intrusion.

The following outlines how the interplay of the systemic imperatives of the political and the economic subsystems has produced the category of noncitizen-worker as a key figure of the current global political order. This figure, however, requires some differentiation. Focusing on the German case, the legal context of undocumented labour is outlined, highlighting the inherent paradox of rights as it applies to the realm of labour. Drawing on available literature and insights from MigrAr activism, I then sketch the spectrum of work experiences of undocumented workers in Germany. It illustrates that migrant workers do not necessarily experience their vulnerability as a problem. Vulnerability, however, helps to explain the disproportional instances of rights violations experienced by undocumented workers. Three dimension of workers' vulnerability are distinguished. Analyzed within Habermas's account, legal and economic vulnerability can be considered instances of lifeworld colonization through systemic rationalities. Social vulnerability, moreover, points to the challenge for lifeworld rationalization to establish social infrastructure that addresses the specific concerns related to the migration experience.

Different shades of undocumented labour

A politicized perspective on undocumented labour rejects functionalist accounts. Premising an autonomy of migration should make us cautious against accounts in which capital is the only logic that moves the economy, a logic which is sometimes also implicit in humanitarian narratives that cast undocumented labour migrants as "forced" or "trafficked" (Karakayalı 2008). In some criminal cases, migrants might be betrayed or forced to such an extent that their degree of autonomy is close to zero. Overall, however, migration experts consider such extreme cases to be a minority within undocumented migration (B. Anderson 2000; Jordan and Düvell 2002; Alt 1999; Karakayalı 2008). With respect to labour, a substantive number of sample studies in Germany (Alt 1999; 2003; Cyrus 2005; Cyrus and Vogel 2006; Krieger et al. 2006; Kovacheva and Vogel 2012; Mitrović 2010a) and collections of organizational experiences (Rabe and Kamp 2012; Rabe and Katter 2011; AK Undokumentierte Arbeit 2015) also demonstrate undocumented workers' agency, however limited, in employment practices.

Given the global reach of migration networks, countries have tended to converge around a specific form of migration regime (Tsianos and Karakayalı 2010), reinforced by a supranational organizational framework (Düvell 2002; 2008) that counts on measures of "illegalization" (De Genova 2002; C. Bischoff 2010) as a part of its repertoire. It should be noted that illegalization affects workers within a broad range of experiences and life-courses. It may refer to migrants entering the country illegally as well as to migrants who entered legally, but then became illegal. Undocumented residence may vary considerably in longevity, from a few days to an entire lifetime. In order to come to grips with the heterogeneous and dynamic reality of undocumented migration, Lederer (2004), for example, distinguishes 15 patterns of undocumented migration in

Germany, differentiating between ways of entry, temporary legal residency status, degree of coercion, reasons for losing residency permit etc.

What complicates research on undocumented migration—although researchers often do not take this into account—is the dynamic character of the object of study. Many migrants move several times back and forth across a border, or circulate between several countries, and migrant trajectories that involve an undocumented status are difficult to pinpoint. In a longitudinal study of migrants in Toronto, Luin Goldring and Patricia Landolt (Goldring and Landolt 2013) found that many migrants oscillate between legal and illegal status and devise various strategies to deal with changing circumstances. Goldring and Landolt thus propose to conceive of "precarious status" instead of using fixed categories that may give the illusion that being "undocumented" or "illegal" is a static state. For Douglas Massey, the dynamic character of migration is not simply a technical challenge for empirical research and statistical modelling. Instead, it is a crucial politico-epistemological problem: As soon as you observe something, it changes. Massey (1996, 3) states cynically: "Because the migrants understand the process of immigration much better, immigrants can usually circumvent the restrictive actions developed by political demagogues, academic geeks and policy wonks through their focus groups, postmodern conferences and think-tank seminars."

The paradox of human rights and the regulation of migrant labour

Arguably one of the first authors to theorize undocumented migration as a crucial feature of the modern world was Hannah Arendt. For Arendt (1966), the presence of millions of stateless

refugees during the interwar period illustrated the paradox of human rights. On the one hand, nation-states draw their legitimacy from their reputed status as the guarantors of universally conceived human rights. On the other hand, they only selectively realize these rights, i.e. for citizens or recognized resident categories. After World War II, it might have looked as if the paradox was resolved by establishing an international political order that was to regulate popular mobility. For example, from the 1950s to the mid-1970s Western Europe regulated migratory flows by way of "guest worker regimes" that often involved binational or colonial agreements between "sending" and "receiving" countries (Schierup, Hansen, and Castles 2006). Where migratory flows went beyond the presumed capacity for integration of any nation-state or geographic region (as for example, in the cases of Palestinian refugees, extreme droughts or natural catastrophes), new international regulatory mechanisms, such as the United Nations High Commissioner on Refugees (UNHCR), the International Organization on Migration (IOM), were developed to channel or control these movements (for an overview, see Betts (2011)).

In Germany after the end of the "guest worker period", from the mid-1970s to until the mid-1990s, migrants could no longer seek "guest worker status" but mostly arrived in Germany either by making claims to German nationality (based on their ability to prove descent from a German national), or by making claims for asylum. The "ghost" of the undocumented migrant (Karakayalı 2008), only entered the German stage in the 1990s, after Germany abolished *de facto* the right to asylum in 1993[7] and the yearly contingent and the required proof of claims to German citizenship were tightened (especially for descendants of German emigrants in the former Eastern Bloc). Since then, many migrants who wanted to enter or stay in Germany could

---

7 The government introduced the Third-country-rule, according to which migrants who passed through a safe country prior to entering Germany, were required to apply for asylum in that country.

no longer go the route of entering the asylum process and thus had to enter and live

clandestinely. Recently, however, with the dramatic increase in numbers of refugees in the EU

and Germany since about 2014, the patterns of migration appear to be changing again. The wars

and strife in Syria, Sudan, Iraq and Afghanistan, for example, have greatly increased the

numbers of refugees coming to Germany. In 2014, more than 202,834 refugees made claims to

asylum, among these about 173,072 first year claimants, a rise of 60% compared to 2013

(Bundesamt für Migration and Flüchtlinge 2015a).[8] A more dramatic increase is underway in

2015. An official prognosis by state authorities calculated the number of refugees in 2015 at

about 800,000 (Bundesamt für Migration and Flüchtlinge 2015b). Meanwhile, in October,

government politicians already speak of one million refugees or more (Meiritz 2015). This

definitely indicates a new moment in the perpetual crisis of state migration management

(Karakayalı 2008).

Undocumented migration is at the core of what James F. Hollifield (2004) termed "the liberal

paradox" in the age of "globalization" (Sassen 1996). Reformulating Arendt's paradox with a

focus on mobility, Hollifield situates the paradox within "liberal democracies", with (various)

economic forces calling for greater international openness (trade, finance, travel, labour etc.), on

the one side, and (various) domestic forces demanding greater closure (to protect industries,

social services, culture etc.), on the other side.

---

8   While this might speak against the thesis of the *de facto* abolition of right to asylum and require a more nuanced
     examination, it should be noted that, in 2013, 36.7% of all first year asylum claims were simply rejected based
     on the Dublin II/III agreements. http://www.proasyl.de/de/themen/zahlen-und-fakten/ (accessed online October
     30, 2015). Moreover, there are growing tensions among EU governments about the proper governance (and
     funding) of the EU asylum system, such that Italy, for example, has allowed some migrants to travel into other
     EU countries without registering them.

The liberal paradox of openness and closure, however, does not operate at the social level, as migrants continue to move, and increasingly so. The liberal paradox primarily operates at the level of politics, fostering new forms of labour regulation.

Hollifield's liberal paradox arguably developed when the pillars of the Keynesian Welfare State were politically dismantled and labour markets were tightened. In this period migrants could no longer be absorbed in Western Europe as official residents, "guest workers", or even citizens (Schierup, Hansen, and Castles 2006). At the same time, the emergence of a post-Fordist economy and the development of a service sector industry spurred the demand for low-wage services (Sassen-Koob 1980) and facilitated informal employment practices (Beck 2000). More fundamentally, the employment of migrant labour in the 21st century is related to a reshaping of sovereignty, new geographies of connection and the emergence of "global topologies of the urbanity of empire" (Keil 2007). In this context, for many capitalist actors, the illegal employment of migrant workers became increasingly feasible, as Fordist productive strategies were replaced by more fragmented and transnationalized regimes of production (Streeck 1991).

Based on experiences in the US, Michael Piore (1979) argues that recruitment practices specifically target migrant workers for certain jobs, leading to a bifurcation in the labour market. This "Dual Labour Market" is characterized, on the one side, by a capital-intensive "primary" labour market for decreasing numbers of skilled core employees who enjoy relatively high wages and job security. On the other side, the emerging "secondary" labour market is mostly fed by migrant workers. In spite of the growing demand for workers in this labour-intensive segment, wages remain low and employment unstable in these so-called 3D-jobs (dirty, dangerous, demeaning). Piore (1979, 183) points to migrant workers' precarious residency status

(temporary status, no working permit, or no status at all) and lack of legal knowledge (1979, 190) as important factors in explaining why conditions remain poor or become worse in the context of growing demand. Piore's analysis, developed in the U.S. context, also applies to Germany. As Georg Menz (2014) argues, migrant labour was strategically used by employers to exacerbate the bifurcation of the labour market in Germany. Indeed, migrant workers' vulnerability is systematically exploited and sometimes institutionally fostered by employers. In this respect, the repressive approach to undocumented migrants, a major trend in countries throughout the world, appears to play into the hands of criminal employers (Cyrus 2005). Rather than stopping migration, the repressive approach makes illegalized migrants more attractive for certain economic sectors, presumably as cheap and obedient labour (Massey 2005).

Labour migration is constituted in the social field of power. Social processes, such as racialization and gendering, influence who migrates and determine what kinds of jobs become available. In her landmark study *Doing the Dirty Work: The Global Politics of Domestic Labour* (2000), Bridget Anderson describes domestic work in European metropolises as a gendered and also as an increasingly racialized task. Anderson argues that the emancipatory strategies of (mostly White) professional women seeking careers equitable to their male counterparts have entailed an outsourcing of domestic work to female migrant workers (instead of, for example, male partners taking up a greater share of responsibility of such reproductive work). Saskia Sassen (1980; 1991) analyzed how this growing demand for female domestic workers has created a veritable transnational labour market while also leading to a restructuring, if not a growing challenge, for the reproductive work in the communities from which the domestic workers came (see also Isaksen et al. 2008). Besides domestic and care work, undocumented

migrant workers in Germany are also known to be employed in a variety of sectors, from agriculture, construction, hospitality, sex work, and cleaning, to several small-scale niche services such as dog walking, delivery, and babysitting (Alt 1999; Krieger et al. 2006). This is also reflected in the statistics of the Working Group on Undocumented Labour of the service sector union *ver.di* in Berlin (see the Appendix or AK Undokumentierte Arbeit 2015).

Legal demarcation of undocumented labour

In Germany, work permits are regulated by the residence law. Altogether there are more than 50 different residency statuses in Germany and it is not within the scope of this research to offer a comprehensive overview. Suffice to say here that this dissertation is *not just* about workers whose residency status is illegal, and who are often referred to as undocumented migrants. It is *also* about those categories of workers who stay legally in the country but who lack a work permit. Thus, undocumented labour may cover a range of legal violations: working without any work permit, violating conditional stipulations in work permits, such as working more hours than allowed, or working for another employer for whom no work permit exists. As legal definition, undocumented labour covers employment relationships that are considered as "illegal employment of foreigners" and sanctioned as a petty offence [according to §404 Abs 1 or 2, Nr. 3 SGB III] or criminal offence [according to § 10 Abs 1 and §11 Abs 1, Nr. 1 or 2 SchwarzArbG ("illegal employment law") and §233 StGB (Trafficking, criminal offense)].

Depending on the gravity of the violation, undocumented migrant workers are subject to punishment and possibly deportation. The threat of deportation thus looms in all of these categories. To be sure, the threat is not equally imminent to every undocumented worker.

105

Deportation is unlikely, for example, for people who engage in what are considered to be small breaches, for EU citizens, or for people with long-term residence in the country. In spite of significant differentiations of risks, the condition of "deportability" (De Genova 2002) is common to workers subjected to the various categories. Given De Genova's conceptual linking of undocumented migration with deportability, the notion of undocumented migrant workers (or undocumented labour) seems an adequate term to describe workers who are in violation of stipulations of the residence law and who also face the threat of deportation.

Law against law: Labour and residence law

This section focuses on the ambiguous role of law in view of solidarity and complicates Habermas's idealized relationship between the law and solidarity. Recall Habermas's functional conception of law "as a kind of 'transmission belt' that picks up structures of mutual recognition that are familiar from face to face interactions and transmits these, in an abstract but binding form, to the anonymous, systematically mediated interactions among strangers" (Habermas 1998, 448). The following discussion demonstrates that law, differentiated into several relatively autonomous legal fields, can function in some respects as an expression of solidarity that encompasses undocumented migrant workers, and in other respects in ways that undermine solidarity.

While undocumented migrant workers are in violation of residence law and potentially subject to deportation, they are not "without rights." Several authors (Alscher, Münz, and Özcan 2001, 3; Schwenken 2006; Buckel 2008) claim with respect to illegalized migrants in Germany that their

situation is defined by a *de facto* lack of rights. Even if authors like Sonja Buckel (2008) recognize rights as *de jure* applicable to migrants, irrespective of status, Buckel considers them impossible to redeem, unless undocumented migrants accept the consequence of arrest or deportation due to reporting obligations of public agencies to the Aliens Registration Office according to §87 Section 2 of the residence law.

Undocumented migrants (and undocumented migrant workers), however, *can* successfully (and without negative consequences) claim labour rights in Germany, as has been shown in recent years (see chapter 5). Norbert Cyrus and myself (2015) have traced how the question of rights of undocumented migrant workers has unfolded contentiously and how activists' legal support practices gave impetus to juridical and legislative developments. Shannon Gleeson's (2013) notion of conflicting commitments, describing the various US state authorities' relationships to both residence and labour law, could also be usefully applied to the German context. Here we find conflicts and contentions about the relationship between residence law and labour law. This conflict could also be considered as a reflection of Arendt's and Hollifield's paradoxes, with the specification that the conflict rests between differentiated areas of the law. In one case, the law builds on the universal applicability of labour rights (for workers in general). In the other case, the residence law expresses the sovereign claim of the state to make distinctions between people and potentially remove them. Due to their institutionalization within the legal structures of the nation-state, trade unions also mirror these "conflicting commitments" of the law. The next chapter, on the MigrAr centre, displays how they play out in the debates and policies of German trade unions. In the following, I will briefly sketch developments at the international (United

Nations), the European Union and the German level, all of which reflect this paradox in particular ways.

International level

At the international scale, laws and conventions appear particularly supportive of undocumented migrant workers. This might not be surprising if we consider the fact that international and supranational organizations, including the United Nations or the European Union, emphasize the border-crossing universality of human rights and the importance of cooperation. Sovereign prerogatives are somewhat de-emphasized in these discursive arenas.

In recent years, various legal initiatives advanced the Universal Declaration of Human Rights to require countries to guarantee human rights for "non-citizens", including labour and economic rights.[9] Among other NGO actors, the International Trade Union Confederation (ITUC) and its various federations have pushed this agenda emphasizing the idea that labour and social rights apply to undocumented migrants as well. More recently, for example, the Resolution on Migrant Workers passed at the International Trade Union Congress in 2010 in Vancouver states that "Migrant workers, regardless of their status, must enjoy equal treatment under labour legislation and full respect of their fundamental rights at work" and urges states to protect them against exploitation (International Trade Union Confederation 2010).

---

9   The significance of the UDHR has been further developed in other instruments to give more concrete meaning to the notion of non-discrimination such as The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) or the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW).

Since the late 1990s, the International Labour Organization has sought to expand its core principles to include undocumented migrant workers as well.[10] An important reference for supporters and activists has been the International Convention on Migrant Workers' Rights ("United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families"). Signed in 1990, it entered into force in 2003 after 20 countries had ratified the convention. As of 2015, 47 countries have ratified the convention (United Nations 2014), all of them "migrant-sending" countries and none them OECD countries.

Another significant moment has been the passing of the ILO Convention 189 (International Labour Conference 2011). Introduced in 2008 and passed in June 2011, it seeks to improve the working conditions of domestic workers worldwide and explicitly addresses the situation of undocumented domestic workers. Specifically, the convention recognizes paid domestic work as employment and calls for legal measures to ensure that labour and social law apply in the same way as in other employment sectors. Moreover, it requires signatory states to institute measures to confront the particular risks of live-in domestic workers, such as abuse and restrictions of mobility. The German government ratified the Convention in 2013 making it the second European and the tenth country worldwide to do so (Schwenken 2014, 187). Eva Kocher (2012), however, expresses uncertainty about how much undocumented domestic workers will actually benefit from a German ratification. The ratification by itself does not solve the fundamental problem that domestic work remains mostly invisible, attracts little public interest and there are insufficient measures undertaken to inform workers about their rights (Kocher 2012, 34).

---

10 The Decent Work agenda of the ILO that started with Juan Somavia's becoming ILO's Director-General in 1998 further propelled the idea of labour rights as inalienable rights worldwide and in a context of globalization and migration.

At the scale of the European Union, the question of establishing sovereignty has been much more pronounced. Developing a common asylum and migration policy has been one of the major elements of the unification of the EU. The Schengen agreement[11] in 1985 set the path for a migration management approach that aimed to facilitate free movement for EU citizens within the Union, while also aiming to more effectively control and contain the irregular movements of migrants into the EU. Significantly, the Eastern Enlargement of the EU in 2004, 2007 and 2013, followed by a transition period in which the free movement of labour was restricted, has meant a *de facto* regularization of many Eastern European migrant workers in Germany. Alt (2004), for example, estimated that with the Enlargement in 2004, between 500,000 and one million migrant workers, that had previously been in Germany illegally, many of them from Poland, were effectively legalized. On the flip-side of this increasing "openness" have been efforts to restrict illegal migratory flows from "third-country nationals", i.e. citizens from outside the EU (Schwenken 2006, 98; Luft 2013).

At the EU level, a significant act to regulate undocumented labour was the passing of the "Employers Sanction Directive" (2009/52/EC) in 2009. Its declared intention is to combat illegal employment of migrants as part of a broader effort to reduce illegal migration. The rationale of the Directive is to reduce worker and employer incentives for involvement in undocumented labour by increasing controls and punishments. One of the mechanisms to increase the risk of punishments against employers is to improve undocumented migrant workers' ability to sue their employers for wages. In this respect, the Directive affirms the right to remuneration for work irrespective of status as well as the right (and ability) to make complaints against abuses by

---

11 The Schengen agreement includes most EU countries, except notably the UK, but it is also signed by non-EU members such as Norway, Iceland and Switzerland.

employers. The law instructs member states to take measures to inform and enable migrants to realize these rights effectively in court. The intention, however, is not to facilitate a long-term place for undocumented migrants. Such supportive measures are actually intended to dry up employment opportunities for migrants with precarious status (Kluth 2013).

In Germany

The mixture of repressive and supportive measures towards undocumented migrant workers is also characteristic of German law. Over the past ten years, the risk that undocumented migrant workers will be detected by enforcement agencies has increased. Several measures have been implemented by different agencies to increase controls within the country, and more recently efforts have sought to bring them into a coherent strategy (Schwenken 2006, 104). Notably, in 2004, the Act against Illegal Employment ["*Schwarzarbeitsbekämpfungsgesetz*"] gave increasing competencies to the agency for "Customs authority on Illegal employment" ["*Finanzkontrolle Schwarzarbeit*" - FKS] to conduct labour inspections. While recognizing that illegal employment predominantly involves native workers, this law was also intended to combat the employment of irregular immigrants. The "Customs Authority on Illegal Employment" that was instituted with this law, with about 6,500 employees, now inspects roughly 500,000 workers per year, a significant jump compared to the inspection of 80,000 workers in 2003, prior to the passing of the law. The FKS also investigates workers for suspected violations of working without a work permit (*§404 (2) Nr. 4 SGB3*) or illegality of entry or residence in the country (§95 *AufenthG*). In 2010, the FKS questioned 510,425 persons at 62,756 employers (Vogel and Aßner 2011, 27–28). In this context, 10,010 preliminary probes for failing to produce a work permit (*§404 (2) Nr. 4 SGB3*) as well as 1,173 preliminary probes for illegal residence and illegal entry (*§95 AufenthG*)

were opened.[12] The Act against Illegal Employment also required public agencies (such as labour courts) to report illegal employment to the customs office.

Germany has not signed or ratified the International Convention on Migrant Workers' Rights (ICMWR), among other reasons, for fear of setting incentives for irregular migration (Spieß 2012, 131). In 1996, the German government explained its rejection of the convention in the following terms:

> The position of the migrant workers in an illegal situation is protected by the convention in such a fashion that goes far beyond the otherwise indisputable need not to deny basic human rights, and may therefore be suitable to increase the incentive to seek employment abroad without residence or work permit (Deutscher Bundestag 1996, 24).

The Employer's Sanctions Directive was implemented into German law (*§98a Abs 1 and 2 AufenthG*) in 2011. It has received strong criticism from opposition parties and unions for failing to install effective measures to encourage migrant workers without status to seek legal redress and to publicize the new law to migrant workers in a targeted way (see, for example, Deutscher Gewerkschaftsbund 2013, 7). Nevertheless, the implementation of the Directive into *§98a AufenthG* also clarified that labour rights, especially with regard to remuneration and access to labour courts, apply to undocumented migrants as well (Kocher and Nassibi 2012).

In the mid-1990s, activist readings of labour law picked up on the legal figure of the "factual employment relationship" and applied it to migrants with precarious status. After controversial legalistic discussions about its scope and applicability in the case of illegal residence, the principle prevailed in the debate in the 2000s as the basis for claims even though the

---

[12] According to a speaker of customs district in Berlin, in 2013, the FKS investigations led to 136 cases against illegal residence. I am grateful to Holger Wilcke from the department of Geography at Humboldt University who was able to share this information gathered through an interview as part of his doctoral research.

employment relationship itself may be conceived of as illegal. In such a vein, employers are required to pay for work already done, to ensure health and safety standards, to allow for (paid) vacation and sick pay and to make contributions to worker compensation insurance (on the discussion of the legal situation, see, for example, Fischer-Lescano, Kocher, and Nassibi 2012a; Junkert and Kreienbrink 2008; Will 2008). Employers, however, can dismiss undocumented migrant workers without notice for failing to present papers.

While rights apply *de jure* to undocumented migrant workers, Kanalan (2012) points out the *de facto* difficulty for undocumented workers to access rights that are "on the books". The ethnography in chapter 7 will detail some of the dynamics involved, but suffice to mention here the legal debate that centres around "reporting obligations" ["*Übermittlungspflichten*"]. "Reporting obligations" have long been considered a major deterrent for undocumented migrants that might want to approach public authorities for support in cases of abuse or other emergencies. In particular, paragraph 87 of the residence law requires public agencies (such as schools, day care centres, hospitals, social service agencies, courts etc.) to report knowledge of illegal residence to the Aliens Registration Office for further investigation. Paragraph 87 has been widely criticized for preventing migrants with precarious legal status from approaching enforcement agencies in cases, for example, of domestic violence, abuses or injuries at the workplace (Cyrus 2005). In recent years, the parliamentary fractions of the SPD (Social Democratic Party) (Fraktion der SPD 2009) and the Greens (Fraktion Bündnis 90/Die Grünen 2011) brought forward legislative proposals at the national parliament to exempt public agencies protecting social and labour rights from the "reporting obligations". This agenda has also been pushed by the Catholic Church (Deutsche Bischofskonferenz 2001), the Federal consortium of

charity organizations (Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege 2014), as well as some union actors (Deutscher Gewerkschaftsbund 2009). The SPD, however, has not brought this proposal into the current coalition agreement with the Christian Democrats (CDU/CSU). To illustrate the rationale for rejecting such proposal, I quote the spokesperson of the CDU (Christian Democratic Party - governing party) parliamentary fraction for domestic affairs:

> Take a lawsuit in the case of a wage conflict coming out of illegal employment. There is no way, that an illegal resident collects his wage from illegal employment through the courts, only to re-engage in illegal work, and the Aliens Registration Office does not find out about any of this (Reinhard Grindel quoted in Cyrus and Kip (2015)).

This interpretation has also been promoted by the Ministry of domestic affairs, which produced a report on the conflicting claims of labour and residence law (Bundesministerium des Innern 2007). This report affirms that the "rights in favour of the 'illegals' are sufficient and that these persons cannot make any claims to the state given their self-induced unlawful situation" (Bundesministerium des Innern 2007, 6). The report concludes by affirming the deterrence effect of §87 on people without work permits, who might otherwise take up employment, stating that "the state possesses with this provision a means of migration control that helps to assert the residence law. A deterrence effect is intended" (Bundesministerium des Innern 2007, 39).

Nevertheless, more recently, the government-appointed "commissioner for the integration of migrants" ("*Bundesintegrationsbeauftragte*") made a plea for reforming §87 in its annual report (Beauftragte der Bundesregierung für Migration Flüchtlinge und Integration 2012, 289). Various "Länder" (provinces, states) have instituted exceptions in the reporting obligation for educational institutions and emergency care, thus paving the way for undocumented migrants to receive emergency treatments and to send their children to daycare centres and schools.

Undocumented work experiences

Laws, to be sure, are only one element to consider in understanding the shape of actual employment practices and dynamics (see also Moore 1973). This point is underscored by the discrepancy between the frequent violations of labour law experienced by undocumented workers and the rare occasions in which remedies are sought through legal means, particularly by way of labour courts (Cyrus and Kip 2015). The disproportionate occurrence of workplace violations experienced by undocumented workers is also confirmed in a study among Albanian and Bulgarian-speaking workers in Berlin conducted by Vesela Kovacheva and Dita Vogel (2012) in 2011. The researchers find that the highest proportion of bad experiences with employers, who break agreements unilaterally, was among people without residency status (60%). This proportion is considerably higher compared to people without EU citizenship (54%), EU citizens (40%), and German citizens (27%). Most of those working without residency status declared that they didn't have any written contract, worked without any insurance, were obliged to work overtime, didn't receive any paid vacation, and wages were not paid or they had to wait a couple of days (Kovacheva and Vogel 2012, 47). While such experiences may be prevalent among the undocumented, Norbert Cyrus (2005) cautions us not to lose sight of the fact that there is a striking variety of employment experiences among migrant workers, including undocumented ones, and a spectrum of employment relationships ranging from consensual to physically coerced.

There are no systematic studies on the work experiences of undocumented migrant workers in Germany. Previous research has focused on issues of illegal residency status in local case studies (Alt 1999; Alt 2003; P. Anderson 2003; Mitrović 2010a) or on collections of cases involving

trafficking (Cyrus 2005; Rabe and Kamp 2012; Rabe and Katter 2011). Extrapolating from this research, the contours of employment experiences of undocumented workers can be reconstructed. I should emphasize here again that undocumented labour and trafficking for labour exploitation need to be strictly distinguished: The former does not necessarily involve criminal practices of trafficking, such as deception, intimidation or physical coercion. The latter does not necessarily involve the issue of labour without a work permit. My analysis of the available research is based on the issue of vulnerability as a consequence of working without a legal permit. As we shall see, there are various factors besides the issue of residency status that shape vulnerability, such as the legal, social and economic situation.

Mutually consensual employment relationships

Insofar as undocumented employment relationships are established by mutual consent of both employers and workers, the social environment usually doesn't recognize the illegal character of their employment relationship. Even when employment relationships are "below legal standards" with respect to wage and working conditions, some workers still see advantages in such arrangements. Substandard wages and labour conditions might be considered an improvement compared to alternative work prospects in the country of origin (Cyrus and Vogel 2006; Alt 1999; 2003). Insofar as both employers and workers perceive benefits, neither party might have any incentive to blow their cover and call on the enforcement of labour law.

Without collaboration from workers or employers, legal enforcement agencies usually face significant difficulties in uncovering "illegal employment of foreigners" (see chapter 5). In most cases, workplaces are simply unknown to the customs law enforcement *FKS*. Labour inspections

at construction sites, hotels, restaurants, and so on, are usually dependent on collaboration, especially with workers, in order to gather testimonies and evidence to bring a strong legal case. In many instances of inspection, as argued by Lisa Riedner and Philipp Zehmisch (2009), as well as Olaf Harning and Matthias Maurer (2004), undocumented workers and employers have often been well prepared for such events, for example, by organizing emergency escape plans for undocumented workers from workplaces or by rehearsing answers to inspecting questions (see also Cyrus 2005, 33).

Non-consensual undocumented employment relationships

In his study on trafficking in Germany (involving undocumented labour in some, but not all cases), Cyrus (2005) points out that instances of trafficking were usually initiated in a consensual fashion. His empirical findings show that recruiters deceive workers and strategically make far greater promises than the employment relationships will fulfill. After a beginning period, some employers gradually impose burdens or restrictions on workers. A union organizer of IG BAU reports that employers "test-out" the potential of resistance of workers, to see how far they can go (Cyrus 2005, 56). Testing-out tactics include employers' attempts to charge workers recruitment fees, or for transportation, accommodation, food or tools, things that workers expected the employer to provide (Cyrus 2005, 27; Alscher, Münz, and Özcan 2001, 27). In other instances, workers find out, contrary to their initial assumptions, that employers are not willing to grant them vacation, paid sick-leaves or to pay for their health insurance (Cyrus 2005, 24, 29–30). It is also common that by the time wages are paid, working hours are paid lower than agreed upon or that extra-hours are not factored into the wage. In some cases Cyrus considered, employers claim that they don't pay for extra-hours that became necessary due to workers' poor

performance (Cyrus 2005, 28–30, 60–61).

In cases known to the MigrAr centre in Berlin, employers also didn't pay the full amount while arguing that they hadn't been paid by the general contractor yet. After a large sum of money owed to the worker has accumulated employers often disappear, virtually without a trace. In some instances, the sums might involve several thousands of Euros per worker (Balan 2008); however, the research of Cyrus and Vogel (2006), as well as the experience of the MigrAr centre in Berlin, suggests that some workers also stop working if they are owed more than a few hundred Euros. Another frequent practice among employers with EU workers is to require workers—under a false pretext— to sign forms to register a trade, to become legally self-employed. Since many migrant workers cannot read German, they are often unaware of what they are signing, making it much more difficult to claim that labour rights do apply and that the registered self-employment is, in fact, fake.

The qualitative study of Cyrus and Vogel (2006) shows that seasoned Polish migrant workers in Germany already anticipate abuse prior to their employment. Rather than getting stuck with the betrayal, several workers that Norbert Cyrus and Dita Vogel interviewed preferred to move on with life, simply writing off the loss and focusing on finding another job. As long as they find the income to be higher than by engaging alternatives in their countries of origin, they have a certain degree of tolerance against employers breaking their commitments. The prospect of improving one's situation, by eventually becoming an independent contractor and employer, for example, often makes workers endure extreme risks and disadvantages (Alt 1999, 149; Cyrus 2003). Some employers strategically factor this outlook into their treatment of workers. If the

violations are no longer bearable for workers, they have been found more likely to quit the job and look for alternative employment rather than engaging in legal battles.

In more dramatic instances, employers directly threaten workers or restrict their mobility by virtually imprisoning them. In the case of a Colombian domestic worker in Germany, the employer claimed that if she was to file charges, she would be imprisoned and deported (Cyrus 2005, 77). In one case of the MigrAr centre in Berlin, a woman explicitly said that she didn't want to file charges against her employer while being in Germany for fear of physical revenge (AK Undokumentierte Arbeit 2015, 19). There are several other known cases, in agriculture or in the carny trade, for example, in which employers explicitly threaten physical violence against the worker or their family dependants, should the worker decide to take legal steps (Cyrus 2005, 77). Many sex workers and domestic workers have also been known to have been physically confined and not allowed to leave the house or establishment. A domestic worker who came to MigrAr Berlin said she hadn't been allowed to leave the apartment in months (AK Undokumentierte Arbeit 2015, 16). Employers in the construction industry also try to control the movement of their workers between accommodation and work site, so as to minimize the "risk" of them finding out about the legal situation or possibilities of support (Balan 2008).

Vulnerabilities

As already pointed out earlier, the crucial factor that previous research on workers with precarious status has emphasized is the issue of vulnerability. This section analyses the vulnerability of undocumented migrant workers in three dimensions, legal, economic and social. These dimensions of vulnerability, I argue, can be related to Habermas's distinction between

lifeworld and the two subsystems. Legal and economic vulnerability result from the intersection of political and economic imperatives that colonize the lifeworld of undocumented migrant workers. To be more concrete, the illegalization of workers in conjunction with a precarious economic status fosters the dependency of workers on employers and inhibits organizing among workers as well as inhibiting their networking and communication with their social environment. Their social vulnerability, moreover, points to rational discrepancies in the lifeworld. This vulnerability relates to various kinds of prejudices and chauvinistic attitudes within mainstream society as well as to inaccurate perceptions among undocumented workers. This dimension also highlights the significance not only of perceptions, but also of infrastructural supports for communication.

(1) Legal vulnerability: While legal experts have come to the conclusion that labour law applies to undocumented workers (Cyrus and Kip 2015, 39), workers themselves are far less certain about it. Kovacheva and Vogel (2012, 50) conclude in their study among workers that "[t]he vast majority assumes that illegally employed workers have no rights or at least cannot realize them." This lack of rights consciousness is not limited to undocumented migrant workers, but also extends to the professional actors that mediate between migrant workers and the law. Lawyers, as well as labour judges, as Heike Rabe and Simone Katter (2011, 151–152) show, are also uncertain about how residence and labour law intersect and whether it is possible for undocumented workers to claim labour rights (see also Appendix on obstacles).

Some employers drum into migrant workers the impression that the law is not on their side (Cyrus 2005, 20, 58,73). Cyrus reports of cases in which employers explicitly threatened to

report employees to state authorities, using their fear of sanctions or deportation as a bargaining chip. In fact, such reports have been made in the past in which employers denounced workers at the police or Aliens Registration Office in order to avoid paying outstanding wages (Rabe and Katter 2011, 139). Lewandowski, a muckracking researcher in Berlin, reports in 1999:

> A subcontractor didn't pay or paid very little, just enough for workers to survive and keep working. And he retained most of their wages. This happened for a while until the workers demanded their wages so forcefully that he called the police and informed them that 'here is a construction site and so-and-so many workers are undocumented'. And then the police came and sacked them all - and got rid of them (quoted in Cyrus 2005, 60).

Moreover, the behaviour and approach of labour inspectors and police officers is often experienced as inimical to workers (Cyrus 2005, 59). Indeed the perception of the *FKS* as an agency hostile to undocumented migrant workers has a realistic basis in their one-sided and frequent investigations of work permits and residency status but not of labour right infractions.

(2) Economic vulnerability: Existing research suggests that this kind of vulnerability is common among undocumented migrant workers. In their study among Polish undocumented migrant workers, Cyrus and Vogel (2006, 14–17) find that wage differentials between wages at home and abroad are an important incentive for the migration endeavour. This finding is confirmed by various other researchers among different ethnicities (Alt 1999; Krieger et al. 2006; Gäsche 2014; Twickel 2015) and in different countries (see, for example, Piore 1979). Nevertheless, the earnings hardly allow for any savings: it is spent to afford living expenses and if possible is sent to families in the home country (Cyrus and Vogel 2006, 16). Short-term employment relationships and the risk of being fired create uncertainties about the future. Many social insurance programs, such as unemployment benefits and regular health insurance, are not accessible for these workers, such that any longer period of unemployment, sickness or injury

can have dramatic economic consequences for the person (Mitrović 2010a; Huschke 2014). Anticipating difficulties of finding alternative employment in the "illegal sector", workers in precarious jobs often find themselves obliged to endure a certain degree of mistreatment or legal violations. Economic precarity among undocumented migrant workers is even higher when there are debts to repay to recruiters or traffickers (Cyrus 2005, 64).

A particular form of economic dependency also exists for migrant workers, especially contract employees, au-pairs, and live-in caregivers, whose residency and work permit is bound to a particular employer. Since losing the job in such cases jeopardizes their legal status in Germany and thus potentially risks the entire migration project, workers are particularly dependent on their employers, and are sometimes forced to accept working beyond stipulated working hours, performing additional tasks, compromising with health and safety standards and so on (B. Anderson 2000; Dälken 2012).

(3) Social vulnerability: As with economic vulnerability, this type of vulnerability does not apply to all undocumented migrant workers, some of which might have already established firm social links to various actors and networks in their living environment. For new arrivals, however, it is often not clear, within an unknown environment, what legal rules apply. It takes time for workers to familiarize themselves with local regulations (Cyrus and Vogel 2006; Kohlhagen 2006). Further, short-term contracts and frequent changes of workplace for many undocumented workers, make it difficult for workers to establish a social network (Wagner et al. 2013). As "outsiders" to the environment, many undocumented migrant workers are particularly dependent on relationships with people having locally relevant expertise in how to go about seeking legal

remedies (Cyrus and Kip 2015, 38). These dynamics are compounded when workers are not familiar with the German language or with the existing infrastructure of legal support. In addition, Cyrus (Cyrus 2005, 27, 31) reports that employers often provide housing for undocumented migrant workers, whether in the form of barracks for construction workers, rooms for sex or for live-in domestic workers (see also B. Anderson 2000). In some instances, employers also organize transportation between housing and workplace, which may be interpreted as attempts to minimize workers' possibility of contact to the "outside world". Such factors tend to increase levels of social vulnerability.

A further issue is that experiences with labour unions in their countries of origin, as business, state- or party-controlled unions, are sometimes transposed on German labour unions, if only for the lack of a better knowledge (for a critical discussion in other contexts, see Jubany and Güell 2012). Corrupt, authoritarian or nepotist practices in other unions may be one reason why workers are sceptical about engaging with German unions (AK Undokumentierte Arbeit 2015, 19). Another factor is that migrants are often aware of the illegal character of their employment and that German unions seek to combat "illegal employment" (Cyrus 2002).

In Berlin, where Kovachava and Vogel's study was conducted, there is a relatively tight and far-reaching support network of counselling centres that are specifically tailored to migrants. Only 65% of all interviewees (mostly documented migrant workers) had ever heard of any of these counselling centres. Only 8% knew about the existence of a trade union centre for undocumented migrant workers of the *AK Undok* (Kovacheva and Vogel 2012, 52). Even more striking is that only two persons out of the 158 interviewees said that they already went to such counselling

centres to seek support, which is to say, "only a fraction of those who reported on experiences with violations of minimum standards" (Kovacheva and Vogel 2012, 52). With the background of these peculiarities of undocumented employment, as well as the vulnerabilities involved, it is possible to explain the discrepancy between the widespread violation of migrant workers' labour rights and the low number of migrant workers seeking legal remedy (Cyrus and Kip 2015). Workers either have no interest in legally remedying substandard labour conditions because they believe that they benefit from them, or their vulnerabilities become obstacles to actually taking legal recourse.

Clearly, the political question of providing social infrastructure that is adequate to address the vulnerability of migrant workers needs to be directed towards the state (see also M. Thomas 2008). But here I focus on the challenge for mainstream civil society, including trade unions. For one, proactive development of such infrastructure entails the challenge of removing existing obstacles, including chauvinistic attitudes among union members (Zeuner et al. 2007). The unevenness of infrastructural supports for undocumented migrant workers also needs to be noted in relation to other forms of social difference. "White" or "Christian" undocumented migrant workers arguably have a different social standing compared to racialized workers and those (perceived to be) of different religious background (C. Bischoff 2010; Kim 2011). In Germany, this also translates into practices of selective enforcement in state agencies (*Spiegel Online* 2012). Citizenship, occupation and attributed "skill" presumably also influence how undocumented migrant workers are perceived: A US exchange student who overstayed her visa and started to work in a restaurant faces different prejudices than a construction worker from Pakistan (Willenbücher 2007). Moreover, the masculinity attributed to undocumented migrant

workers in the construction industry, for example, is likely to exacerbate the impression of competition, given prevailing constructions of masculinity as aggressive, competitive, individualist and so on (Nickel 2004). By contrast, domestic workers, perceived as predominantly female, activate "charitable" and "humanitarian" union approaches to undocumented migrant workers. The widespread idea of women as weak, shy, in search of protection, cooperative and so on, plays into approaches that construct undocumented migrant workers as victims and that seemingly justify interventionist approaches to save them (Schwenken 2006, 279; B. Anderson 2000).

In this chapter, I have discussed the "conflicting commitments" of labour and residence law with respect to undocumented migrant workers. The vulnerabilities of undocumented migrant workers in Germany, as I have argued, can be related to the political and historical priorization of residence law. The vulnerabilities, I suggest, are the result of political and economic imperatives that severely restrict the migrant workers' ability to engage in conflict with their employer. Moreover, social vulnerabilities are expressions of an insufficiently rationalized lifeworld that teems with prejudice and misinformation. The following chapter details how, in recent history, activists have contested this production of migrant workers' vulnerability by proposing and practicing a form of union solidarity that encompasses undocumented migrant workers. The chapter addresses the moving targets of shifting regimes of illegalization, migrant workers' agency and the proper role for unions. Throughout this period remedying the vulnerability of migrant workers through legal support has become a key orientation of solidarity practices. Such a strategy can be understood as being grounded in the recognition of the fact that legally precarious situations make lifeworld deliberation impossible. More controversial, however, were

questions on what it would require for unions to address the specific vulnerabilities of undocumented workers, including the reappearing question of whether undocumented workers could become union members.

Chapter 5: You have rights! Genealogy of the Union Centres for Undocumented Migrant Workers

This chapter offers a critical genealogy of the trade union centres for undocumented migrant workers, often referred to as *MigrAr* which stands for Migration and work ("*Migr*ation *and Ar*beit). These centres offer legal support specifically tailored to undocumented migrant workers and do not require union membership as a precondition for initial advice on labour rights and possibly ongoing forms of collaboration and support. MigrAr centres have been established under the umbrella of the service sector union *ver.di* or the German Trade Union Confederation (*Deutscher Gewerkschaftsbund - DGB*) in six major German cities since 2008. The establishment of the MigrAr centres is preceded by a history of contestation about the status of undocumented migrant workers in relation to trade unions and marks a shift within the union movement. Unions have moved from an exclusionary position that seeks to move these workers out of the labour market by relying on the repressive state apparatus towards an "inclusive" (Kahmann 2006) or "supportive" (Cyrus 2004) approach that emphasizes labour rights as applicable irrespective of residency status and that calls on unions to develop specific ways of collaboration. In this perspective, the MigrAr centres thus may be considered an achievement of union solidarity.

This account of the MigrAr centres complements research on workers centres in North America, that highlight the critical role of these centres in "contending with downgrading in a low-wage labour market" (Martin, Morales, and Theodore 2007; see also Theodore, Valenzuela, and Meléndez 2009) as well as the inherent "mismatches" between unions and these centres (Fine 2007; 2011). As we shall see, similar controversies have arisen in Germany; however, here the

centres have been integrated into unions early on. As this chapter shows, a reorientation of unions towards recognizing the applicability of undocumented workers' rights does not amount to a substantial change in union solidarity. In view of Habermas's fashioning of law as a "transmission belt" for solidarity, this chapter specifies that a consideration of "law in books" needs to be complemented by the "law in action", to use the terminology of Roscoe Pound (1910). Thus, even if unions affirm the idea of labour rights for undocumented migrant workers in theory, it is the practice that makes the palpable difference to the workers themselves. In this respect, the chapter details the little union commitment to proactively organize undocumented migrant workers and to support their struggles for better working conditions. Moreover, union organizations largely continue to rely on the corporatist framework in which residence laws operate as a key mechanism of labour regulation. At the same time, a counter-movement is noticeable within unions that seeks to tackle undocumented workers vulnerabilities (see previous chapter regarding these vulnerabilities). In particular, the MigrAr activism engages migrant workers' legal vulnerability by offering legal support and politicizing their illegality within union contexts. Moreover, by propagating labour rights and providing a minimum of infrastructure with a low-threshold for undocumented workers to access, MigrAr activists address undocumented workers' social vulnerability.

A new engagement with undocumented labour?

The apparent shift from a repressive towards a supportive approach (Cyrus 2004) has often been lauded as marking a decisive change in solidarity. In 2007, at the conference on "Illegal labour—illegal life", the service sector union *ver.di* set itself the goal of viewing undocumented migrants henceforth "as colleagues and not as competitors". Petra Welzel, a journalist for *ver.di's* union

paper, sees this shift as part of a broader international movement. "Now, union members begin to move, because they see that more and more secure jobs are replaced by insecure ones. And that there is a fate behind every person without papers" (Welzel 2007).

Presenting the MigrAr project to the Industrial and Labor Relations Schools at Cornell University, Ithaca, NY, Emilija Mitrović (2010b) describes this development as follows:

> The unions had problems with the subject for many years. Illegal workers were considered to be competitors rather than colleagues. It is only a recent development that unions, especially ver.di, seeks to support illegal workers, helping them to get their rights, representing them at labor courts, and making them members of the union.

A publication of the International Trade Union Confederation (2011), too, saw a significant shift in trade union attitudes towards undocumented migrant workers, in this case specifically undocumented migrants:

> Trade unions were, until recently, often closed for undocumented migrants, who were not able to access membership and assistance. Partly due to lack of awareness of the fact that it, in a context of human rights, was indeed legally possible for trade unions to open their doors to undocumented migrants and for migrants to approach trade unions and become members, and partly due to all kinds of mutual prejudice (International Trade Union Confederation 2011, 24).

Moreover, the establishment of MigrAr centres in Germany is taken as an example for international replication. In this account, the centres are said to have "opened doors" to undocumented migrant workers with the first centre setting root in Hamburg. The ITUC document creates the impression that this model has prevailed in Germany after initial experiments: "After the success of these, the project was adopted by the German trade union confederation DGB and extended across more areas of Germany" (International Trade Union Confederation 2011, 25).

Thus, problem solved, solidarity initiated? In the face of such descriptions and declarations, it might be surprising to find that few undocumented migrant workers have organized themselves in unions. Perhaps similarly disconcerting is the claim that trade union organizations remain mostly complicit with a repressive state approach that disenfranchises and illegalizes undocumented migrant workers. Yet this is what I demonstrate in this chapter. My genealogical account of the MigrAr centres documents the last two decades of solidarity activism and contends that a key achievement of the centres has been to establish the idea of undocumented migrant workers as subjects bearing labour rights. Further, the chapter discusses the conditions within which labour rights can be realized. In particular, I contend that *union approaches differ based on whether migrant workers' upholding of labour rights is considered a precondition for, or an aim of, union collaboration*. The concern of activists and charge of critics is that the MigrAr centres effectively function as a fig-leave for trade unions' ongoing passivity (and structural hostility) towards undocumented migrant workers.

Working with the Habermasian framework of solidarity (as outlined in chapter 3), I first show that the understanding of union solidarity has been strongly linked to national law. A key strategy in social democratic trade unionism in Germany has focused on institutionalizing labour solidarity and converting it into societal solidarity by encoding it into law. The emergence of undocumented labour illustrates how brittle the (imagined) straightforward link between solidarity and law has become. In the second section, I trace how unions have reacted to this situation from the 1990s onwards. It also describes the activism to support undocumented workers that began outside of unions and increasingly intervened and interacted with unions. The

institutionalization of the MigrAr centres, that I discuss in the third part, is an outcome of these developments.

Labour solidarity and the law

When the working-class movement began to form at the dawn of the industrial period, the dichotomy between national and international labour solidarity was not as stark as it is today. Nation-states and national consciousness were only about to consolidate. The International Working Men's Association (IWMA), often referred to as the First International, was formed in 1864 to coordinate union activities throughout Europe and the US and to prevent the use of migrant labour to break strikes (Katz 1992). David Featherstone describes Marx as a main protagonist of the First International and a chief advocate of internationalism. In *Capital* published in 1867, for example, Marx makes a remarkable statement on the interdependence of workers' struggles in distant locations and with different stakes: "every independent workers' movement was paralyzed as long as slavery disfigured part of the republic. Labour in a white skin cannot emancipate itself where it is branded in a black skin" (quoted in Featherstone 2012, 3). At this historical moment, however, the idea of systematically protecting a national labour market by state means had only begun to emerge (Torpey 2000, 75). A longer quote from the paper of the construction workers' union, *Der Grundstein* (Foundation Stone), in 1895 illustrates this situation in which labour became increasingly divided over the national question. The opinion piece tackles nationalist responses towards migrant workers that had been of fairly recent date. It states:

> But as appealing as it might sound, that 'national labour' ought to be 'protected' by way of
> containment or restriction of such competition, we cannot agree as a matter of principle
> that state laws take the opportunity for the the poorest of proletarians, to flee misery or

oppression and to come to know the blessings of freedom and civilization. The poorest follow, as any proletarian, the natural urge to improve their situation. And it is not their fault that they pose a delicate competition, in those countries where they are going to, for workers who are used to higher living standards. Unless the so often invoked word of the 'solidarity of workers of all countries' is to become a phrase, it must prove itself with respect to those elements, that find themselves without own fault on the lowest ranks of misery (Der Grundstein 1895 quoted in Rakowitz 2002).

Illustration 1: Picture postcard of a painting by O.G. Verejski `Marx at the IWMA meeting' September 28, 1864, Saint Martins meeting hall in London. BG A40/927
Source: International Institute of Social History, www.socialhistory.org, CC-BY-NC 3.0

The IWMA eventually fell apart due to the dispute between socialists and anarchists, Marx and Bakunin and their respective followers. In the socialist follow-up organization, the Second International (1889-1916), international solidarity could no longer match the eventual consolidation of nation-states, in particular the political alignments along national lines and state-focused strategic reorientations. In this process, socialist organizations, including unions, became increasingly oriented towards the national scale. A dramatic culmination of this development of course was the German Socialists' backing of the government's declaration of war, unfolding in the catastrophe that was World War I.

In the 19th and early 20th century, it was still common for labour organizations to institute a variety of mutual aid schemes, such as those mitigating the effects of unemployment and sickness, the establishment of food cooperatives, the construction of collective houses, and so on

(Exner and Kratzwald 2012). As Gøsta Esping-Andersen (1990, 24) writes about German labour strategy, which was initially in striking difference to the structure of Bismarckian reform plans, "Workers were obviously suspicious of reforms sponsored by a hostile state, and saw their own organizations not only as bases of class mobilization, but also as embryos of an alternative world of solidarity and justice; as a microcosm of the socialist haven to come."

Workers themselves were in charge of (democratically) governing these schemes, as described by Brigitte Kratzwald and Andreas Exner (2012). In these local-based institutions, different issues, needs and interests had to be weighed and discussed by the workers themselves and they had to implement their decisions. Deliberation, at least in theory, was the steering principle of these efforts. This model, however, ran into problems, as Esping-Andersen (1990, 24–25) notes:

> [T]hese micro-socialist societies often became problematic class ghettos that divided rather than united workers. Membership was typically restricted to the strongest strata of the working class, and the weakest – who most needed protection – were most likely excluded. In brief, the fraternal society model frustrated the goal of working-class mobilization.

In Germany, another problematic aspect of such local community-based approaches, centralization vs decentralization, was hotly discussed in the early 20th century (Hoffrogge 2011). Whereas syndicalist activists advocated for a decentralized labour movement that allowed for local self-governance, the majority of socialist labour activists argued that a centralized movement was necessary to build enough leverage against the bourgeois class. In fact, Charles Tilly (2006) argues that social and labour movements, as we know it, only emerged with the nation-state form (see also Tilly and Wood 2012, 27). Until then contestations had usually been local in scope (Tilly 2006, 45). Movements developed their organizational form and repertoires of boycotts, strikes, and demonstrations in order to target the national public and national

decision-makers. This fostered the centralization and orientation of the labour movement towards the national political arena.

Another key development occurred in organized labour following the foundation of the German Reich in 1871. Building a centralized movement required disciplined organization and a certain equality among these local groups in order to prevent them from being played off against each other. In other words, a certain degree of autonomy was taken from the local and transferred to "higher" levels of the organization. This made possible a reliable redistribution from better-off to worse-off locals, and made it independent of any mood swings within a particular local. Clearly, by bringing in greater complexities of governance in this way, the bureaucracy within labour would grow in the process. Face-to-face deliberations about local matters were no longer feasible. The operations of the organization were formalized in the process, which meant an increasing reliance on formal rules and bylaws. As many activities of the union became formally encoded, so too did the practices of solidarity. Organized labour solidarity was increasingly subject to organizational rules and procedures as a result of the directive for local organizations to act in solidarity. Writing in the 1910s, Robert Michels (1966; see also Hyman 1975, 15), a student of Max Weber, described such processes for political parties and famously formulated the "iron law of oligarchy", that reinforced the elite status of those who are able to manoeuvre these bureaucratic processes, taking on problems in their own right. These tendencies intensified following the development of collective bargaining rights in law.

As socialists gained increasing electoral relevance and sought to engender greater solidarity and build coalitions, they could no longer focus only on improving their socialist experiments. The development of a socialist strategy towards the nation-state meant both a narrowing as well as

broadening of perspective. It narrowed in comparison to the internationalist outlook of the First

International (IWMA) or the Second International. Socialists increasingly concentrated on

creating alliances at the national level to achieve state power. This strategic move towards the

nation-state was also endorsed and encouraged by developments in the Soviet Union, with

Joseph Stalin propagating "Socialism in One Country" in the 1920s, presumably following ideas

of Vladimir I. Lenin (Fischer 1982, 471–496). The strategy broadened insofar as the political

focus shifted from supporting socialist experiments towards realizing social reforms and welfare

for "the people" rather than only for socialists (party or union members). Esping-Andersen

concludes that "the socialists came to espouse the principle of universalism; borrowing from the

liberals, their program was, typically, designed along the lines of the democratic flat-rate, general

revenue-financed Beveridge model" (Esping-Andersen 1990, 25). In this move, law came to play

an increasingly important role for the practice of solidarity. It further continued the process of

formalization already on the way. On the one side, the law came to function as a fixation of

standards, labour, social and otherwise, i.e. standards that labour had struggled for and that the

state and capital conceded. With the state taking over the enforcement of the law, the labour

movement was partly unburdened of the task of implementation.

Esping-Andersen (1990, 18) describes the socialist approach towards welfare policy as aimed at

"decommodification". In this sense, the struggle for social rights was directed at increasing the

independence of workers from the market. 'Decommodification' meant stripping labour of its

character as a commodity. Accordingly, in an ideal world workers should have the ability to

maintain their livelihood and well-being without depending on a wage. For Esping-Andersen,

labour and socialist organization sought a gradual approach working towards de-commodifying

labour by increasing social rights and protections (health insurance, sick pay, unemployment benefits, and so on) in order to reduce their dependency on selling their labour. In Esping-Andersen's account of socialist and social democratic strategy, decommodification is not only an end in itself, but importantly, a means. He writes:

> For labor, [decommodification] has always been a priority. When workers are completely market-dependent, they are difficult to mobilize for solidaristic action. Since their resources mirror market inequalities, divisions emerge between the 'ins' and the 'outs', making labor-movement formation difficult. Decommodification strengthens the worker and weakens the absolute authority of the employer (Esping-Andersen 1990, 22).

By fixing solidarity in law, solidarity was no longer only a "labour" issue, but became a "social" one. This development was fostered by the realization that for socialists to have a meaningful impact on policies, they had to achieve parliamentary significance. The emphasis and the exact relationship between socialist parties and unions, and between political and labour strategies to be sure, differed significantly in Western Europe (Upchurch, Taylor, and Mathers 2012). In Germany the party arguably had a stronger grip on union strategy than, to give one instance, in Sweden (Bucken-Knapp 2009). Focusing on (economic) progress, an aim that was viewed to unite labour and capital, promised to be a strategy with greater returns than engaging in the zero-sum game of class war (for an interesting account of this history see Hoffrogge 2011; Upchurch, Taylor, and Mathers 2012; Abendroth 1972).

In Gøsta Esping-Andersen's survey of several OECD countries he emphasizes significant differences in the degree of decommodification achieved. On a broad spectrum, Esping-Andersen (1990, 23) finds Scandinavian countries to be the most decommodified and Anglo-Saxon countries to be the least decommodified. In his later work, Esping-Andersen also includes Southern European countries in his studies and finds similarly low degree of decommodification

there (Esping-Andersen 1999)). Germany is located somewhere in the middle, with a relatively large volume of welfare benefits redistributed based on contributions and status. The benefits thus offer little independence from the labour market especially for young, migrant, or precariously employed workers with low income who have made few contributions. Esping-Andersen credits the labour movement and socialist/social-democratic parties, and their strategic abilities to build coalitions, with the actual degree of decommodification achieved in a particular country (for example Esping-Andersen 1990, 114).

Throughout Western Europe (and beyond), however, the idea of interests common to workers and employers gradually seeped into social democratic politics, predominantly in the form of a faith in progress and industrialization (Touraine 2000). The framework of this common interest, to be sure, was the nation-state. The political attempts to rein in economic development through a Fordist and Keynesian approach gained hegemonic status in the U.S., Canada and Europe, starting roughly in the 1920s (possibly with the Social Democrats becoming the governing party in Sweden in 1921). In the context of the post-war reconstruction after World War II, it was firmly believed that a new order of political economic regulation could be established in a well-ordered international constellation of countries. Labour migration did not figure as a relevant reality in this picture. Being both a worker and a citizen, like two sides of the same coin, became the dominant ideology of citizenship (Munck, Schierup, and Delgado Wise 2011). In this situation, the struggle for social citizenship became the calling of labour.

Still into the 1980s, Walter Korpi (1978; 1983) describes the social democratic strategy in Sweden as a gradual tipping of the balance between proletarian organizations and the

bourgeoisie through the expansion of the welfare state (Tilton 1990). While here the prospect of overcoming the capitalist order was still alive, in Germany trade unions and social democratic party had already given up on such ideas.

Notes on the system of industrial relations in Germany

For trade unions, this political mission arguably had already been given up with the foundation of the German Trade Union Confederation in 1949, hence shortly after World War II. As a unified trade union ["*Einheitsgewerkschaft*"] it consisted of several single unions (more or less) distinguished by industry and committed to the principle of "one plant – one union". At the same time, links to political ideology or party (such as the Social Democratic Party, SPD) had to be given up. In Germany, the Social Democratic Party has long struggled with the conservative and centrist ideological grip on workers. A chief difference between the social democratic and the Christian (especially Catholic) workers' movement in Germany was the emphasis on the role of the state in the mediation between capital and labour, with socialists favouring a bipartite, conservatives a tripartite, form of corporatism (Cox 1987).

Under the umbrella of German system of social partnership and co-determination, unions became legally inscribed as "social partners" that were to negotiate collective agreements with employer association in different industries that, as a general rule, were binding for every worker regardless of union membership. Thus, in contrast to North American unions, in German unions important decisions were centralized, situating union nationals in a particularly powerful position. The system itself set incentives to strengthen the position of the union elite in an institutionalized negotiation with the employer. The situation for workers on the shopfloor

became more dependent on having proper representation in work councils or support from union representatives to implement existing agreements, more so than on organizing with other workers to establish a union against employers' resistance.

As Dörre (2013, 97) elaborates, in Germany arrangements between capital and labour were institutionalized to fix power relations in law independently of societal or economic situations. These institutional arrangements are complex, involve unintended consequences and partially assume a life of their own—which is not surprising when this arrangement is understood to be part of the political-administrative system. Dealing with these institutional arrangements thus constitutes a distinct kind of engagement for trade unions. Dörre (2013, 98) refers to this as an active care for the institutional arrangements with the "social partners".

Authors like Otto Jacobi (2007) or Wolfgang Streeck (1982) claim that as a trend in post-war Germany, trade unions have increasingly focused in the institutional field of activity, while neglecting the direct concern with organizing members on a broad scale. Several reasons have been mentioned, I will just mention two: First, the economic boom and the increasing material welfare of broad segments of the population in Northern and Western Europe made the conflict between capital and labour appear as "resolved" rather than "antagonistic". Economic growth was the formula that promised improvements to both labour and capital and became the framework of collaboration under the national umbrella (Wahl 2011). A consensus had it that the arrangement secured stability and benefited all three parties. In return for workers' submission to the institutional rules, they were entitled to civic, political and social citizenship rights. Second, the state and employer associations had an interest in avoiding labour unrest and therefore

supported trade union leaders in various ways who were committed to corporatist arrangements and thus willing to discipline disruptive rank-and-file (Streeck 1982).

The Social Democratic Party officially made peace with capitalism, adopting the Godesberg Program in 1959 (Abendroth 1972). Compared to the mission of the First International, the political economy of international relations was bracketed out—notwithstanding the social democratic projects of international solidarity that remained a political sideline (Waterman 2001). All too often, as Joachim Hirsch (1997) argues, unions and social democratic parties bought into the "national competitive state" without interrogating Germany's implication in uneven development at the international level.

Decommodifying migrant labour? German unions and migrant workers post World War II

Decommodification strategies in Germany intersected in peculiar ways with citizenship and migration. Between the 1950s to 1970s, trade unions agreed to "guest worker" recruitment under the condition that their employment would not undermine social entitlements and foster cut-throat competition. Thus, guest workers attained a temporary status and were entitled to social citizenship rights. Notably, unions largely accepted that "guest workers'" political and civic rights were severely curtailed, that they could not (freely) change employment and that the length of stay was restricted. While membership was formally open to migrant workers—and several migrant workers became union members—trade unions showed little interest to actually become accommodating and to organize migrant workers (Matziari 2014). Rather than organizing them, unions focused their efforts on institutional arrangements so as to increase the benefits for (non-migrant) union workers (Treichler 1998). As a result of this, migrants were

predominantly employed in occupations designated as low- or semi-skilled, allowing for an up-skilling of "German" workers. Between 1960 and 1970, according to Friedrich Heckmann's calculations, about 2,3 million "native" workers moved up through such "elevator-effect" from the position of "worker" to "employee" (Heckmann 1981). In cases when guest workers stood up for better employment conditions, trade unions were hesitant to take up their cause, sometimes siding with the employer and turning against them, as infamously happened in the case of the wild cat strikes at the Ford plant in Cologne in 1973 (Bojadžijev 2008; Karakayalı 2005).

Bundesarchiv, B 145 Bild-F038815-0012
Foto: Schaack, Lothar | 27. Januar 1973

Illustration 2: Guest workers at Volkswagen in Wolfsburg, 1973; Bundesarchiv, B 145 Bild-F038815-0012 / Schaack, Lothar / CC-BY-SA 3.0

Clearly, this situation had to do with the system of industrial relation in which the incentives to organize "guest workers" were low. Since collective agreements were made by high-ranking officials for entire industries, the idea that union power rested "up there" might have been more palpable for workers than ideas of power "from the bottom up" (I. Schmidt 2005). Under the

assumption that guest workers returned to their country of origin sooner or later, unionizing them arguably was not expected by many union leaders to bring positive long-term effects with respect to the institutional power of unions (Nickel 2004, 23; Matziari 2014).

The 1970s brought about significant changes to the regulation of migrant workers. The "guest-worker" regime was ended in the context of a weakening economy and growing unemployment. The idea of migrant workers as beneficial to the German economy became increasingly contested in public debates (Herbert 2003). With the ideology of a social partnership remaining largely intact and under conditions of a slowing or stagflating economy, the employment of migrant workers, especially new arrivals, turned into a threat (Karakayalı and Tsianos 2005). As new categories of migration regulation were developed, migrant workers could no longer enter the country and seek employment as "guest workers". In the 1980s, many migrants who sought employment entered as "asylum seekers", however they experienced long waiting periods until being able to apply for work permits (that were limited to employers and regions). In 1980, the waiting period was one year. However, under growing unemployment in Germany, it was extended to two years in 1981 and five years in 1987. Meanwhile, the so-called "asylum debate" gained heat, with fears fomenting of asylum seekers free-riding on the generosity of the welfare system (Herbert 2003, 269). After the constitutional amendments on the right to asylum in 1992/1993, amounting to a *de facto* abolition of the right to asylum (see chapter 4), undocumented migration remained the only option for many migrants to take up work in Germany. For other migrants, especially from Western and Southern European countries, new options as "posted workers" opened up in the 1990s.

While xenophobic reactions against migrants can be found probably in most other countries throughout the 1980s, they were particularly harsh in Germany. In the US and Sweden, for example, the labour movement recognized much earlier the significance of recruiting and integrating (post-guest worker) migrant workers into their ranks. In the US, unions turned to organizing migrant workers from a position of weakness and low unionization. Migrant workers were considered a potential for regaining union strength and leverage, especially in certain sectors of the expanding service sector (Milkman 2006; Milkman and Ott 2014). A remarkable result of this development is that, by now, organized labour has become the most powerful institution pushing for immigration reform, including a broad legalization for undocumented migrants (Kazin 2013). In Sweden, by contrast, unions' openness towards migrant workers was related to a position of institutional strength and high unionization. This policy stance was to avoid the bifurcation of the labour market and to ensure that collective agreements remain valid and effective throughout. Swedish unions were vocal advocates (and remarkably prevailed against the opposition of the Swedish social democratic party) against a transition period in which workers from new EU countries in 2004 were to be exempted from the right to free movement in the Swedish labour market (Bucken-Knapp 2009). Besides the UK and Ireland (who forsook the transition period, because labour was in short supply), Sweden thus did not institute transition laws, thus effectively de-criminalizing those workers who had already been present in the country (Bucken-Knapp 2009). In Sweden, too, unions have long pushed for removing restrictions to the labour market for asylum seekers (Wiman 2010).

Developments in the construction sector in the 1990s

As a result of the economic crisis in the mid-1970s, capital increasingly sought a spatial fix (Harvey 2001) to address decreasing profits. Some capital factions transferred production abroad into low-wage countries. In the case of immobile production, such as construction, employers drew on migrants as cheap labour. The demise of the Eastern bloc in 1989/1990 and the completion of the European Single Market in 1993 were opportunities for employers to attract foreign labour in greater numbers and beyond government-regulated quotas. The IG BAU increasingly struggled to keep its influence in the labour market regulation. Once an industry with high unionization rates well above 35 per cent (Cyrus 2002, 196), the IG BAU lost more members and leverage in the industry. A quick look at the numbers of the IG BAU suggests the union predicament in the construction industry. Whereas in 1994, the IG BAU counted 653,000 members, in 2000 it was down to 539,744 (Cyrus 2002, 196) and in 2014 it was a mere 280,926 (Deutscher Gewerkschaftsbund 2015). Clearly, the numbers as such do not allow for a straightforward interpretation of the development in the construction industry. Though by the majority construction, the union also organizes cleaning, agricultural and environmental workers. The numbers become even worse for the union considering that they included the 83,000 members of the agricultural union that merged into the IG BAU in 1996 (Streeck and Visser 1998, 25).

In the 1990s and 2000s, the rise in unemployment among German construction workers due to replacement by migrant workers, became a controversial political topic (Cyrus 2002, 196). In 1995, Christian Democratic Minister for Labour and Social Affairs, Norbert Blüm, addressed a trade union crowd by juxtaposing the unemployment of 134,000 resident construction workers

with the employment of 150,000 workers who came to Germany from other countries of the EU

(Blüm 1995). In his study of the monthly membership magazine of the IG BAU ("*Der*

Grundstein" – The Foundation Stone) from 1990 to 1997, Norbert Cyrus (2002) traces the

strong belief in corporatist arrangements as the proper leverage for trade union interests. He

observes that the worsening condition in the construction industry starting in the mid-1990s was

blamed on various outsiders to the corporatist arrangements, including workers from the GDR,[13]

CEE contract-workers, posted EU-workers, and eventually illegally employed foreign workers.

Over the following decade, the concern with migrant workers (mostly from EU countries) who

had a formal employment contract shifted to a concern with illegal migrant labour (Cyrus 2002,

194).

In June 2001, the *Foundation Stone* ran a story titled: "Construction site as scene of the crime:

300,000 illegals". As a remedy, the IG BAU proposed to increase controls on construction sites.

This was a consistent response that culminated in the campaign "Can't do without rules" ("*Ohne*

Regeln geht es nicht!") in 2004. This campaign introduced a hotline and enlisted civil society to

report suspicions of illegal employment. Without further detailing "illegal employment", critics

objected that the campaign effectively played on racialized conceptions of "illegal workers",

specifically targeting work-sites where racialized workers were employed. While the IG BAU

has always emphasized its objective to bring criminal employers to justice, the campaign also led

to the deportation of many undocumented migrant workers (Wompel 2005, 68). Still in 2009, an

IG BAU documentary on migrant workers in construction (Mayer 2009) referred to

undocumented migrant workers using the highly problematic term "illegals".

---

[13] Workers from the GDR were employed in Western Germany in the period between the fall of the wall (in
November 1989) and reunification (in October 1990).
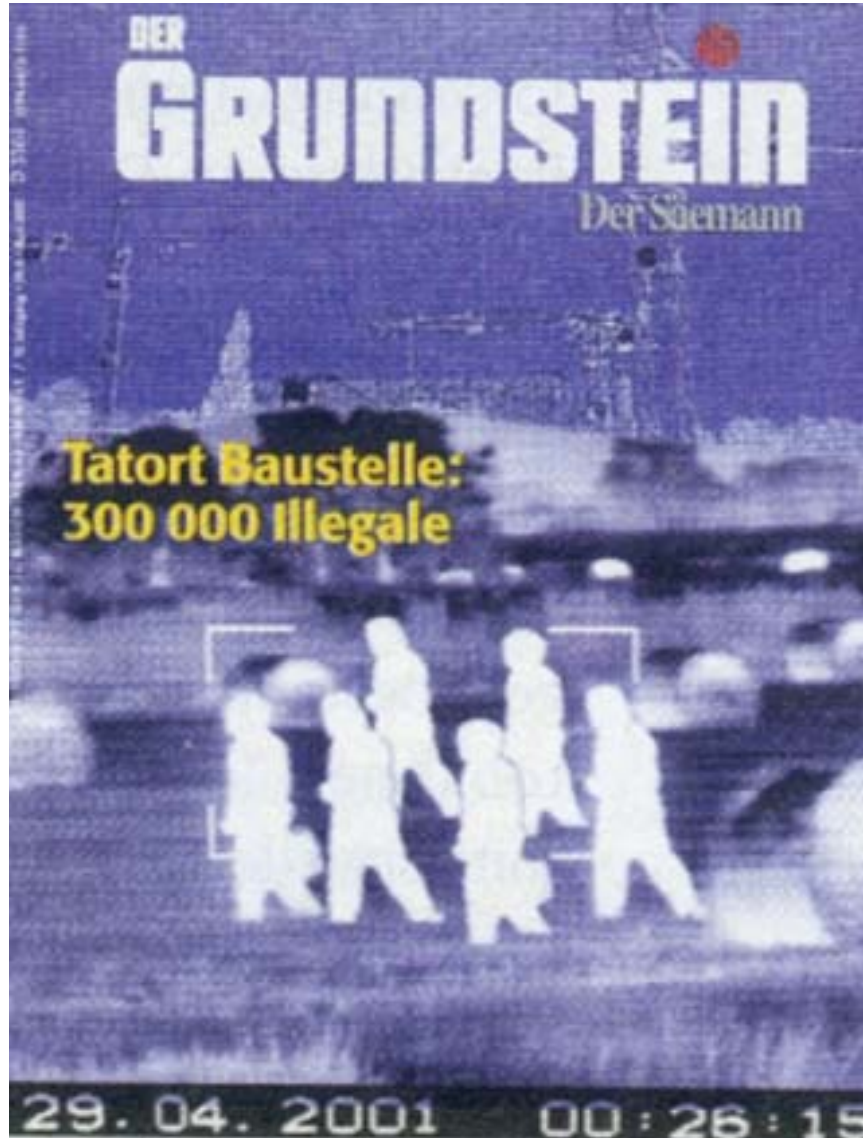
Illustration 3: Cover of the IG BAU member magazine. "Crime Scene Construction Site: 300,000 Illegals"

As the prospect of rights to free movement in the EU for Polish and other Eastern European workers became more concrete with EU Eastern Enlargement planned for 2004, the IG BAU lobbied its "social partners" to agree to a minimum of ten years before Polish workers would gain full membership rights. In conjunction with the DGB and employers' associations, the IG BAU finally brought the state to implement an interim period of seven years in which workers from new EU countries were exempted from the rights to free movement. Such a measure was a

clear signal of exclusion and rested on the ongoing illegalization of migrant workers and the
implied use of state repression against those who nevertheless sought to work illegally.

Changing tides? Supportive approaches towards undocumented migrant workers

Repressive approaches towards undocumented migrant workers were not uncontested. Towards
the late 1990s, more and more initiatives were founded to support undocumented migrant
workers in organizing and claiming labour rights. At first, they were established outside of
unions, and eventually union members sought to bring in organizational changes towards a more
inclusive practice of solidarity. A frequent reference for these efforts in Germany has been the
"Justice for Janitors" (J4J) campaign in the US that culminated in a strike of janitors, including
undocumented workers, in Los Angeles in 1990. Notably, the German premiere of Ken Loach's
"Bread and Roses" (Loach 2001), the film that narrates the J4J story, was held at the union
congress of the IG BAU on September 30 in 2001.

Another important inspiration for the German context was the church occupation of roughly 300
"*sans-papiers*" in Paris in 1996 when French trade unions started to assume a supportive role for
these workers (Heck 2008, 123; Barron et al. 2011). This event also gave impetus to the
foundation of the German network "No One Is Illegal" ["*Kein Mensch ist illegal*"] in 1997.
According to Gerda Heck (2008, 121), its institutionalization marked an important shift in the
anti-racist movement away from a focus on the right to asylum towards the mechanisms and
consequences of illegalization, including the concern for labour. Part of the petition of "No One
Is Illegal", established at the art exhibition "dokumenta" in Kassel in 1997, reads as follows:

> All people have the right to decide for themselves where and how they want to live.

Respecting human rights for every human being regardless of their origin or identity means that the regulation of migration and the systematic denial of rights go against the demand for equality in all socially and politically relevant areas.
For these reasons we are calling for the support of migrants on entry and the continuation of their journey. We are calling for the provision of work and identity papers for migrants. We are calling for the supply of medical care, education and training, accommodation and material survival.
Because no one is illegal (Homann 2014).

In the mid 1990s, activist readings of German labour law fostered a consciousness that labour rights are applicable to undocumented migrant workers. Drawing on the legal definition of the "factual employment", it was argued that rights emanate from undocumented labour, even if the contract might be void (McHardy 1994; Wollenschläger 1994). Complementing these initiatives "illegal migration" and the rights of migrant workers were increasingly taken up by international organizations as an issue of concern. Sonia Marko, staff member at the division of migration at *ver.di*, argues that the ILO propelled the idea of labour rights as inalienable rights worldwide with the adoption of the *Declaration on Fundamental Principles and Rights at Work* in 1998 and the subsequent Decent Work Agenda, (Marko 2012).

ZAPO and other activist initiatives

Such developments set the ground for the migrant rights NGO "*Polish Social Council*", that was instituted by and for Polish migrants in Berlin. Its project ZAPO ["*Zentrale integrierte Anlaufstelle für Pendlerinnen und Pendler aus Osteuropa*" – "Integrated centre for commuters from Eastern Europe"] existed from 1997 until 2003. The German Trade Union Confederation and the local Berlin "Commissioner for Foreigners" advocated for this project and lobbied for job creation measures to staff this project: Four legal advisors plus administrative and coordinating staff (Roth 1999). By offering legal counsel, ZAPO encouraged undocumented

workers, who mostly came from Poland, to demand that the employers honour contract agreements and labour rights. Most workers who approached the office were employed in the construction industry but workers from other sectors also sought support, particularly women employed in domestic work or cleaning. By the time workers came to ZAPO for support, they often had already slipped into a desperate situation. Usually at the end of the employment contract or in cases of work-related sickness or accidents (Cyrus 2004, 29), workers only sought help when they had the impression that there was nothing left to lose. Unpaid wages were a common complaint.

The approach of ZAPO to support workers in labour conflict is still fundamentally relevant today. As a first step, ZAPO contacted the employer to make workers' claims official and to initiate the legal processing of the conflict. In some cases for the worker, just the fact of being backed by an organization improved the position of the worker to bring about a settlement. In other instances, where this had not been successful, ZAPO supported public actions, such as demonstrations or strikes, to bring public pressure on principal contractors to take responsibility for unpaid wages. Usually as the last measure, the organization helped defrauded workers to bring their claims to court (Cyrus 2004, 29–30). ZAPO thus made two important issues public: First, this project raised awareness that undocumented workers are not merely passive victims of a trafficking mafia, but that they can be empowered to stand up to the employer. Second, through legal cases the NGO also demonstrated that labour rights, especially the entitlement to wages, apply to workers and can be realized regardless of legal residency status. The decreasing state support for the job-creation measures, however, spelled the end of ZAPO in 2003 (Cyrus 2004, 29).

Subsequent activism for undocumented migrant workers' rights drew on insights from the ZAPO experience. Other notable events in this respect include the founding of the Berlin affiliate of the RESPECT-network in 1999. "RESPECT" (Rights, Equality, Solidarity, Power, Europe Cooperation Today) was initiated in 1998 as a European network of self-organized groups, counselling centres and individuals to support and promote the (self-)organizing of migrant domestic workers. In contrast to ZAPO, organizing efforts of Respect were activist-based and had no paid staff and significantly less financial resources (Respect Berlin 2015). Another activist project that raised some public awareness collaborated with asylum seekers. In 2003 asylum seekers, who were illegally employed in Berlin and cheated of their wages, held a demonstration together with the "Refugee Initiative Brandenburg" ("*Flüchtlingsinitiative Brandenburg*") and other supporters, in front of the construction site of a public housing cooperative where these workers had been employed. This public action contributed to the campaign's success in reclaiming a significant portion of unpaid wages (*tageszeitung* 2003). The campaign was carried out in close connection with union activists who promoted the "organizing model" and sought to link it with the supportive approach towards undocumented migrant workers (Elixir-A 2004).

Illustration 4: Demonstration of unpaid asylum seekers who worked on a construction site of a housing company. June 11, 2003: The banner says "Against wage theft and illegalization" Source: Omer Fadl/Umbruch Bildarchiv. http://www.umbruch-bildarchiv.de/bildarchiv/ereignis/110603protestgegenlohnbetrug.html With friendly permission from Umbruch Bildarchiv.

Activist interventions in trade unions

In 2003, "Respect Berlin" and the migrant rights organization "Kanak Attak" observed that in Germany "resistance [of undocumented migrant workers] against bad working conditions is neither organized within nor even noticed by the trade union" (Respect Berlin and kanak attak 2003). In conjunction with the Refugee Initiative Brandenburg, Kanak Attak and Respect Berlin founded the "Association for Legalization" ("*Gesellschaft für Legalisierung*", *GfL*). One of its declared purposes was to promote the UN Convention for the Rights of Migrant Workers ("*International Convention for the Protection of the Rights of All Migrant Workers and the*

Illustration 5: Demonstration in support of unpaid construction workers and asylum seekers. October 24, 2003. The writing on the bag says: "Where are the unions? They should represent us!" The use of these particular kinds of bags is symbolic for migration in Germany. Source: Omer Fadl/Umbruch Bildarchiv. With friendly permission from Umbruch Bildarchiv.

Members of Their Families"), that was passed in 2003 as an international framework for improving the legal situation and access to public institutions for migrant workers. A major achievement of the *GfL* was the intervention at the congress of the services sector trade union *ver.di* in October 2003. Framed as an initiative of *ver.di* members, the *GfL* demonstrated at the congress to raise the union's attention to marginalized workers without papers. The *GfL* even gained extra-ordinary speaking rights at congress to demand that *ver.di* start to adjust its own organizational policies and culture to become more welcoming and attractive for undocumented migrant workers to join. The speakers, Susanne Schultz and Barbara Miranda called on congress delegates to develop a union organizing strategy with undocumented migrant workers, including

domestic and sex workers. Former undocumented worker, Barbara Miranda, who later became a

founding member of the MigrAr centre in Berlin, appealed to the delegates:

> I ask you to listen to us. Take us into consideration. There are a lot of us and we already
> live amongst you. We work in this country. Since we work here, we also have rights. [...]
> We finally want to be paid our wages at the end of the month, just as it is ordinary. We
> don't want to be abused sexually at work any longer. We don't want to be paid way too
> small wages any longer. We wish to work just like everyone else and in dignity just like all
> of you, too. We are workers. We need the support of the union. We need someone to carry
> our voice outside. That is why we want to be members of the union (ver.di 2003).

At the congress, members of the *GfL* recorded and publicized a statement by *ver.di* chairman

Frank Bsirske stating that an undocumented status is not a hindrance to becoming a union

member. At the time, such a supportive statement by a leading union functionary counted as

surprising (Zülch and Engelschall 2005).

Around the same time, in October 2003, the trade union congress of the metal workers union, IG

Metall, passed a resolution (Resolution 1.023) that called all local migration committees of the

union to take care of migrants without proper papers. It reads: "It is important to inform them

about their rights, to protect them, to recruit them as members of the IG Metall and to

accompany them during their legalization" (Arbeitskreis Internationalismus IG Metall Berlin

2004). The Working Group on Internationalism at the IG Metall local in Berlin aligned such

resolution with the union principle of fostering solidarity among all wage earners, as the

foundation for better and more secure working conditions as well as improved living quality

(Stock 2005). It criticized the union however for not following through with this resolution in

real terms. Reflecting on the reasons for this, the Working Group wrote:

> The fault is also with the idea that people without papers ought to take initiative and
> approach the union, once they encounter a problem. But: why should they do it? Probably
> they don't have any clue about resolution 1.023 of the IG Metall. Possibly they don't even

have any idea about having rights and being able to demand them (Arbeitskreis Internationalismus IG Metall Berlin 2004).

The group went ahead with the idea of a community union outreach and labeled the volunteers as "Legalization companions." The campaign was also presented at the Mayday demonstration in 2005 and sought donations to fund outreach, and an info-bicycle, to actively seek out undocumented migrants, pass on the information about labour rights and the union, and offer to support. Neither the local nor the national however, committed any funds for that purpose (Gester and Reich 2007). Without organizational support, the campaign eventually faded.

Alternative approaches were also gaining momentum in the IG BAU as several members publicly opposed the "Can't do without rules!" campaign in an open letter entitled "Our rules are of no use!" ["*Unsere Regeln taugen nichts!*"] (Harning and Maurer 2004). The authors of the letter, IG BAU activists Olaf Harning and Matthias Maurer, rejected the campaign not only for its xenophobic and racist implications, but ultimately also for its ineffectiveness. They argued that the denunciation of illegally employed (migrant) workers does not do away with employers who, for a lack of evidence, often cannot be found guilty of illegal practice. Workers who had been denounced for illegal employment are usually too scared or unwilling to cooperate with state enforcement agencies. Harning and Maurer therefore plead for the collaboration with migrant workers as the most promising strategy to bring such employers to justice.

No doubt, this controversy formed an important backdrop for the IG BAU's decision to launch the European Migrant Workers Union (EMWU) that same year (see also Schröder 2015). This initiative was meant to become a transnational union structure to organize migrant construction

workers, including undocumented ones. The IG BAU provided €1.5 Million for the EMWU to start up, hoping that within two years the EMWU would become self-sustainable through membership dues. While the IG BAU continued to call for tougher controls by enforcement agencies, this initiative also signalled changing tides within the union.

Undocumented labour, precariousness and the emergence of worker centres

In the early 2000s, the deregulation of the labour market and the fostering of a low-wage sector by a social-democratic government frustrated several unionists' faith in institutional reforms as a way to restore labour's power. An important indicator is the decreasing coverage of collective agreements for workers. Whereas in 1998, 76 per cent of workers in the Western part of Germany and 63 per cent in the Eastern part were covered by collective agreements, in 2014 the numbers fell to 60 and 47 per cents respectively (WSI 2015). Klaus Dörre (2013) argues that unions had lost sight of the fact that conditions of possibility for institutional leveraging have been slowly hollowed out, eventually having repercussions on unions' ability to wield institutionalized instruments of influence. In this respect, an over-reliance on corporatist institutions has been counterproductive with respect to trade union power, in that it hampered unions from reversing this trend of "precarization" through organizing strategies (in relation to the Canadian context, see Panitch and Swartz 2003; Wells 1995).

The discourse around precarization also implied that living and working conditions were diverse and organizing strategies had to deal with these differences. In this context, undocumented labour has often been posed as the epitome of neoliberal labour market policy and its disenfranchisement of subjects (for example, Willenbücher 2007). Organizing with

undocumented migrant workers thus might appear to be a symbolic challenge for confronting the neoliberal regime.

Two activist congresses entitled "Costs rebel!" ["*Die Kosten rebellieren!*"] held in 2004 and 2006 were important events in this discursive context. Through discussions around the relationship between precarious labour and migration, networks between labour and anti-racist activists were fostered and expanded. Many activists reflected about a converging trend of labour conditions among undocumented migrants and many low-wage workers who work legally. The perspective on precariousness highlighted the fact that organizing cannot solely be company-based at a time when workers fluctuate between companies and work is increasingly outsourced.

As an alternative, worker centre experiences in the US were discussed as a promising strategy for organizing in Germany (Huckenbeck and Kopp 2006). In the US, with roots reaching back to the early 20th century hiring halls, particularly in the long-shore industry (Nelson 1990), worker centres had already (re-)emerged in several labour sectors since the 1980s, particularly in "global city" port-of-entries for migrant workers (Fine 2011; 2006). Low-wage and precariously employed migrant workers often self-organized into workers centres as a strategy for coping with their highly precarious employment conditions (Theodore, Valenzuela, and Meléndez 2009; Martin, Morales, and Theodore 2007). Organizing workers from various employers in a job sector, these worker centres took on concerns beyond narrow workplace, issues to include racial or ethnic discrimination, language skills, cultural practices as a basis for building solidarity (Benz 2014). While several worker centres aim at organizing workers into unions, union membership is usually not prerequisite (Ness 1998, 94).

The worker centre approach was taken up by activists in the Rhine-Main-region (around

Frankfurt) in 2003 and developed over time through personal exchanges with organizers in Los

Angeles. One of the first goals, according to one of the activists, Hagen Kopp, was to establish a

"space for communication" to allow for an exchange of workers in precarious employment

situations to gain a differentiated understanding of commonalities and differences, including

residency status (Rakowitz 2005). It also became clear that a worker centre approach requires

networking of various actors—from trade unions, migrant community organizations, women's

rights groups to social service providers—as a way to reach out to undocumented migrants who

are often reluctant to "come out" to official institutions due to fear of deportation. At the same

time, networked collaboration such as this also allows for a more "holistic approach" (Rakowitz

2005) of organizing, taking into account the interconnectedness of reproductive, social and

labour concerns.

In 2004, in a first successful intervention, activists of the Rhine-Main worker centre supported

Romanian asparagus harvesters to pressure the employer to disburse unpaid wages. The

employer had counted on getting away with not paying the promised wages, assuming that

workers would be too intimidated to approach enforcement agencies for fear of criminalization

and deportation. When the worker centre threatened to pursue legal steps, the employer became

intimidated and finally paid wages (AG3F 2005). The centre's projects eventually lost

momentum due to a lack of volunteer capacities, but the idea of worker centres continued to live

on in other projects. The experience also exemplified the significant amount of resources

required to build trusting relationships with migrant workers. Various obstacles needed to be

overcome to even make a first contact. Making this kind of centre known to migrant workers is no easy task, since these workers are often not aware of its existence and activists also don't know where to conduct outreach. Moreover, given the fear of deportation, migrant workers without residency or work permits are often reluctant to disclose their legal situation to organizations that they are not familiar with. This is particularly true for labour organizations; migrant workers often do have a sense of unions' historical hostility towards them.

Institutionalizing MigrAr centres: Too little to live on, too much to die on

One significant variant of the worker centre idea has been a concentration on the legal residency status as hampering labour mobilization and thus requiring specific support. Two important developments shaped this standpoint. First, as we have seen, there had been significant contention within trade unions about their relationship towards undocumented migrant workers. And, second, activist and professional support for undocumented migrants increasingly realized that wage work is a crucial piece that had been missing in support structures for people without papers. Until then, professional and activist support for undocumented migrants had mostly focused on issues like health care, legal support for residency and asylum claims, education (such as access to German language classes, school education for children). These two developments made collaboration feasible between two sides that traditionally had a rather suspicious perspective on each other: on the one side, union-related activists, on the other side, anti-racist, human rights or church-based activists (see also the discussion in the following chapter). This makes the MigrAr experiment also interesting for the way it enabled such collaboration.

The first trade union centre for undocumented migrant workers opened under the umbrella of *ver.di* Hamburg in 2008. That it first happened in Hamburg is no coincidence. In 2006 and 2007 the *ver.di* local in Hamburg was the first local to start a pilot project to systematically experiment with organizing in different sectors of precarious work, including cleaning, domestic, care work, sex work and dock work (Mitrović 2010b). A lead coordinator of the project, Peter Bremme, considered it a crucial goal to win migrants for the union (Bremme 2007, 194) and conceived of organizing as "independent from national boundaries" (Bremme, Fürniß, and Meinecke 2007, 12). The prevalence and significance of the "illegal status" had already been highlighted by the organizing project among sex workers, led by Emilija Mitrović, the eventual co-founder of MigrAr Hamburg. Trying to come to grips with this situation in the context of union organizing, Hamburg's union activists contacted other unions in the UK and Sweden who had already begun to collaborate with illegalized migrants (Mitrović 2010b).

Based on this groundwork and the established networks, the "Working Group on Undocumented Labour" ["*Arbeitskreis Undokumentierte Arbeit*"] was formed in Hamburg in 2007. Comprised of representatives from local trade unions, human rights organizations, social service NGOs, including church-based and migrant community groups, as well as leftist individuals, this "Working Group" helped a domestic worker from Colombia, Ana S., to sue her employer for unpaid wages in 2008. Ana had been employed for two and a half years with illegal status after a first year as "au pair" in a wealthy family. Working about 70 hours per week for a small allowance, Ana finally left the family to demand the payment of outstanding wages of €47,000, with the help of the services sector union *ver.di*. Ana rejected her employer's offer of €12,500 (Mitrović 2010b, 5). The settlement of the case (with an unknown sum) was sold as a success by

the trade union and made headlines in several newspapers. Following on the wake of public attention, the first MigrAr centre was established only weeks later under the umbrella of the *ver.di* local Hamburg. Its explicit goal was to institutionalize specific union support structures for workers with precarious residency status. The centre was to offer legal counselling in the areas of labour and social law to workers regardless of their status and without requiring union membership for first contact. When the Hamburg district of the German Trade Union Confederation (DGB) took over responsibility for the MigrAr centre, DGB-chairman Uwe Grund explained:

> We have recognized as a union task to improve the situation of people without regular residency status. These people often find themselves in precarious situations, it is therefore firstly a humanitarian task. There are employers, who often abuse the uncertain residency status in downright inhuman and criminal ways at the expense of the affected. Secondly, it is necessary to view the negative consequences on all employment relationships that are being drawn into the maelstrom of wage dumping (DGB Hamburg 2010).

Inspired by the example in Hamburg, the "Working Group Undocumented Labour" in Berlin, consisting of activist groups like "Respect Berlin", the office for medical services for migrants and refugees without health insurance ("*MediBüro*"), as well as other feminist and anti-racist organizations had lobbied the local *ver.di* for such a centre, which finally opened in March 2009. In Berlin, legal counselling on work issues was explicitly connected with the goal to "provide a platform for political organizing of workers without papers and [to] work on changing social relationships that profit from illegalization" (AK Undokumentierte Arbeit 2010). Munich followed a similar route and opened the "Sans-Papiers Counselling Centre" (Anlaufstelle Sans Papiers 2010). Much of the collaboration centred on a local anti-racist activist group called "Initiative Civil Courage" ["*Initiative Zivilcourage*"]. In 2010, with the support of *ver.di*, the Initiative opened a centre for day labourers (mostly Turkish-minority Bulgarians) close to where they waited for work in downtown Munich.

160

Illustration 6: Cover image of the documentary "Always Wear a Smile" ["*Mit einem Lächeln auf den Lippen*"] on the case of Ana S.in Hamburg. Directed by Anne Frisius (www.kiezfilme.de). Photo by mona setter, www.ardt.de; Used with friendly permission.

In Frankfurt, some activists of the "Worker Center Rhine-Main" became the main initiators for

the MigrAr centre in Frankfurt. In addition to the network of NGOs and community

organizations, this initiative successfully convinced all trade unions organized under the

umbrella of the German Trade Union Confederation (DGB) to support the effort and hence

became formally institutionalized within the DGB. In a press release on the occasion of the

opening of the centre, Jürgen Bothner, the head of the *ver.di* district Hesse is quoted saying:

> Trade unions turn against exploitation in any form. That is why it is necessary to place the
> power of people organized in ver.di at the service of helpless people without secure

residency status. [...] Solidarity arises for us from the human capacity of sympathy with the fate of the other and compassion (ver.di Hessen 2010).

Similar counselling centres have also been established in Cologne and Bremen (Kompass.Antira.Info 2011). All these centres run based on volunteer labour and so they have limited capacities to offer support. Some funding existed in Hamburg and Bremen. MigrAr Hamburg, recognized by the *ver.di* district as a "pilot project", received some financial resources for a small part-time staff. The initiative "You have rights!" in Bremen cooperated with a state-sponsored project "Anti-discrimination in the work environment" and therefore was partly staffed by a paid employee.

MigrAr achievements...

In several cases, the trade union centres for undocumented migrant workers provided an opening for migrant workers to find support from trade unions in cases of labour conflict with the employer. Even though there are no systematically collected figures, MigrAr in Hamburg reports having helped to pressure employers to pay more than €77,000 (€43,000 through court cases and €34,000 through pressure outside of court) in outstanding wages between May 2008 and May 2012 (Mitrović 2015). In terms of recruiting new members, some centres were highly successful. The Sans-Papiers centre in Munich recruited around 250 new members for *ver.di* among migrants with precarious residency status within the first year of opening (Anlaufstelle Sans Papiers 2010). In Frankfurt, the centre successfully supported migrant workers in accessing health care for occupational accidents, as in the publicly noted case of Biser Rusev in Frankfurt (Bartsch and Gezer 2013). By publicizing certain cases, MigrAr centres highlighted miserable and scandalous conditions of undocumented labour and employers' abuses of precarious legal

and economic status of migrant workers. Through their legal activities, the centres proved that the rights of workers can be realized in spite of a precarious legal status. Against widespread preconceptions of migrant workers as "dirty competitors", who strategize around undercutting labour standards, or as victims, who cannot resist being forced to substandard labour, the work of the centres widely demonstrated that undocumented workers are willing and able to engage in collective union action and to stand up for workers' rights.

The MigrAr centres represent an innovative strategy of union collaboration with civil society organizations. By forming part of a support network for migrants with precarious status that addresses diverse needs—from language classes and other forms of education, to legal support, housing, cultural communities, health care, education and work—, it has become possible for the centres to reach a relatively high number of people with limited means. In their current state, the MigrAr centres do not operate as worker centres, given their restricted activities that focus on legal counselling and occasional public actions. With the possible exception of the Munich centre perhaps, the centres don't function as "spaces of communication" for undocumented migrant workers, or for communication between workers with and without work permits. However, the idea of the worker centre appears to be an important goal on the horizon for many activists in these centres. Against this backdrop, these centres were able to mobilize a significant number of volunteers for the trade union cause, including volunteers from an anti-racist activist background who had been rather sceptical about collaborating with trade unions. This is no small achievement in the context of unions being strapped for resources. Such success, however, was also accompanied by ongoing obstacles that hampered further developments. In the following section I discuss critically the lack of unions' organizational commitment to support the work of

163

these centres. Rather than signaling a substantial reorientation in union politics towards undocumented labour, the MigrAr centre, it is feared, could degenerate into international fig leaves for union inactivity.

Fig leaves or Hotbeds for Union Revitalization?

While the establishment of MigrAr centres in major metropolises in Germany reflects a changing attitude within trade unions from a repressive towards a supportive approach, it does not signal any significant shift in trade union strategy. Although the MigrAr approach appears to be compatible with a trade union strategy focused on organizing, the centres are hardly equipped to meet the challenge due to their precarious funding and (volunteer) staffing situation. As Chapter 7 details, legal counselling with respect to employment rights are rarely sought by undocumented migrant workers, compared with the assumption that labour rights are frequently violated. Indications for this assumption can be found in Kovacheva and Vogel (2012), Cyrus and Kip (2015), and Kohlhagen (2006). In Berlin, the Working Group on Undocumented Labour receives between four and nine requests annually that relate to the kind of support offered (see the statistics of the centre in the appendix as well as AK Undokumentierte Arbeit 2015). In a handful of cases per year, the centre in Berlin sends a "legal assertion" ["*Geltendmachung*"] to an employer that sometimes improves the position of the worker to reach an unofficial out-of-court settlement. Since its existence, only two cases were submitted to the courts, the last in 2013 involved a Chilean worker in a restaurant (AK Undokumentierte Arbeit 2013b). In Berlin, these low numbers are not interpreted as a lack of interest, but rather as a lack of capacity to reach out. In fact, when there is funding to support its activities, as in the case of MigrAr Hamburg as a

"pilot project", the centre attracted more than 300 requests in the period between May 2008 and May 2012.

To mobilize union support, the centres couch their operation in terms compatible with (conventional) trade unionism premised on institutional power resources. The slogan of the centres "You have rights!" can be understood as an attempt to bridge the empowerment of undocumented migrant workers with concerns to protect labour standards in general. The information brochures with this slogan, that several MigrAr distribute, highlights the fact that workers have the (enforceable) right to remuneration, or health care in case of work-related injuries. "You have rights" suggests a "win-win" strategy for both union members and undocumented migrant workers. Insofar as undocumented migrant workers realize their labour rights, they do not undercut conditions for German workers and thus also protect (German) labour standards.

The fortuitous consequences for German workers of insisting on the equal application of rights for immigrant workers become clearer when we look at the following quote from film-maker and union advocate, Ken Loach, who was interviewed for a documentary produced by the IG BAU foundation. The quote promulgates the ideological approach of the union towards migrant workers.

> We want strong workers' organizations that can defend workers' jobs and wages and conditions in their own country and also the same rights for immigrant workers. Because if all workers have the same rights, then the employers won't have the same need or the same incentive to exploit immigrant workers (Mayer 2009).

Crucially, what a focus on rights does not address is the issue of international unevenness of labour markets. Focusing on rights does not address why people migrate to work in another

country or whether they actually find a (reasonable) job. In such a context, a proclamation of unions' organizational openness can attain a chauvinistic *couleur*. To put it sharply, premising union solidarity on whether undocumented workers unconditionally insist on rights can be highly polarizing: "We invite you to be part. If you don't want to be part, you don't want to establish solidarity with us." Whereas undocumented migrants workers were previously blamed for being illegal competitors, this other perspective continues to place blame on them, but this time for not becoming part of the union.

The fine line, I argue, with respect to the rights-approach of unions towards undocumented migrant workers is *whether migrant workers' upholding of rights and standards are the precondition for, or an aim of, union collaboration.* As the following chapter 6 details, throughout the first decade of the new millennium, this distinction was not as obvious or it might have looked as if the two approaches were largely congruent. A widespread hope was that if only unions and migrants could come to understand that undocumented migrants can realize rights, things would change. In a simplified form, the wishful thinking about the process assumed, on the one side, that since unions are to benefit all workers, unions would be willing and interested to support undocumented workers' claim to rights. On the other side, since it would be advantageous for undocumented migrant workers to have rights apply to their employment, possibly increasing their wages manifold, it was also believed that they would be actively interested in having rights enforced.

Raising awareness about labour rights—for both undocumented workers as well as the union membership—thus appeared as the challenge of the day. This constellation of activities appeared

to create a win-win proposition for both union officials and anti-racist activists for collaboration. Union officials could make claims to the union membership that by supporting MigrAr centre they are working in their interest—or at least doing some "union solidarity" that doesn't hurt. Some officials could even claim to be innovative, particularly with respect to the international networks of unions. DGB and *ver.di*, for example, gained positive international publicity with the MigrAr centres, example in a joint publication of the International Trade Union Confederation and Anti-Slavery International entitled "*Never work alone: Trade Unions and NGOs joining forces to combat Forced Labour and Trafficking in Europe*" (International Trade Union Confederation 2011). Many anti-racist activists, by contrast, are happy about the support for migrants with precarious status from a large organization with resources and political clout. It could be hoped that unions in Germany, just like in the US, could become a main advocate for immigration policy reform and for combating racism and xenophobia.

The initial optimism did not go so far as to seriously question ongoing union practices with repressive approaches of the state that illegalize workers. In a press release from November 7, 2012, prior to Croatia's admittance to the EU in 2013, the German Trade Union Confederation (DGB) called on the German government to institute an interim period exempting Croatian workers from the EU right to free movement (DGB Bundesvorstand 2012). In other words, even in a context where the EU law would permit their free movement, the DGB actively advocates for the exclusion and the illegalization of Croatian workers, who nevertheless seek to find employment in Germany. Various forms of collaboration between trade unions and the "Customs Authority on Illegal Employment" to combat "illegal employment", for example, continue to risk the criminalization and deportation of undocumented workers. Currently there

are "action alliances" on both federal and state ("*Länder*") levels between trade unions, employers and the state (customs office) to combat "illegal employment" in the industries of construction, janitorial services, transport and logistics, painting, textiles, and electrician trade. Moreover, there are collaborations in the meat industry as well as hotel and restaurant industries (Bundesministerium der Finanzen 2015). Trade unions, as recently *ver.di* (Leuckfeld 2014), have called on increasing FKS staff in order to make more workplace controls—implicitly accepting the consequences for undocumented workers.

Illustration 7: Part of an information brochure by the "Alliance against Illegal Employment" in the case of the transport and logistics industry. Peer Steinbrück, who was finance minister when the alliance was formed, provides the foreword. The motto of such Alliances between customs, employer associations and unions is: "Illegal is antisocial". Source: Zoll online http://www.zoll.de/DE/Fachthemen/Arbeit/Bekaempfung-der-Schwarzarbeit-und-illegalen-Beschaeftigung/Zusammenarbeit/Buendnisse/buendnisse_node.html

More problematically for several MigrAr activists, as we shall see in chapter 6, is the absence

not only of an organizing strategy inclusive of undocumented workers, but also of policies and

bylaws that are sensitive to the peculiar situation of workers with precarious status. A recent

example for unions' ongoing hesitation to embrace undocumented workers as potential members

has been the controversy within *ver.di* when around 170 refugees of the group "Lampedusa in

Hamburg" signed *ver.di* membership cards in 2013. The union administration commissioned an

investigation that denied the eligibility of workers without work permits to become union

members. It argued that legal classification of workers is essential for union membership (Raabe

2013, 2). The legal opinion issued by an administrative department of *ver.di* sparked some

controversy within the union. While union officials have played down the significance of this

statement, it has still created significant irritation among union members as to unions' positions

towards undocumented labour (Nowak 2013). The Working Group on Undocumented Labour in

Berlin composed an open letter to the federal steering committee of *ver.di* entitled "Migration

Control is not Our Business! For a Ver.di Membership Independent of Residency Status" that

was signed by more than 550 union members. It argued that:

> Migration is a constitutive moment in our globalizing world. Restrictive migration laws
> have not diminished migration, but simply exacerbated living and working conditions for
> workers and made organizing more difficult. If we understand ourselves as a union of
> those dependent on wages, we must work against such forms of discrimination. The
> possibility of union membership independently of residence status is a condition for this.
> At the same time, measures or migration control have to be taken serious as a relevant
> topic for unions (AK Undokumentierte Arbeit 2013a).

Another controversial instance was the eviction of a group of refugees who had occupied the

lounge of the district centre of the German Trade Union Confederation (DGB) in Berlin in

October 2014. One of their demands was to become union members, which officials rejected on

the grounds that they were not "regular workers" (Wießner et al. 2014; Nowak 2014). Such

169

positions are highly contested within the union membership. In January 2015, the youth

federation of the union *ver.di* demonstrates under the slogan "Good union means organizing

without papers in the mind!" (*Never mind the papers – united we stand!* 2015). In a statement by

the *AK Undokumentierte Arbeit*, Berlin, that offers counsel in the same building of the local

DGB, the eviction and subsequent pronouncements of officials were considered to have a

detrimental consequence for undocumented workers' perceptions of how welcoming unions are

(AK Undokumentierte Arbeit 2014).
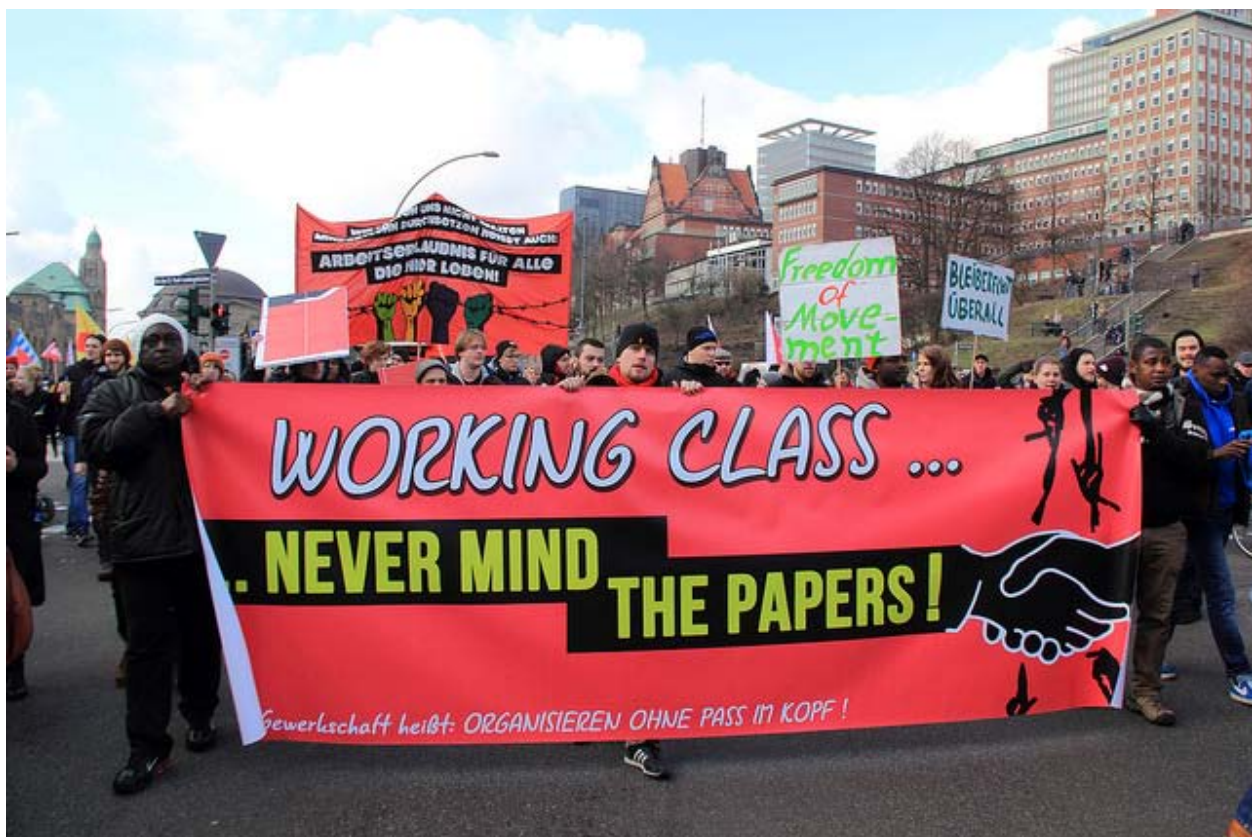
Illustration 8: Recht auf Stadt ("Right tot he City")– Nevermind the papers, Demonstration in Hamburg on January 31, 2015. At the bottom "Good union means: Organizing without Passport in the Head!" Credits: Rasande Tyskar (CC BY-NC 2.0). https://www.flickr.com/photos/rasande/16409509791/in/album-72157648241515944/

The movement for a union that is inclusive of workers with precarious residency status had some

impact on the organization. *Ver.di* chairman Frank Bsirske issued a public comment "Labour

Rights cannot be divided" in July 2015 in which he explicitly affirmed *ver.di*'s engagement for

undocumented migrant workers and recalled the activist intervention at the congress in 2003. "'Labour rights apply for all workers' — irrespective of residency status: Ver.di has clearly assumed this credo with the Federal congress in 2003" (Bsirske 2015). He also appealed to the union to become proactive about including migrant workers, including undocumented ones. "It is up to us, to call their attention to the possibility of membership and to invite them accordingly" (Bsirske 2015). While an important symbolic gesture, it does not settle important controversies.

As I have argued throughout this chapter, historically the law has become a central focus for German unions to institutionalize solidarity in the form of citizenship rights. In the presence of migrant labour, however, unions' reliance on rights fostered the unevenness between foreign and domestic workers. With the rise of undocumented labour, the unevenness has even exacerbated. Union controversies ensued about the proper relationship towards workers without work permits. Starting as initiatives outside of unions, activists have successfully applied labour rights in contexts of undocumented work. Gradually, activists were able to institutionalize such initiatives as MigrAr centres under the organizational umbrella of unions. Although their operation remains internally contested, the activists have arguably fostered a shift of union attitude towards undocumented labour. So far, this change has not been backed up by substantial commitment of organizational resources for these initiatives, raising concerns among activists to figure as fig-leaves for the actual lack of union solidarity. Based on my fieldwork among MigrAr activists, chapter 6 describes in greater detail how this situation developed into a mounting controversy among MigrAr activists. In recent years, some activists decided to leave MigrAr centres for their disappointment with unions' lack of support. A key political difference in this discussion is

whether *migrants' compliance with established standards should be a precondition for, or an aim of, union collaboration.*

Chapter 6: Activist Debates: Collaboration and Standards Under Conditions of Illegality

This chapter is based on my participant observations within the German group of MigrAr activists and supporters, who engage with unions based on the conviction that it is important for workers with and without legal status to join forces in order to resist capital's squeeze on labour. I analyze the controversies among these activists within a Habermasian framework of rationality. From this perspective, two distinct activist "camps" are presented that I have repeatedly observed to form in relation to controversies around union dues, collaboration with law enforcement agencies, wage standards, financial endowment for organizing, and organizational politics. I argue that the controversy among MigrAr activists can be distinguished by the issue of whether *the application of established standards is a precondition or an aim for collaboration with undocumented workers*. The difference that this entails is whether undocumented workers should be subject to the same standards such as union dues, minimum wage standards, organizing supports etc., as other union members with regular status. Are exceptions or special measures warranted in order to compensate the particular vulnerabilities related to their illegalization? Or are greater exceptions impossible to legitimize towards the broad membership with diverse interests?

The analytic division of the two "camps" is informed by the idealtypes of instrumental rationality, on the one side, and moral and communicative rationality, on the other side. This difference should not be mistaken to coincide with corresponding commitments to business or social movement unionism. MigrAr activists who argue in favour of making no exceptions to established procedures and standards, are not solely guided by instrumental rationality, as they

emphasize concerns of justice, rank-and-file democracy, or collaboration with other sectors of the class, thus displaying similar preferences for social movement unionism (compare with Moody 2001, 4–5). With respect to the debate around social movement unionism, the difference between the two camps is usefully captured by Kim Scipes (2014) distinction between social justice unionism and social movement unionism. In Scipes' typology, social justice unionism is a form of economic unionism

> ...that accommodates itself to, and is absorbed by, the industrial relations system of its particular country; which engages in political activities within the dominant political system for the well-being of its members and its institutional self but generally limits itself to immediate interests (Scipes 1992, 126).

Social movement unionism, by contrast, is defined by a broader perspective on social change. As Scipes notes:

> This model sees workers' struggles as merely one of many efforts to qualitatively change society, and not either the only site for political struggle and social change or even the primary site (Scipes 1992, 133).

My purpose is to show in this chapter that even among activists and supporters of the MigrAr centres, i.e., among people who aim for the inclusion of undocumented migrant workers as members within unions, it is far from being clear what the idea of union solidarity implies. Thus, among actors who subscribe to the same ideal, different approaches can be found leaning toward instrumental or communicative rationality.

With respect to the two camps, one camp of activists, aligned to the idea of social justice unionism, argues on the premise of existing standards, and sees union procedures and rights as non-negotiable. It is in this respect that the "ends" of union solidarity are given; as safeguarding or expanding these standards. In other words, this aspect of their activism (and by no means all aspects) exhibits instrumental rationality. The other camp of activists, exhibiting similar ideas as

social movement unionism, questions how seemingly universal standards actually discriminate against undocumented migrant workers. Union solidarity with undocumented migrant workers, instead, requires a context-specific approach that allows for certain agreed-upon exceptions. Notably, this approach is presented as oriented towards communicative rationality. However, as we shall see in chapter 7 only very limited deliberation is actually taking place with undocumented migrant workers in view of developing political goals or strategies. In this respect, this kind of activism is very much motivated by moral rationality. Its main impetus is to proactively engage institutional forms of discrimination within unions and society that inhibit undocumented migrant workers from organizing with unions.

In the following section, I first recount the discussion around solidarity among activists at a particular event. This event became an important moment for me to reconsider other controversies between these activist camps. Drawing on interviews and available literature, I then reconstruct the different controversies in relation to the competing understandings of solidarity held by the respective camps.

The virtuous circle: Overcoming the structural dilemma of unions and undocumented labour

This chapter focuses on my (activist) experiences with a group of activists who engage with unions based on the conviction that it is important for workers with and without legal status to join forces in order to resist capital's squeeze on labour. As already pointed out in the previous chapter, the activist group I am referring to, is constituted through the institutionalization of the trade union centres for undocumented migrant workers ("MigrAr"). I already described this field of activism as constituted primarily by trade union activists and staff, as well as anti-racist and migrant justice activists.

Besides a common orientation to improve the concrete situation of undocumented migrant workers, particularly those who have been abused in an employment context, MigrAr activists share the political goal of increasing collaboration between undocumented migrant workers and unions. For this purpose, the activism seeks to foster unions' sensibility for the particular situation of undocumented migrant workers and the awareness that workers have common interests regardless of their residency status. Within this group, different views on unionism exist, ranging from anarcho-syndicalism to social democratic trade unionism. For a long time, the political heterogeneity of the group has largely been subdued given the common goal of pushing unions to develop contact with undocumented migrant workers and specific forms of support that are tailored to their specific circumstances—even if only temporarily and tactically. In fact, as we have seen in the previous chapter, this has been the founding intention behind the institutionalization of the trade union centres.

My impression has been that activists of various political stripes are aware of this situation and, therefore, seek to suspend ideological fights in order to focus on collaboration. Hagen Kopp, an activist from the MigrAr centre in Frankfurt argued in an interview that the common focus on strengthening the position of the centres for undocumented migrants within trade unions could be a catalyst to rework the "structural dilemma" between unions and (most) undocumented migrant workers' interests (Interview with Hagen Kopp 2010). This dilemma relates to the contradiction between unions' interest in protecting labour standards and migrant workers' interest in finding employment even if it is substandard. The two distinct political stances that activists adopt correspond to the following conflict of interests. On the one side, a common anti-

racist position has been to prioritize migrant workers' rights to employment over union interests,

given migrant workers' vulnerable position and a perspective of transnational justice. On the

other side, a conventional union position is to prioritize safeguarding established standards, also

as a precondition for undocumented migrants to be able to claim such rights. Talking about his

experiences with an activist group that founded a worker centre in the Rhine-Main region, Kopp

states:

> We were always among those who tried to mitigate within the anti-racist activist field to avoid that any talk about wage dumping will be responded by an allegation of racism, which is too simplistic [...] How can you work with trade union people, who want to build bridges and who don't want to polarize, either. That's what the trade union centre networks stand for, ie to make such bridging project possible (Kopp 2010).

The activist group hoped that once such trade union centres for undocumented migrants were

available and more broadly known within networks for social justice advocacy and social

services, they would eventually attract undocumented migrants to seek support. Similar to

"worker centres" in the US (see, for example, J. Fine 2006), the expectation was that once people

would begin to interact and learn about each other's individual grievances, organizing processes

could be facilitated, bringing in more people who share similar issues and thereby strengthening

the organization, quantitatively and qualitatively. This idea of tapping into and unleashing a

previously neglected source of vitality and dynamic is paradigmatically expressed in many

stories of the "Justice for Janitors" campaign in LA (see, for example, Milkman 2006). Once

these centres would have won the first struggles and shown that undocumented migrants can

become militant union leaders, it was hoped that union members at large would become more

welcoming of migrant workers with precarious status. In this respect, the story of the LA

"Justice for Janitors" suggests a strategy to find the right impetus that could set into motion a

self-reinforcing dynamic. In an obvious allusion to Che Guevara's dictum to create "two, three,

many Vietnams," in order to escalate the anti-imperialist struggle, the German leftist labour journal *express* invoked this idea in a title of an article about the trade union centres in Germany "1, 2, 3, many centres" (Redaktion express 2010).

The hopeful prospect was that even a small impulse in organizing could trigger a larger movement. Every victory in a labour conflict would reassure workers and activists and function as an effective word-of-mouth advertisement to convince more undocumented workers to organize and claim their rights. If this dynamic came into being, it would amount to a resolution of the structural dilemma: On the one side, undocumented migrant workers would not be a threat to unions (as substandard competitors), but instead be a motor of revitalization. On the other side, the success of securing higher wages through unionization suggests that, for undocumented migrant workers, collaborating with trade unions is a more promising strategy than individual efforts to eke out a living with substandard employment.

Put differently, such a self-reinforcing dynamic of union organizing (with the trade union centre for undocumented migrants as a catalyst) also suggests a virtuous cycle between moral rationality and instrumental organizational or self-interest. Any economic investment in a trade union centre done out of the moral conviction that it is the right thing to do promises to pay-off materially to the trade union, by making real wins, protecting standards, adding new members to the organization, and revitalizing a union spirit. At the same time, by showing that undocumented migrants are willing and able to collaborate on a successful union campaign that brings economic benefits to workers both with and without papers, the moral standing of undocumented migrants and the legitimacy of their concerns could be expected to improve

within the organization. In this line of reasoning, the economic self-interest could motivate trade unions to forcefully defy discourses that construct undocumented migrants as criminal or unfair competitors. Such a virtuous circle would not deny the incommensurable logics of morality and instrumental economic interest; rather it would underscore their mutual complementarity.

Seen from such an optimistic prospect, it seemed worthwhile for activists from both trade union and anti-racist activism to make cautious efforts to see if they set such a virtuous cycle into motion. Prior to the opening of the MigrAr centre in Frankfurt, activists there expressed caution in interviews not to raise fantastic expectations, and instead considered it a worthwhile experiment or "test". The Frankfurt centre was also set up with the intention to allow for some time (at least one year) before evaluating its effectiveness and purpose. In the year 2010, when the MigrAr Frankfurt centre was established, Hagen Kopp, Jürgen Bothner, and Kirsten Huckenbeck, all three key actors in the establishment of the centre, declared in interviews (Interviews with Jürgen Bothner (2010), Kirsten Huckenbeck (2010), and Hagen Kopp (2010)) that it would need some time to gain trust from migrant communities before migrants would organize in the context of unions. Furthermore, the Frankfurt activists considered it important to learn and make concrete experiences with enforcing undocumented migrant workers' rights within and outside of courts, a challenge of which limited experiences had been made thus far.

For a long time during my fieldwork I entertained such (wishful) thoughts that this cycle would be set into motion sooner or later. I began to have doubts during the spring of 2012, when at the Berlin centre at which I was involved, members of the activist group "*Respect Berlin*" (see chapters 5 and 7), that had co-founded the centre in Berlin withdrew their participation. Their

decision speaks to the fact that no virtuous cycle had been set into motion since the foundation of the centre in 2009. In an open explanation (Respect Berlin 2012b), they reflected on their original intention behind the centre of "creating a place and conditions for undocumented workers to organize" and to make the service sector trade union *ver.di* "deal with the topic of undocumented labour at all levels". Against this ideal, the group *Respect Berlin* strongly criticized the fact that "there is not a single undocumented worker who participates in the working group", in addition to no person of colour (Respect Berlin 2012b, see also Chapter 6). *Respect'*s withdrawal was understood as a major blow to many of those activists in the Working Group on Undocumented Labour who remained active, both in terms of group morale as well as in relation to the skills and networks lost. For several other activists, similar frustrations also played a major role in their leaving the Working Group. The inability to organize, attract undocumented workers, or have a substantial impact on union politics, was experienced as demotivating (see chapter 7). Around the same time, other MigrAr centres have also seen a decline in the number of activists involved.

While *Respect*'s decision could be understood within the local context of Berlin, a public event organized by local MigrAr activists in Munich on November 30, 2012 made it apparent to me that the future of MigrAr activism does not look as bright as I had hoped. To me, the discussion at the event signaled a reality check among activists. It became evident that the hoped for virtuous circle of moral commitment and material return had not been set into motion at the various MigrAr centres, and that it remained far from being clear what it would take to do so. The controversy centred on the question of union dues for undocumented migrant workers, as I increasingly realized, shared similar polarities regarding arguments around wage standards, legal

support, and so on. The Munich event marked the moment when I started to believe that the devil of solidarity is found in such seemingly small details, such as whether undocumented migrants should pay a union dues of €2.50, or not.

At the discussion in Munich, solidarity became a key term around which differences were being articulated, particularly with regard to what constitutes solidarity between trade unions and undocumented migrant workers. One camp, whose approach I would categorize under Scipes' notion of social justice unionism (Scipes 2014), consisted of mostly seasoned trade union activists and professionals. Its speakers argued that the basis of solidarity ought to be the defence of collective labour rights and institutions. While trade unions should do more to support undocumented migrants to actualize their labour rights, it is expected that undocumented migrants honour labour rights, rather than agreeing to work at substandard conditions. The other camp, which I would classify as proposing a social movement unionism (Scipes 2014), was most forcefully represented by younger activists in their 20s and 30s, many of whom were primarily engaged in what is commonly considered anti-racist work. Here, criticism is expressed for taking such rights and institutions for granted without considering how they are premised on national boundary-making in an international uneven geography. Instead of starting from established procedures, solidarity should compensate for the discrimination and social exclusion of undocumented migrants and be practiced within a horizon of transnational justice.

Solidarity forever? €2.50 or you're out!

On November 30th, 2012, support centres for migrant workers, including the services trade union *ver.di* in Munich organized a public discussion event on international solidarity with migrant

workers in Munich entitled "Long Live International Solidarity? Labour Migration, Support Projects and Fields of Activity for Trade Unions." It was held on the occasion of a gathering of the various MigrAr centres in Germany and Austria and I was in attendance as a member of the Berlin Working Group on Undocumented Labour.

The audience, in large part activists from the trade union centres for undocumented migrant workers but also local activists, clearly was part of labour's left. Those who spoke at the event, or asked questions, were representatives from anti-racist groups or charitable services. At the event, four panelists spoke about the situation of union collaboration with migrants with precarious status in Munich. A central concern of the event was the story of how the local services sector union *verdi* had cancelled membership for more than 300 migrant workers with precarious status. These workers were mostly from Bulgaria. As a result of the eastward expansion of the EU, they were allowed to travel within the EU. However, in 2012, they had only limited residency and no automatic work permits. Most of these workers worked informally and waited for work at a day labour corner.

This came as a dramatic reversal of what initially sounded like a success story: In March 2011, at the first gathering of the trade union centres, representatives from Munich spoke of how they helped organize 350 migrant workers as new members for *ver.di* and mobilized dozens of them to participate in a visible contingent at the Mayday parade. This recruitment campaign was carried out by activists from an anti-racist organization called "Initiative Civil Courage" ["*Initiative Zivilcourage*"] that had worked with migrants, particularly from Bulgaria, who worked at a day labour street in the city centre of Munich. They had established a good rapport

with staff at the local trade union *ver.di*. Activists managed to help migrant workers apply for a short-term (six-month) trade union membership without costs.[14] One important incentive for the Bulgarian workers to apply for membership were the *ver.di* membership cards as a form of ID. Reportedly, workers could produce the membership card in negotiations with employers and even in police controls (Riedner 2016). At that meeting, I noticed that this story was received with considerable astonishment and set a high mark for what trade union centres could achieve.

The problem unfolded when it became clear that most of these recruited workers did not pay membership fees afterwards. Soon, the participation of migrant workers at trade union events and demonstrations dwindled. At the Munich event, Riedner reports that *ver.di* consequently cancelled membership for workers who didn't pay their dues. In trying to explain the failure to pay, Lisa Riedner, one of the organizers, points out that many workers moved to other places in Germany, or to other countries. She further concedes that no clear procedures for regular membership fee payments were set in place when they were recruited. Many local trade union staff at *ver.di* were outraged about this recruitment campaign, particularly since the campaign created a lot of administrative costs for the trade union. At the Munich event this story raised the question of whether this sacking of workers from the trade union was justified or not.

For Emilija Mitrovic, a prominent organizer of the first centre in Hamburg, the case was clear-cut. She claimed:

> In our view, trade unions amount to the self-organization of workers. We are no charity, we are no church, we are no social service. We don't receive any money from the state or the church. We exist based on the membership fees and there is no other money. That's the basis for why it is necessary to pay membership fees in a trade union, because otherwise

---

14 The first few months of membership were paid through the "recruitment bonus" ["*Werbeprämie*"] that organizers received for subscribing new members.

we wouldn't exist. We don't want members in a trade union that we only support. We want those who become politically active with us and who engage for the rights of all workers and not just their own. Thus, this is the principle of solidarity (quoted in Riedner 2016).

This raised a contradiction by a migrant worker, who stated:

> For three years, I have been a member and want to remain a member. Now I have been unemployed for three months, I eat where they hand out free food and I shower there. And right now I can't pay these fees. And this has been the case with many friends who were kicked out by ver.di and who verdi does not like to readmit. And I don't think that that's OK. And I am active in the trade union, it's not like I simply want something from you [directed at Emilija Mitrovic, MK]. But the question is, if I don't pay for 2-3 months, whether they would still accept me here in Munich (quoted in Riedner 2016).

In the discussion about the feasibility for unemployed workers to pay a €2.50 monthly membership fee, some commentators from the audience pointed out that migrant workers often don't have a German bank account[15] and frequently moved between Germany and Bulgaria, as well as other countries. Others, in return, insisted on the principle of membership fees. Finally, one activist proclaimed:

> I don't agree with such a liberal notion of solidarity, with such a conditional idea of solidarity, that implies that solidarity is there when someone pays his [sic.] membership fees. But I think that there is a larger plurality of life circumstances and that it is necessary to recognize that solidarity needs to be unconditional. That there are plenty of situations in which someone cannot pay membership fee, not engage in a union or see that big picture. It is necessary that one can afford political engagement (quoted in Riedner 2016).

The controversy unfolded for a couple of minutes between those who advocated for a "conditional" and those for an "unconditional" notion of solidarity. Meanwhile, I saw several people roll their eyes. The debate on solidarity seemed to invite a rehearsal of well-established positions within the left: "*realos*" versus "*fundis*"; "reformists" versus "radicals," or some other variant. Even after the event at the bar, I heard some people ruminating on this debate. What I

---

15 A basic and recurrent concern is to facilitate alternative dues payment options, since undocumented migrants commonly have no bank accounts to do transfers, as is customary for most union members. The possibility of paying cash is often rather complicated or difficult to access, thus setting hurdles for consistent payment.

found remarkable was that this discussion made explicit the fact that activists operate with different understandings of solidarity.

There are several other controversial issues that I have come across over the years of my activist engagement that could be interpreted in the light of the same conflict of understandings of solidarity. In the following section, I briefly sketch the contours of debates in relation to two distinct understandings of solidarity. The reconstruction is based on the literature (including also blog entries, open letters, union publications, grey literature) that I have collected over the years, notes from public events, such as the one in Munich, as well as interviews from activists and union staff involved in the MigrAr centres.

Collaboration with law enforcement agencies

One controversy that in the past has heated up discussion among activists is the question of collaborating with law enforcement agencies. In essence, in this discussion around collaboration with law enforcement agencies, the question is if and under what circumstances collaboration with law enforcement agencies is justified. The main dilemma is that, on the one side, law enforcement agencies have a lot of resources to potentially take down powerful criminal organizations behind the employment of undocumented migrants. Considering the lack of resources of undocumented migrants and trade unions, it appears to some as the only effective, if not the only justifiable, way. On the other side, labour law enforcement in Germany always runs the risk that the "illegal status" of undocumented migrants will be found out, reported, and sanctioned (through fines, incarceration, or possibly deportation).

In reconstructing this debate, I draw from documents and statements that revolve around two events. First, the controversy was particularly pronounced in the context of the IG BAU campaign "Can't do without rules" ["*Ohne Regeln geht es nicht*"], particularly in 2004 (see previous chapter). This campaign was contested since it called for and brought about more controls at construction sites, thus directly affecting workers. The contestations also revolved around particular events of law enforcement practices and collaboration with them. Around the same time in 2004, the group Elixir-A published a small brochure (financially supported, among others, by the Hans-Böckler-Foundation of the German Trade Union Confederation) documenting the struggle of a group of asylum-seekers between 2001 and 2004 who were cheated of their wages on a construction site in the centre of Berlin and their supporters without relying on enforcement agencies.

To address the rationales from each side, for and against collaborating with law enforcement agencies, I will start with the supporters. One of them is Frank Schmidt-Hullmann, head of the international relations and European construction policies department of the German Trade Union "Construction, Agriculture, Environment" [*IG BAU—Bauen, Agrar, Umwelt*]. Schmidt-Hullmann has been instrumental in the establishment of the European Migrant Workers Union and defends the *IG BAU*'s collaboration with state enforcement agencies in order to bring to bear the full weight of law on employers who take advantage of migrant workers. He rejects claims that the "Can't Do Without Rules" campaign (see previous chapter) targeted racialized undocumented migrants and sought their removal or even deportation. Such allegations, he contends in an interview, "poisoned" the campaign, with the result that it had to be abandoned (Interview with Schmidt-Hullmann 2010). In its stead, the trade union developed the European

Migrant Workers Union as a new approach to organize migrant workers, shifting the emphasis from relying on law enforcement agencies to the inclusion of migrant workers in battles against illegal employment practices (see previous chapter). Even so, collaboration with enforcement agencies remained an important pillar in this organization.

Schmidt-Hullmann emphasizes that such collaboration is being done in coordination with affected workers in order to ensure that law enforcement does not result in the deportation or other criminal measures against these workers. One almost certain consequence of such enforcement is that the employment relationship will end if the employer is found to have significantly violated regulations. For this reason, as Schmidt-Hullmann points out, such enforcement is usually only carried out at the very end of the employment contract. However, he concedes that:

> it could be, and I admit that, that we organize a small minority within the group of workers. Thus, there are four or five who resist. They might have already worked somewhere else and made experiences and know that one needs to resist—that one cannot let things go. But all the others might be afraid. In such case, it might be that we just take up the position of our trade union members. But it's always like that. Because if you were to wait for the last couple of people who are afraid before you do something, then there would have never been any strike (Interview with Schmidt-Hullmann 2010).

Collaboration with law enforcement agencies is often premised on accounts of large and resourceful mafia-like organizations involved in the employment of migrants with illegal status. Extortion and severe threats are systematically used against vulnerable migrants, making it virtually impossible to stand up against their exploiters. To bring such criminal organizations to justice requires the means of the state and law-enforcement in order to take down these structures as Schmidt-Hullmann (2008) explains:

> If employees who have been cheated off their wages are being prevented from organizing by their criminal employer and are forced to continue to work under

conditions of starvation, the means of labour unions are sometime quickly exhausted. In such case, only a control of this company by way of the repression apparatus of the state can bring about an end of such particularly stark exploitation. One needs to sit in the academic ivory tower to reject [state] controls completely in such situations of trafficking.

However, it is not only the academic ivory tower that is at fault:

Until [feasible alternatives have been developed], a Pawlowian leftist reflex against everything that smells like police even from afar, doesn't help us or most victims of criminal exploitation methods at all (Schmidt-Hullmann 2008).

Furthermore, in order to ensure collaboration with involved migrants, it is necessary to provide secure housing as well as a witness protection program which are, as Schmidt-Hullmann emphasizes, resources that only the state can provide.

Other activists have major problems with such collaboration with enforcement agencies. The campaign "Paralyze the Reporting Office" that sought to sabotage the hotline of IG BAU's "Can't Do Without Rules" campaign, explained: "the denunciation of illegalized employees once again targets the weakest and not those actually responsible, undermines solidarity among co-workers and leads to the deportation of thousands of innocent people" (quoted in Wompel 2005, 68). Anti-racist activists argue that collaboration with law enforcement has led to migrants losing their jobs and, at worst, to them being deported as it happened. Hagen Kopp, for example, reports of such deportations as a consequence of the "Can't Do Without Rules" campaign (Interview with Hagen Kopp 2010). *Elixir-A*, the group that has supported asylum-seekers struggles to reclaim their wages in Berlin, also claims that law enforcement effectively works against the interests of migrants. Law enforcement systematically functions to sustain the status quo of hyper-exploitation of undocumented labour; "The sanctions ... target in the first place the employees and not ... the ones profiting from low wages" (Elixir-A 2004).

Among the opponents of collaboration with law enforcement agencies, Matthias Harning and Olaf Maurer (2004), formerly IG BAU staff, wrote an open letter entitled "Our Rules Are No Good" attacking the "Can't Do Without Rules" campaign. They contend that reliance on enforcement agencies as the main strategy against wage dumping has not been effective, and has worked to the detriment of workers with secure status. They highlight that without the collaboration of migrants, workplace raids by law enforcement at construction sites are unlikely to lead to any results without the testimonies of the workers. Achieving this collaboration is the challenge, however, as construction sites are organized to be immune to raids according to Harning and Maurer (2004). Therefore, they plead for the collaboration with migrant workers with precarious status as the most promising strategy. They write that:

> Raids are insufficient in the face of such wage dumping, such dirty competition, [construction sites] are practically immune against raids. However, [such construction companies] don't stand a chance if the affected collaborate with us. In most cases, a single coherent testimony of colleagues would be enough to bust an entire construction site. Such testimonies, however, we won't get by collaborating with the main customs office, let alone the main customs office by itself (Harning and Maurer 2004).

A few years later, in the context of the start of the "Berlin Alliance Against Trafficking" ["*Berliner Bündnis gegen Menschenhandel*"], a similar discussion emerged among activists about the collaboration with enforcement agencies under the banner of "trafficking". The Alliance Against Trafficking had been set up as a collaboration between trade unions, NGOs, and law enforcement agencies against trafficking, including "forced labor" and "sexual exploitation".

Union participation in the "Berlin Alliance Against Trafficking" was criticized by several activists for its reliance on state categories of "trafficking" and "forced labour". Activists, including the Berlin-based groups *Respect* and the Working Group on Undocumented Labour in

Berlin, contend that these categories misrecognize many undocumented migrants' subjectivities.

Construed as "victims," these workers are simply assumed to be liberated and saved. One

member of the Berlin working group of undocumented labour objected at a panel discussion

organized by the Berlin Alliance Against Trafficking that these frames come to dominate how

trade unions think about undocumented migrants. She proclaimed:

> We [unionized workers] too rarely see undocumented workers [...] as colleagues. In the
> past, they were frequently considered as competitors, now we consider them as poor
> victims, but we see them too little as equal colleagues. And I think we need to do that,
> because only in such fashion will we be able to reach out to the people outside of such
> extreme situations. Because there is wide continuum of labour exploitation underneath the
> tip of the iceberg, which nowadays is referred to as human trafficking (Schwärzer 2011).

While it is acknowledged that extreme situations of trafficking and forced labour do exist, such a

framework does not adequately address migrants' agency even in situations of hyper-

exploitation. Thus, activists also argue that it is necessary to engage with the actual interests and

practices of undocumented migrants for a more effective union response. Building on their

experience of collaboration with asylum seekers who work, *Elixir-A* demands trade unions to

"acknowledge the realities of undocumented labor and to get information about the work- and

life-realities of people in precarious work and legal status situations by talking to the people

themselves" (Elixir-A 2004).[16]

Rather than being helplessly at the mercy of abusive employers, undocumented migrants have

developed innovative strategies and networks to navigate through the condition of illegal status.

The group *Elixir-A* (2004) find that "Refugees claim their rights: ... Repeated [inquiries] and the

exploration of possibilities to put pressure on the employers are no exception—they confiscate

---

[16] All quotes are taken from the English-translation of the publication which is also available in German and French.
Pages are not numbered.

tools, call the police or look for support from outside." And further, it is claimed that some

workers "have their own 'wage standards', including even higher wages for night labor."

Instead of viewing law enforcement of the state as the one and only means of realizing workers'

rights, the autonomy of workers to lead and decide how to realize their interests should be

prioritized and built upon by union strategies. In view of the collaboration between anti-racist

activists—and potentially trade unions—the group *Elixir-A* argues:

> Within the framework of political cooperation it is important to fully value all existing
> struggles of the workers and to connect with them. That also sketches our role in the
> struggle: not to fight for the wages, as that is what the workers do themselves, but the
> attempt to raise mainstream society's awareness and by that support the struggle's chance
> for success (Elixir-A 2004).

Wage standards

Another fundamental question relates to the role of minimum wages in the building of solidarity.

The question is whether unions should always orient themselves to (and rely on) the law (and its

state-based enforcement), or whether workers should be empowered collectively to directly

negotiate and assert wages with their employers. One central event at which this debate became

visible was the activist congress "Costs rebel II" ["*Die Kosten rebellieren II*"] in 2006 (see also

chapter 5). This was a large event of labour leftists in Germany to discuss labour struggle in the

context of an increasingly integrated and open EU labour market, as well as the growth of

undocumented migration. This event has become an important point of reference for any

discussion around the minimum wage. In this section, I will consider an article by Kirsten

Huckenbeck and Hagen Kopp (2006) coming out of this congress that seeks to build bridges

among different views and approaches on wage standards. I also refer to an online debate that

happened on the website of the Munich based "Initiative Civil Courage", one of the collaborators

of the trade union centre in Munich, in which its expounded views on minimum wage were attacked by IG-BAU functionary Schmidt-Hullmann. I supplement these discussions with interviews.

For Schmidt-Hullmann, the protection (or expansion) of the minimum wage is a prerequisite for union collaboration with undocumented migrant workers. In a blog-comment to a posting of the "Initiative Civil Courage" (that has been taken off this year), Schmidt-Hullmann (2011) states: "Standard wages are those wages necessary to be able to live at the place of work in a somewhat self-determined fashion in the long-run. ... They are not negotiable downwards without making the prospect of a life with some dignity impossible." They are the basis of trade unionism that cannot be questioned based on individual circumstances as Schmidt-Hullmann explains in an interview in 2010:

> Trade unions live in order to eliminate the competition among workers and the attempt to take advantage of individual weaknesses. We live exactly because we demand the same wage for the same kind of work. That's the basis of trade unions. We also don't concede to strikebreakers, or those who don't want to participate in a strike, because individually they fear to lose their job or because they say that they don't need a raise. It doesn't interest us. We always represent the collective.

Against the counter-argument that workers in Germany should be considerate of workers coming from low-wage countries, Schmidt-Hullmann advances a geographic argument. He relativizes the idea that (undocumented) migrant workers are necessarily in a disadvantaged situation. The reference point should be the reproductive threshold to lead "a life with some dignity", thresholds which differ from country to country, and which is presumably low in those countries that migrants come from. Thus, while they might live momentarily in a disadvantaged situation in the country of destination; in the long run, when they return, the presumably cheaper costs of

reproduction in their countries of origin allow them to lead a life even above this threshold (Schmidt-Hullmann 2011).

Nevertheless, he and many of his colleagues at the IG BAU, as well as several other trade unions, came to the conclusion that it is not effective to exclude undocumented migrant workers from unions, but rather to organize these workers and bring them onboard with the prevailing wage regime. Reflecting on the experiences of the European Migrant Workers Union (see also chapter 5), its organizational secretary, Mihai Balan, describes in an interview the prevailing motive of solidarity with migrant workers in the following terms: "There is the awareness that we need to bring these folks [migrant workers] onboard, otherwise they are going to ruin our prices and we won't be able to reproduce ourselves" (Balan 2011).

Balan expresses understanding that specific circumstances of undocumented migrant workers foster employment practices in which workers, often unwittingly, undercut standards (Balan 2008). In the interview, he refers to a controversy within the European Migrant Workers Union and the *IG BAU* as to whether the union should collaborate with "repeated offenders" against labour standards. Balan reports that there have been instances in which migrants repeatedly seek the support of trade unions after having accepted substandard wages. It raised suspicions whether these workers approached the union only after such employment relationship had ended in unbearable wage fraud. Thus, the concern within the union was that the request for collaboration was nothing but a strategy of last resort for the worker, but not an effort towards defending labour standards (Balan 2011).

It is also in this context of gaining migrants' support to defend tariffs and minimum wage

standards that Schmidt-Hullmann asks that trade unions work towards reducing the gap between

living conditions of migrants and non-migrants by looking for ways, for example, to compensate

for the lack of health care (Schmidt-Hullmann 2010). At the same time, he also doesn't see trade

unions as the institution that should take primary responsibility for it. Schmidt-Hullmann (2012,

206–207) explains:

> It is problematic for us to grant charitable services for the most basic needs to survive, in
> cases when no wages were paid. In contrast to charities, we have no means for that and it
> would also be difficult for us to draw the line in view of comparable cases of working
> poverty among resident workers.

On the other side, several anti-racist activists contend that instead of requiring undocumented

migrants to take minimum wages as the basis for collaboration, trade unions should reconsider

their insistence on legal minimum wages. Under current circumstances, legalized standards

effectively discriminate against migrants with precarious status, by rendering them into targets

for law enforcement. Here's a statement by one of its members (who remains anonymous) posted

by the anti-racist group "Initiative Civil Courage" operating in Munich:

> In my experience, [undocumented] workers were content with the agreed upon
> wages and consider tariff wages to be unrealistic. If they are asked during a customs
> raid, how much they earn, they might respond with a lie, even if not only tariff but
> also agreed wages are undercut. They know: If the cover is blown, they will be
> deported. Thus, the tariff makes it easier for their employers to put them under
> pressure and makes it more difficult for workers to uncover the 'real' fraud, the
> undercutting of the agreed wages (Initiative Zivilcourage 2011).

As a consequence of such problems, Philipp Zehmisch and Lisa Riedner (2009, 163) conclude:

> In reality, the granting of rights as determined by collective bargaining functions as a
> subsidy of the German labour market to protect 'native' workers. 'The Turk wouldn't
> be here, if the tariff agreement was complied with', states a trade union member. This
> then shows the two-prongs of labour's demand to apply collective bargaining... On
> the one side, the demand aims at a humanitarian protection of labour condition for all
> workers irrespective of their origin, on the other side, however, it has racist

connotations and aims to protect the German labour market from foreigners—i.e 'the Turk'.

This calls for a more flexible trade union approach that supports migrants in realizing agreed-upon wages—and ideally prior to that, to support them in wage negotiations so as to ensure that agreements are made at a high level. To be sure, knowledge of and reference to minimum wages can be a support in such negotiation.

The discrepancy between these two activist positions could also be read in the light of the difference between social justice, with its focus on economic interests, and social movement unionism, putting greater emphasis on other dimensions of oppression. So, what has been done in view of this conflict? In the aftermath of the conference "Costs rebel II" in 2006, in which the question of wage standards was vividly debated, Kirsten Huckenbeck and Hagen Kopp (2006, 25) summarize the opposition of positions with respect to the minimum wage in the following terms:

> The contradiction remains. On the one side, it seems justified and necessary to defend wage standards that have been hard-won or (to avoid dynamics of struggle) granted. The undercutting of tariffs and minimum wages by people from low-wage countries appears logically as competition or as catalyst of a downward spiral. On the other side, migration against the exploitational slope ["*Ausbeutungsgefälle*"] also has its justified (if possibly not even more justified) logic. The fact that many beat their way against the border regime and their illegalization deserves respect and recognition as social (!) struggle, even if it hardly articulates itself politically. To undercut the local wage standards is often a necessary part of this struggle!

Similar to the earlier statement by Kopp on the catalytic function of MigrAr centres to bring anti-racist activists and labour activists into conversation, the pragmatic solution is to avoid tying oneself down to any one position, but instead to look for ways to create alliances. What is called for, are

communication and mitigation between [different] realities and conflicts. It means taking serious the different social concerns and existential threats and sensibilizing for the the different "other" problems. How and where can concrete bridges be built? In what places and with what means can fragmentation be resisted? (Huckenbeck and Kopp 2006, 25)

To Kopp and Huckenbeck, MigrAr centres are one such possible place for experimentation. On the background of instrumental and normative rationality, the implied argument of Huckenbeck and Kopp is that by making connections and expanding the context of analysis, the problem could assume a different shape for those people involved. For example, workers and activists with an economistic outlook could develop a better understanding of how economic interests interrelate with other concerns. By contrast, normatively oriented activists would have to be creative about finding common interests with others who don't share their normative commitments. The problem is that this kind of experimentation seems to have run aground due to frustration among the different actors involved. The differences between instrumental and normative rationalities have remained persistent for the MigrAr centres.

Financial endowment for organizing and support

Within the activist context, it is understood that organizing migrant workers into trade unions requires certain (organizational, educational, logistical, technical etc.) efforts in order to address the specific situation of undocumented migrants. Legal, economic, and social vulnerabilities that are related to a precarious residency status (see chapter 4) amount to a specific hindrance for these workers to collectively organize or unionize. To lower or overcome these impediments, activists understand that several resources are necessary. Short-term strategies such as community outreach, the creation of workers centres with professional legal services, language classes etc. require organizational commitment, as do long-term strategies, such as a political

campaign for legalization. The debate among supporters and activists of the trade union centres

is how much effort and resources are justifiable to dedicate towards such efforts. Here, I won't

reconstruct this large and complex debate about organizing "workers in precarious conditions",

but only show how this debate is made explicit and reflected in the work of the MigrAr centres.

As far as the supporters of greater resources for organizing are concerned, in 2003 the Society

for Legalization ("*Gesellschaft für Legalisierung*", see previous chapter) addressed the *ver.di*

Federal Congress to demand that:

> ver.di advertises offensively among migrants without legal residence and/or work permit to
> become members. Ver.di provides resources for the organizing of workers without
> residency status such as multilingual staff, cooperation with networks and information
> centres and campaign development and execution (Gesellschaft für Legalisierung 2003).

Moreover, in their "recommendations" for the *ver.di* Federal Congress, the Society for

Legalization explicates that it is necessary to "develop new forms of assertion of interests in

labour struggles especially for the sectors of domestic and care work as well as sex work against

prevailing remuneration that is below tariff, wage theft and unhealthy working conditions", i.e.

sectors with a disproportionate number of undocumented migrant workers (Gesellschaft für

Legalisierung 2003). Such strategic innovations are of particular importance for undocumented

women whose worksite is "mostly in the private sphere which make them difficult to target in

collective work fights," as *Elixir-A* (2004) contends. This peculiar condition requires, according

to *Elixir-A*, that in organizing efforts "claims for medical and health support and protection

against sexual attacks on work place have to be put on the agenda" (Elixir-A 2004).

Groups like *Respect* claim that unions do not have an interest in organizing undocumented

migrant workers because it is not good (economic) business for trade unions to organize workers

in highly precarious employment conditions. The bottom-line for union bureaucracies is that these workers pay small amounts of union dues, but also require a disproportionate amount of counselling and assistance since they often work in small companies without work council or union presence (Respect Berlin 2012b). *Respect* further postulates that unions are hesitant towards such organizing campaigns since it would require unions to cooperate with NGOs and migrant community organizations such that trade unions "fear to lose control in this way" (Respect Berlin 2012b).

On the other side, some activists do affirm the significance of financial limits and the bottom line as a real-life requirement for trade union existence. Reflecting on the organizing experiences of the European Migrant Workers Union (EMWU), Frank Schmidt-Hullmann writes:

> We organized ... several Polish and Romanian as full members in the German EMWU, but unfortunately not enough and not permanently enough in order to guarantee a durable self-sustaining financial basis for the EMWU. The thing is that trade unions are dependent on dues (Schmidt-Hullmann 2008).

Thus, while having migrant workers as union members may be desirable, efforts towards attracting migrant workers with precarious status to unions need to be financially and organizationally sustainable. In view of the demand by several activists to predate union membership of undocumented workers in order for the union to legally represent them in labour conflicts,[17] Frank Schmidt-Hullmann argues:

> The financial burden of legal aid represents a major part of union dues and expenses, such that an overly generous handling in case of new memberships would not only invoke disagreement among members that have been organized for a long time, but would quite simply not be affordable for us. Further it would set a wrong incentive to join a union only

---

[17] *Ver.di* union bylaw rules that members can request legal representation through unions if the worker has been union member for more than three months prior to the labour conflict in question. Under exceptional circumstances, the local union leadership may decide to make a case a political priority and thus mobilize resources for legal support as stipulated by §5.2 of *ver.di*'s legal protection bylaws.

when something has gone wrong. On such a basis no union could exist sustainably (Schmidt-Hullmann 2012).

Emilija Mitrovic, who has done research in the sex industry and has worked to organize prostitutes (several without legal status) in Hamburg, states that many are reserved about making their role as prostitutes public in an organizing campaign (Hauer 2004). Similar to many workers in other low-wage occupations, including domestic and care work, construction, the hospitality industry, and so on, many undocumented migrants consider their work as only a temporary, individual strategy, and thus don't wish to commit to such jobs (for domestic and care work, see Schierbaum and Becker 2006). If such a long-term job perspective is missing, organizing campaigns are arguably difficult to conduct since it requires time and trust among workers before generating collective action.

On a more fundamental basis, Harald Fiedler, director of the German Trade Union Confederation in Frankfurt-Rhine-Main Region, cautions that organizing requires initiative and consciousness on the part of workers, which in his experience is lacking among many workers, including migrant workers. Simply blaming trade unions for the low degree of organizing may be misleading and one-sided, according to Fiedler.

> HF: Employees are increasingly reserved to organize, to contest, to stand up for their rights. And you can try to beat a path to their doors, it essentially won't lead to more success. It is necessary that people want [to organize].

> MK: And how do you bring them to want it?

> HF: By making offers. And that's what we do. We do seminars, we have programs, we do events. But if people prefer to go to the amusement arcade or the tavern, then you can't beat them here (Fiedler 2010).

Organizational Politics: Reformism vs. Radicalism

There are ongoing contestations around politicizing the issue of undocumented labour in trade unions. Among supporters of MigrAr centres, two main responses exist. First, undocumented labour is primarily a problem of the rule-of-law and the validity of labour rights. This response suggests that reforms at a national level, possibly coordinated at a trans-/or supranational level, are needed to regulate employment relations in a legal framework. The second response highlights the problem of the national framework of citizenship. As long as citizenship is constrained in this framework, it will inevitably reproduce undocumented migration and undocumented labour, as migration cannot be controlled by legal means. The underlying political question of the proper mode of engagement with the issue of sovereignty in a globalizing world evidently goes beyond the confines of the MigrAr centres. Here, my intention is to reconstruct the debate related to MigrAr activism.

On the one side, some activists prefer a gradual approach of national reform in order to ensure that the membership of trade unions can learn and keep up with the changes, given the public controversies around the topic of undocumented labour (see chapter 5). In order to facilitate organizational changes, it is necessary to start from where members are. Given the great variety of subjectivities in a mass organization such as a trade union, this is no simple task and, therefore, can only be expected to develop slowly. Schmidt-Hullmann (2012, 199) describes the prevailing sentiments within the construction sector of the IG BAU as follows:

> The concept of citizenship and its derived right of residence and participation in the labour market is accepted by a majority in society and thus also among employees. It is considered as a matter of course by many that people without work permit are not allowed to work. There is little sympathy for people who, for example, enter the country on a tourist visa, even though their real intention is to work. Even employees with a migration

background, who took on the efforts of legal immigration and were successful, share this view sometimes.

Even though Schmidt-Hullmann supports the establishment of trade union centres for undocumented migrants, he also cautions that because of the heterogeneity of union members, it is necessary to take into account different views and opinions in order to ensure organizational coherency and agency. In his interview, Schmidt-Hullmann (2010) criticizes that radical demands addressed to "the trade unions" in general miss how trade unions operate and how complex the decision-making is, given the multitude of stakeholders in the organization. The organizational processes for decision-making are well established, and are widely accepted as a solid foundation for trade unions. Schmidt-Hullmann (2010) uses the metaphor of the "oil tanker" to account for the sheer scale of organizational inertia and the slowness of change resulting from the dynamic of balancing a complex set of interests.

Other activists consider it necessary for unions to stand firm on certain principles, such as the principle to organize and represent *all* workers, thus including marginalized workers who have not been part of unions before. The manifesto from the activist groups *Respect* and migrant justice organization "*kanak attak*" (2003) demands that *ver.di* develops a political campaign that aims at realizing labour and social rights (housing, health care, and education) for undocumented migrants and at implementing laws for legalization. Critical activists repeatedly point out that established organizational processes within trade unions are considered to structurally discriminate against certain groups, including women, ethnic and racialized minorities, as well as undocumented migrant workers and workers in other countries. Olaf Bernau, who works with the trade union in Bremen and is an MigrAr activist, critically points to the boundaries of democratic decision-making within German unions that exclude people from the Global South

(phase2 2010). Rather than appealing to people's immediate instrumental interests, he proclaims that it is necessary to confront the uneven geographies between the Global North and Global South, and that "it is downright imperative for reasons of social and ecological justice to lower the material living standard in the global North" (phase2 2010).

Consequentially, activists prefer to engage with these groups of workers directly rather than waiting for trade unions to change. Instead of a focus on the organization, the group *Respect*, for example, advocates the practice of a network that is less rigid than a bureaucratic organization in terms of initiating processes and of allowing for flexible approaches to individual circumstances. *Respect* contrasts their approach to the formal and impersonal procedures in (democratic) organizations like trade unions: "relationships of trust and networks of solidarity only develop in the long-term; they cannot be reconciled with short-term, project-like approaches" (Respect Berlin 2012a). In short, the idea is that political decisions should not be premised on (and restricted to) organizational membership, but rather on people's potential affectedness by certain decisions.

Concluding Activist Debates?

In conclusion, the difference between instrumental and normative rationality does not only become apparent in union controversies about whether solidarity with undocumented workers is warranted, as outlined in chapter 5. This chapter also describes the conflict in relation to debates among MigrAr activists and supporters, albeit in view of a different concern; solidarity, yes, but under what conditions and with what aims? I have suggested that there are two camps of argumentation that correspond to different emphases on instrumental or normative rationality.

Following Kim Scipes's typology of unionism, I have proposed to relate one camp to his account of social justice unionism, the other to social movement unionism.

MigrAr centres could be considered an attempted compromise between the two positions in terms of dealing with established labour standards, union procedures, and bylaws. On the one side, these centres are part of union organizations. MigrAr centres' institutionalization, their organizational relations, financial endowment, public activities, and so on, are governed by union standards bylaws and procedures. To the extent that MigrAr activists and supporters are also union functionaries and staff, they are also somewhat restricted in criticizing existing union practices, or even implementing exceptions.

On the other side, these centres attempt to reach out to migrant workers without premising collaboration on union membership. Networks with other activist groups and NGOs, including church-based groups are a crucial part of the MigrAr operation and political strategies are often directly or indirectly coordinated with in this network. (Unpaid) activism seeks to provide direct support and build practices of solidarity without regard of citizenship status. This "compromise", however, is fragile, since especially those pursuing their activism on moral ideals have increasingly experienced the limitations of their efforts. The hoped for virtuous circle of unions' organizational interests in safeguarding standards, on the one side, and the endeavour to improve undocumented workers living and working conditions through unionization, on the other, was not set into motion. Nevertheless, MigrAr activism continues to roll onwards. Based on an ethnography at the MigrAr centre in Berlin, the next chapter further investigates the rationality of activists' engagements in terms of their instrumental, moral and communicative aspects.

Chapter 7: Conjunctures of Solidarity: An activist ethnography of the Working Group on Undocumented Labour in Berlin (2011-2015)

In this chapter, I argue that practices of solidarity are subject to broader political and social opportunities. In the *first part* of this ethnography, I analyze local opportunity structures throughout the brief history of the *AK Undokumentierte Arbeit* (AK Undok). My ethnographic observation covers the last four and a half years of the centre's existence (from April 2011 to October 2015), thus the longest part of its existence. The history of the first two years is reconstructed by drawing on personal accounts of *AK* members, as well as internal and public documents. The *second part* offers a more detailed account of one very recent instance of solidarity casework with a group of undocumented workers who worked as cleaners. Both accounts, the historical overview of the centre as well as the detailed case study, point to concrete (instrumental) obstacles and opportunities in realizing solidarity. Opportunity, as understood in the framework of research on opportunity structures, relates to instrumental rationality insofar as it implies a means-ends calculation.

The two parts demonstrate that the asymmetrical constellation between union supporters and undocumented workers founded on the latter's precarious legal situation is a consistent structural obstacle for the development of solidarity. Without active participation of undocumented migrant workers, solidarity engagements sooner or later risk becoming paternalistic or lose legitimacy among *AK* members. Therefore, how to overcome this issue emerges as a central question.

Significantly, the work of the *AK Undok*, however, has also continued in periods in which participants hardly saw any opportunities to realize their political goals within union organizations. Based on interviews and focus groups, the *third part* thus focuses on the

normative aspects of the motivation for solidarity engagements even in the face of serious difficulties. In particular, it discusses the paradoxical strategy of realizing open union deliberations with undocumented migrant workers. On the one hand, engaging laws and structures that discriminate against undocumented migrant workers and offering legal support against discrimination can be considered important steps for establishing such deliberation. On the other hand, an asymmetrical relationship is (re-)produced when (German) activists "give" and undocumented migrant workers "receive" support. In their encounters with these tensions and contradictions, activists premise their engagement for communicative action on political imagination, more so than on imminent opportunities.

The following analysis is the result of my ethnographic fieldwork in which I became a MigrAr activist (see chapter 2). My own activist involvement constitutes the context of meaning through which I interpret sources of data. Throughout the analysis, I rely on press releases, media reports and other public documents as sources of data. Moreover, the history of the first two years of the *AK* (2009-2011) was reconstructed based on interviews and personal conversations with people who were active during these years. The account of the following period of four and a half years (2011-2015) also relied on personal observations I made as an activist in the group. I narrate the first part from an impersonal, distant perspective, since the main intention was to gather relevant facts and then interpret them through the eyes of the sociologist. Part II relates the story of AK Undok support for a case in which I was strongly involved. I present that account from the perspective of the "I," since it is not only based on the "facts" of the case, but also my personal investment as an activist. Drawing on focus interviews, I again change perspective in part III. In

these focus interviews, I took on the role of the sociologist and queried my fellow activists about their rationales and motivations for their participation in that group.

Short history of the Working Group on Undocumented Labour in Berlin

The Pre-history

As already indicated in the previous chapter, some of the founding members of the *AK Undok* at the Berlin and Brandenburg district of public workers union *ver.di* had already been involved in migrant rights activism several years before the formal institutionalization of the Working Group as part of *ver.di* in March 2009. As presented in chapter 3, in the late 1990s and early 2000s activists institutionalized forms of support for undocumented migrant workers outside of unions. *Respect Berlin*, *ZAPO* and the *Refugee Initiative Brandenburg* were important experiences in Berlin for how labour rights of people without papers could be realized. Some activists who had been involved with these groups were the key to creating the Working Group. In 2002, the group *Respect Berlin* had already lobbied the restaurant and food workers union NGG (*Gewerkschaft Nahrung-Genuss-Gaststätten*) to offer union representation for undocumented domestic workers. NGG reportedly concluded that they would not be properly equipped to take on such a task. In the years following the *ver.di* congress in Berlin in 2003 (see chapter 5 for a brief account of the activist intervention of the Gesellschaft für Legalisierung), *Respect* engaged in tenacious negotiations with *ver.di* section 13 dealing with "special services" (*Fachbereich 13, Besondere Dienstleistungen*) to institutionalize a Working Group (*Arbeitskreis - AK*) that is dedicated to undocumented labour (*undokumentierte Arbeit*). The activism was to entail three dimensions of activism: (1) Offering case support to undocumented migrant workers, the *AK Undokumentierte Arbeit* was to serve (2) as a platform for migrant workers' self-organizing under the umbrella of

the union. Politically (3), the *AK Undok* was also to address "social relationships that profit from illegalization" (AK Undokumentierte Arbeit 2010). Clearly, a major challenge to this bottom-up initiative was the lack of top-down support from union leaders at both local and federal levels. Kim Voss and Rachel Sherman (2000) as well as Richard Hurd, Ruth Milkman and Lowell Turner (2003) have identified this confluence of bottom-up initiatives and top-down support as an important prerequisite for bringing about changes in union approaches and strategies. From this perspective, generating organizational support to institute favourable top-down measures within unions might be considered a fourth challenge for MigrAr centres—beyond the three dimensions of their activism.

The following table provides an overview of the various activities of the group that takes the intended three dimensions of activism into account, case support (consultation, support for legal as well as extra-legal action), activities aimed at fostering organizing (extra-legal case action, outreach to inform about labour rights, networking with activist groups) and political engagements (within unions and outside of them). It also assesses roughly the degree of these activities for each year. "XX" denotes strong activity, "X" activity, and "-" weak or no activity. This table already suggests quantitatively that the strongest period of activity was between 2009 and 2010, meanwhile the years 2011, 2012 and 2015 may have been the weakest. The table indicates qualitatively a certain shift from publicity and organizing-related activities towards an engagement with union organizations. Consultation has been a relatively steady feature of the centre's work (see also statistics on the operation of the AK Undokumentierte Arbeit in the appendix). The following historical account provides a more detailed account for these changes.

	2009	2010	2011	2012	2013	2014	2015
Consultation	X	XX	XX	X	XX	XX	XX
Legal action	-	X	-	-	X	-	-
Extra-legal case action	X	XX	X	-	-	-	-
Outreach to inform about labour rights of undocumented workers	XX	XX	X	X	X	X	-
Networking with activist groups	XX	XX	X	-	X	X	-
Political engagement within ver.di	XX	-	-	-	XX	X	X
Political engagement within DGB	-	-	-	-	-	X	X
Public engagement outside unions	XX	XX	X	-	-	-	X

Table 1: Typology of activities of the Working Group on Undocumented Labour and degree of activity per year. "XX" denotes strong activity, "X" activity, and "-" weak or no activity.

Charismatic Phase (2009-2011)

The founding of the MigrAr centre in Hamburg in May 2008 was catalytic moment for union functionaries to support the institutionalization of such a centre in Berlin. In Berlin, various organizations engaged in anti-racist politics (*Antirassistische Initiative Berlin – ari*), feminist activism (*Frauen-Lesben Bündnis* – Alliance of Women and Lesbians) or medical services for people without papers (*Medibüro*) had joined *Respect Berlin* in an alliance that would form the Working Group. The network of these groups was considered an asset for gaining legitimacy among several other familiar groups and individuals far and wide who were in touch with undocumented workers. It was assumed that undocumented workers have relatively few direct links to formal organizations (Kovacheva and Vogel 2012; Cyrus and Kip 2015) and thus require specific forms of reaching out. It was believed that the benefit of the network structure of the *AK* that included practitioners such as medical doctors or German language teachers was that once they find out in a conversation with patients or student about experiences with wage fraud, they

could encourage them to approach the centre.

Jürgen Stahl, the union secretary of the section "special services" at the *ver.di* local in Berlin, admitted that unions needed the pressure of activist groups to found the centre: "Sometimes your nose needs to be pushed into something to see: Hello, there is something here!" He remembers the huge public resonance of the opening of the centre in 2009, but also some controversies it sparked, saying:

> It is not pedestrian that we give advice to people without papers. That it isn't uncontroversial in unions, should be mentioned too. I remember a long article in the *Berliner Kurier* [local daily], an entire page. A large picture and on the picture it said "ver.di supports illegals". One member [...] immediately wrote me stating that he leaves the union. He cannot approve that ver.di supports illegal labour (quoted in Gregull 2013).

The opening of the contact point for undocumented migrant workers by the Working Group, however, was presented in relatively sober terms. The press release stated on March 9th 2011:

> Workers without residence and work permits are especially unprotected, that is why the contact point wants to inform about rights and offer these workers the opportunity to become organized with ver.di in order to better realize their rights. The Working Group "undocumented labour" of the ver.di district, section "Special Services" thus founded a contact point for people working without valid papers. Since they are entitled to the same labour rights as any other workers, they will be advised about their rights and informed on how to prevent wage theft. In case of need, legal support will be granted according to the ver.di bylaws for legal protection.

The contact point was (and continues to be) open twice a month for two hours. It has also been possible to contact the *AK Undok* by email or cell phone to make other arrangements to meet.

While the contact point has always been a key activity of the Working Group, legal support hasn't been the only concern of the activists involved. In fact, the legal support for workers in a labour conflict was also a means to other political ends. Rather than providing a "service", the

legal support centre was to symbolize the organizational support of unions thereby strengthening the position of undocumented migrant workers. Moreover, the tactic followed a general insight of "legal activism" (Eudaily 2004; Unger 2015) that legal case work promises to effect more than simply accommodate an individual case, if it brings structural inequities to the fore and fosters the organizing of people who are affected by similar problems. In this way, the offer of free consultation was geared towards an empowerment of migrant workers with precarious status and to support them to act collectively against exploitative conditions. In this respect, the Working Group hoped to provide a platform for migrant workers' self-organization. Self-organization was believed to be a precondition for (undocumented) migrant workers to potentially transform structural forms of discrimination within trade union organizations as well as outside of them. Concrete experiences with cases of undocumented migrant workers, at the same time, legitimized the position of the *AK Undok* within the union structure and allowed the *AK* to mobilize union resources for the support of a group of workers with whom previously the union had an antagonistic relationship. In addition to offering individual legal support and operating as a platform for self-organizing, the third task of the Working Group aims at societal transformation and target policies that illegalize migrants and allow other people to profit from their disenfranchisement (AK Undokumentierte Arbeit 2010).

In the first years of the group's existence, the internal operation of the Working Group was based on a delegation system of several feminist, anti-racist, migrant-based and other leftist groups as well as a few unaffiliated individuals. The idea behind the delegation system was that the various initiatives were to take on co-responsibility of running the activities of the *AK Undok*. In order to coordinate the various groups, delegates from the political organizations involved were to

discuss and deliberate on the course of action at meetings once a month. In between meetings,

emails were to function as the main medium of communication.

To Carola who was one of the co-founders of the *AK*, the time requirements of the activism

seemed limited and manageable at the time. She explained to me that, "one of the motivations

for participating was that initially we just met once a month for two hours. So I told myself: I am

able to do that!" She and I broke into laughter after she said this since we both know how

unrealistic this expectation turned out to be and how easily one gets drawn into further work.

In the first year of its formal existence the *AK* made consistent efforts to conduct meetings and

write emails, regularly translating communication between German and Spanish. This was

considered important since beside German-born activists, the group also included a couple of

Latin American activists and domestic workers who had been associated with *Respect Berlin*.

Carola, remembers the inherent difficulties of the translation effort, stating:

> Once, I also experienced a meeting in which Spanish was the spoken language during
> discussion and a translation into German was only made for me. I thought that was very
> interesting and exciting, because at other times, those who could not speak German were in
> that situation. And of course, not everything gets translated. Some arguments and
> discussions don't get to be translated.

After about one year, this translation effort eventually faded in part because people who were

Spanish-only speakers didn't come for the meetings anymore and only some in the group had the

capacities to do the translation work, including the taxing work of translating daily email

exchanges.

The first two years of the group were accompanied by several newspaper articles and media

reports. Roughly 20 reports were made about the work of the *AK* during the first year of the

existence of the contact point (March 2009 – March 2010), which mostly involved interviews

with *AK* activists. During the same period, members also participated in about 25 events, from

running a workshop, participating at a roundtable discussion, to giving a talk. This, of course,

was on top of the actual operation of the contact point and other political efforts. It was a very

busy period for the *AK* with some people taking leadership roles, but more than a dozen other

people supporting the everyday kind of activities. The group also had their first success in

supporting labour struggles. The following two cases from this period are also documented

briefly in the six-year report of the Working Group (see also AK Undokumentierte Arbeit 2015):

Case one: A Latina domestic worker had been employed for 11 years as a "live-in" in the

household of a diplomat. The diplomat held her passport. When the worker was diagnosed with

cancer and told the employer about it, he dismissed her verbally and in writing. Given the

uncertain legal situation related to the diplomatic status of the household, a lawyer was contacted

and asked for help. The official case description of the *AK Undok* relates that with her

intervention, the growing pressure of the migrant community as well as of the trade union from

the home country, the employer finally agreed to provide an apartment until she recovered. The

employer, however, still sought to make the worker sign an agreement not to receive any visitors

in the apartment or else he would not return her passport. A member of the working group thus

accompanied the worker to the embassy and stated that the worker has the support of the union

and that the Working Group would represent the worker in all matters related to labour law.

Activists involved in the case believed that since the embassy apparently feared a public

campaign that the Working Group had hinted at, the employer would then finally gave up his

requests.

Case two: A worker from a North African country worked for two years in a retail store without papers. Since he never took vacation, he enquired in the consultation if he could claim payment of vacation. As it is possible to claim vacation pay up to two years in retrospect, the Working Group union at *ver.di* wrote a legal assertion to the employer. With such organizational support, the worker approached his employer for an out-of-court settlement. They agreed to the sum of €1,100.

Phase of Frustration (2011-2013)

By early 2011, internal problems of the Working Group became increasingly noticeable particular in the growing awareness of the group's limits of efficacy. The group had moved to what I consider the second phase of frustration and disappointment. The *AK* had not been able to catalyse self-organization of (undocumented) migrant workers, the legal case work proved to be difficult, time-consuming and leading to no or, at best, limited success. Politically, the *AK* had also not been able to create much momentum to change the institutional discrimination of undocumented workers within *ver.di* or the union movement in general.

Compared to the situation only a few years earlier, the political significance of undocumented labour changed considerably. First of all, in 2011 citizens of the EU member states that entered the EU in 2004 (the EU-7) gained full labour rights on the German labour market, thus were no longer illegalized. With the decrease in size, the problem of undocumented labour lost in political currency. Second, other professionalized counselling centres for migrant workers (in precarious employment) had been established in Berlin in 2011, such as comparatively high-

profile "Office for Posted EU workers" or the "Berlin Alliance against Trafficking." The MigrAr centres thus increasingly became only small piece in the spectrum of counselling services for migrant workers under the umbrella of labour unions. In this period, media interest and invitations for the *AK* to participate at public events decreased significantly, with only about a third or less of media reports and participation at events compared to the first year.

At the level of the *AK* group, the delegation system was increasingly difficult to sustain, especially to integrate the work of the *AK* into the work of the various participating organizations. The operation of the Working Group came to depend on individual activists committed to the cause and not their respective organizations. Those actively involved, however, soon realized that the challenge to offer effective support in legal and political terms was beyond their personal and collective capacities. Based on volunteer work, it was difficult to offer the support necessary for the cases that were often quite complex and required specialized expertise. At the same time, the hope for *ver.di*'s financial commitment towards this kind of advocacy and organizing work also proved to be unrealistic. The large majority of activists had no familiarity with the organizational structures of unions and found them difficult to navigate in order to effect change. Contacting the responsible functionary at *ver.di* became increasingly strained as frustrations grew about his reliability and commitment. With respect to the undocumented workers themselves, requests came in rather slow. In the first year, the centre worked with four cases, in 2010 nine cases, in 2011 seven and in 2012 only five (see appendix).

While the support of the Working Group contributed to a few successful outcomes in the casework, the *AK* hardly made well-known name for itself in communities of undocumented

migrant workers. Researchers Dita Vogel and Vesela Kovacheva, for example, find that within

their sample of 141 Albanian and Bulgarian-speaking workers in Berlin (a considerable part of

whom were undocumented), only 8% knew about the existence of the centre of the Working

Group. From this vantage point, it might not be surprising that the centre did not function as a

platform for the self-organization of migrant workers. The consultation usually dealt with

individual cases with unique constellations of labour and residence law. The cases of

undocumented migrant workers, as it turned out, were even more time-consuming to support

than anticipated, especially for lay activists. Tricky questions included: Does German labour law

apply to domestic workers working in a diplomat's household? What exactly are the labour

rights of au-pairs workers? Under what condition can a worker with an asylum claim pending in

Italy transfer the asylum claim to Germany and possibly legalize her working situation?

The most sensitive and time-consuming concern, to be sure, was to assess the possible risks for

undocumented migrant workers engaged in a conflict strategy to get in legal trouble for their

illegal employment or illegal residence. This relates particularly to the issue of bringing a lawsuit

(on the legal discussion, see chapter 4). Other demanding issues included different language

proficiencies in the consultation. Moreover, legal base of evidence was frequently weak, for

example, when workers did not know the official identity of the employer. Such instances

required extensive research to build a more solid case. These challenges were exacerbated when

workers lived outside of Berlin, sometimes at considerable distance. Such situations called for

careful planning for opportunities to communicate.

It was within this situation in which the activism was increasingly perceived as sobering and

frustrating that I entered the group. When I joined, several of the founding members had just left. During my first year, our group also spent several meetings to develop a clearer idea of what we wanted to accomplish with existing resources. A controversy emerged between the intentions, on the one side, to develop political and public campaigns on the abolition of the reporting obligation for public agencies (§87 *AufenthG* see chapter 4), and on the other side, to engage in community outreach and actively approach migrant workers.

More challenging, however, was to define the balance between the consulting activity in relation to political and organizing work. Consultations were increasingly perceived in problematic terms. Although they fulfilled an important function to legitimize the political work of the *AK Undok* in view of making unions more inclusive towards migrants with precarious status, it became increasingly evident that it consumed considerable energy and time of activists. In the face of scarce resources, the work of advising thus stood in conflict with the political work of the group. A dichotomy of individual casework and political engagement became a pressing problem to activists. For many of them, if not most who had joined the group, the main interest was to do "political work" and to "work on changing social relationships that profit from illegalization" (see statement of the AK Undokumentierte Arbeit 2010), the advising work was experienced as more and more frustrating. Advising rarely led to unambiguous successes but instead frequently to workers disillusioned with the prospect of resolutions. Such engagement with individual casework left few resources to do "political work" within unions, activist circles or, more broadly, in society, including preparing public statements and events, or engaging in other public and networking activities. The unspoken dilemma thus was that while the advising work seemed to be the foundation for *AK Undok's* political activism, it also consumed so much energy, leaving

hardly any time for organizing, political and public engagements. On the one side, the consultations were a tactic to attract workers to the centre so as to build a relationship in the first place. On the other side, the consultations quickly reinforced the bifurcation between "supporters" and "supportees", thus ultimately contravening the intentions of self-organizing.

Some of the "new" members who joined the *AK Undok* together with me, expressed strong preference for the outreach and organizing approach, yet it was unclear how the Working Group was to realize an "organizing campaign" most effectively, given that each of us had only a few hours to spend on this activism per week. As it turned out, without a clear strategy the inspiring impulse gradually evaporated.

At the height of the "campaign", motivated members of the *AK* contacted various NGOs working with migrants and migrant communities by mail and telephone and offered to run labour rights workshops for (potentially affected) migrants or for "multipliers", i.e. people who professionally or as activist are in touch with migrant workers. The offer, however, resulted in little response leaving us again wondering how best to get access to communities of undocumented migrant workers. One of the *AK* contacts later suggested that several migrant community organizations don't wish to be associated with "illegal residence" or "illegal employment", thus possibly creating strong reservations towards our offer. Moreover, several "new" members, especially those most vocal for the organizing approach, became less and less involved in meetings and proved unreliable with respect to completing the tasks that they had committed themselves to.

A few months later, in autumn of 2012, key co-founders of the *AK*, the group *Respect Berlin*, collectively resigned from participating in the group. In their reckoning with the Working Group in 2012, *Respect* concluded that the *AK* had failed to accomplish its goal of supporting migrant workers union (self-) organization and of making unions commit to organize in these precarious employment conditions. It was argued that the participation of undocumented migrant workers was discouraged at several levels. *Ver.di* is described as "bureaucratic" and migrant workers are believed to be hardly able to act autonomously without someone accompanying and advising them about organizational procedures and regulations (Respect Berlin 2012). At the same time, *ver.di* was reproached for being ineffective, for example, to provide unionized undocumented workers with their union membership cards. In the light of their experiences with *ver.di* and other unions, *Respect Berlin* concludes that

> German unions have little interest in organizing undocumented workers, domestic workers etc. Why? First, these often extremely precariously employed workers pay low dues and require individual consultation and support, since they work in small enterprises without works councils. Since unions internally operate as a business, this "venture" doesn't pay off for them. Second, if they want to organize undocumented workers employed in small enterprises, unions have to collaborate closely with NGOs and migrant organizations etc. As a rule, German unions reject this, since they fear losing control (Respect Berlin 2012).

As a Working Group within *ver.di*, the *AK Undok* is theoretically open for everyone to participate, yet by not being a group with formally elected officers the *AK* is not able to bring in motions at union meetings nor is it formally competent enough to speak as an official body of the union. While this was originally thought of as a useful condition for including undocumented as well as other migrant workers in a union environment, the group did not develop towards greater diversity with respect to its activist base. Instead of constituting an internal challenge to the status quo, the Working Group on Undocumented Labour was seen to reproduce the problem of institutional exclusion within unions. *Respect* expresses harsh criticism against the *AK Undok* in

ver.di in that it is a

> special structure, that is even more exclusive than conventional ver.di structures
> (professional groups and such). Our structures are theoretically open and democratic, yet
> effectively intransparent, characterized by an academic and middle-class oriented
> discussion culture and an internal power hierarchy between "old" and "new" members,
> non-migrants and migrants (Respect Berlin 2012).

The group also considers a problem that there are no clear criteria for participation in the *AK* and

the underlying interests of activist remain in the dark (Respect Berlin 2012). I propose to relate

the perception of intransparency to the high fluctuation of group members. In those 4 years of

my activism with the *AK*, I counted about 25 activists who had been engaged with the *AK* for a

timespan ranging between around five months to five years. Very rarely at any given point

throughout this period was the number of core group of activists who regularly participated at

meetings greater than 7 persons. This in and out certainly had to do with the fact that the group

overwhelmingly included students or young post-graduates in precarious employment

relationships. Study and work requirements created conjunctures in which personal activism

sometimes became possible and other times not. At any rate, having the founding group

withdraw from the *AK Undok* marked a crisis moment in which activists were not certain

whether to continue and which way to go.

Phase 3: Accommodation and Conflict (2013-2015)

As awareness grew that trade unions are large organizations that are slow to change, especially

on such controversial topics such as "undocumented labour", personal interest in union politics

became a prerequisite for adopting a patient stance. The activism became less about big changes

(as advocated in the original mission to aim at societal transformation and target policies that

illegalize) toward smaller yet more concrete ones (for example, institutionalize the possibility of union membership for undocumented workers).

Gradually the *AK Undok* changed from a group made up of young leftist academics almost exclusively in their 20s and 30s and began to include more activists beyond their forties. Remarkably, one of them became a steadfast supporter to staff the advising hours. Compared to the initial period of the AK, in which different activist groups were (more or less loosely) involved with the AK through the delegation system, Carola states that today with the delegation system dissolved and activists coming on their own accounts:

> Things have become more reliable by having fewer people involved. It also means fewer large networks and smaller networks, which is sad, so that some skills, memories and networks got lost, when people left. A change also happened to the effect that the consultation has gained in importance compared to the political dimension of the engagement.

One way in which the internal crisis petered out, was the onset of an external crisis. In 2013 the political climate related to migration of so-called Third-country nationals (EU non-citizens) began to shift, as the numbers of refugees making their way to Germany had risen significantly, also as a result of new wars in Libya, Syria, Eritrea or Somalia. Refugees from these countries thus started to arrive on top of those coming from countries with ongoing physical and social insecurity, such as Afghanistan, Iraq or Balkan countries (Serbia, Albania, Kosovo, Bosnia-Herzegowina, Macedonia). Refugees increasingly organized themselves and became publicly visible. In 2012, a march of refugees contesting their illegalization and the obligation to reside in a particular district that took them a long path through Germany ended in Berlin in a tent city only a kilometre from the local *ver.di* headquarters.

Illustration 9: "We will stay!" Demonstration at the refugee tent city at Oranienplatz, Berlin. November 25, 2013. Source: Umbruch Bildarchiv. Used with friendly permission.

In Berlin, this did not lead to any official collaboration with local unions to my knowledge, except for the fact that the *AK Undok* offered additional consultation once a month in an empty school that the refugees had occupied after the police had demolished the tent city. This engagement lasted from April 2014 until the refugees were evicted in July 2014, but it did not lead to any casework or sustained collaboration with the mixed occupiers.

At around the same time, as described in chapter 5, the *ver.di* local in Hamburg welcomed a group of 185 refugees who came to the EU by way of the Italian island of Lampedusa as new union members, and who had a similar tent city near the local.

Illustration 10: "Lampedusa in Hamburg" refugees and ver.di members at a union demonstration in Hamburg 2013. Credit: Rasande Tyskar/flickr CC-by-nc-2.0

The controversy surrounding the union membership of refugees, as initiated by the unionization of refugees from the group "Lampedusa in Hamburg" (see chapter 5), provided the *AK Undok* with a new purpose. For the AK, the argumentation of the organizational department of *ver.di* national was a political setback and undermined the basis of the centre's operation. In November 2013, resisting a legalistic interpretation of union bylaws, group members wrote an open letter entitled "Migration control is not our business! For a ver.di membership independent of residence status" (AK Undokumentierte Arbeit 2013). The letter was circulated it through various networks generating considerable media coverage (see, for example, Nowak 2013; Völpel 2013; Düperthal 2013) and attained more than 550 signatures of *ver.di* union members throughout Germany in less than three weeks. To members of the *AK*, the event signalled the important role that the Working Group plays within the union discourse. The slow but steady work of consultation rendered the Working Group with an authority to speak about the issue.

Although the open letter never received any official response from the federal leadership of the union, it certainly contributed to the abandonment of the internal report by union officials in 2015 and a new public embrace of the MigrAr work by the union leader, Frank Bsirske, of the idea of membership for workers independently of residence status (see chapter 5).

In the context of growing protest mobilization of refugees in Germany and Berlin, groups of refugees and their supporters increasingly struggled to make their grievances heard publicly. Refugees also started to target unions for greater engagement with their situation. In late September 2014, a group of about 25 refugees called "Refugee Struggle for Freedom" occupied the lounge of the Berlin-Brandenburg local of the *DGB* (German Trade Union Confederation) to demand union membership and a political intervention on behalf of their individual claims for asylum. Happening in the same building where the *AK Undok* consultation was offered, *AK* activists tried to mitigate but confronted a union leadership that was unwilling to compromise. Again, a key debate within this conflict was the issue of union membership for refugees. In media outlets, local DGB leaders rejected this possibility on the grounds that they were not "regular workers" (Wießner et al. 2014; Nowak 2014). In early October, the local DGB headquarters called the cops to evict the occupiers, leading to several arrests with still unknown consequences to their residence status.

The *AK Undok* issued a declaration to criticize the handling of the conflict by the local union leadership, the lack of good faith in communicating and engaging a negotiation (AK Undokumentierte Arbeit 2014). The AK rejected the *DGB* press release that emphasized the disturbance of the consultation work and refused to be instrumentalized by the leadership. The

declaration also strongly refused the juxtaposition of "our house" and the refugees as "guests", a

dualism that the *DGB* leadership fostered in public statements and notably in a banner posted at

the building on the day of the eviction. By claiming that the occupiers could not become union

members, the *DGB* leadership effectively intervened in an ongoing debate of its member unions,

as the *AK* statement pointed out. In spite of the dramatic eviction, the event galvanized refugees

and union supporters to push for an open union discussion and not to leave the issue to the crisis

management of the leadership. In particular, the *AK* signed on to a demand to organize a union

conference and include refugee and migrant worker organizations.
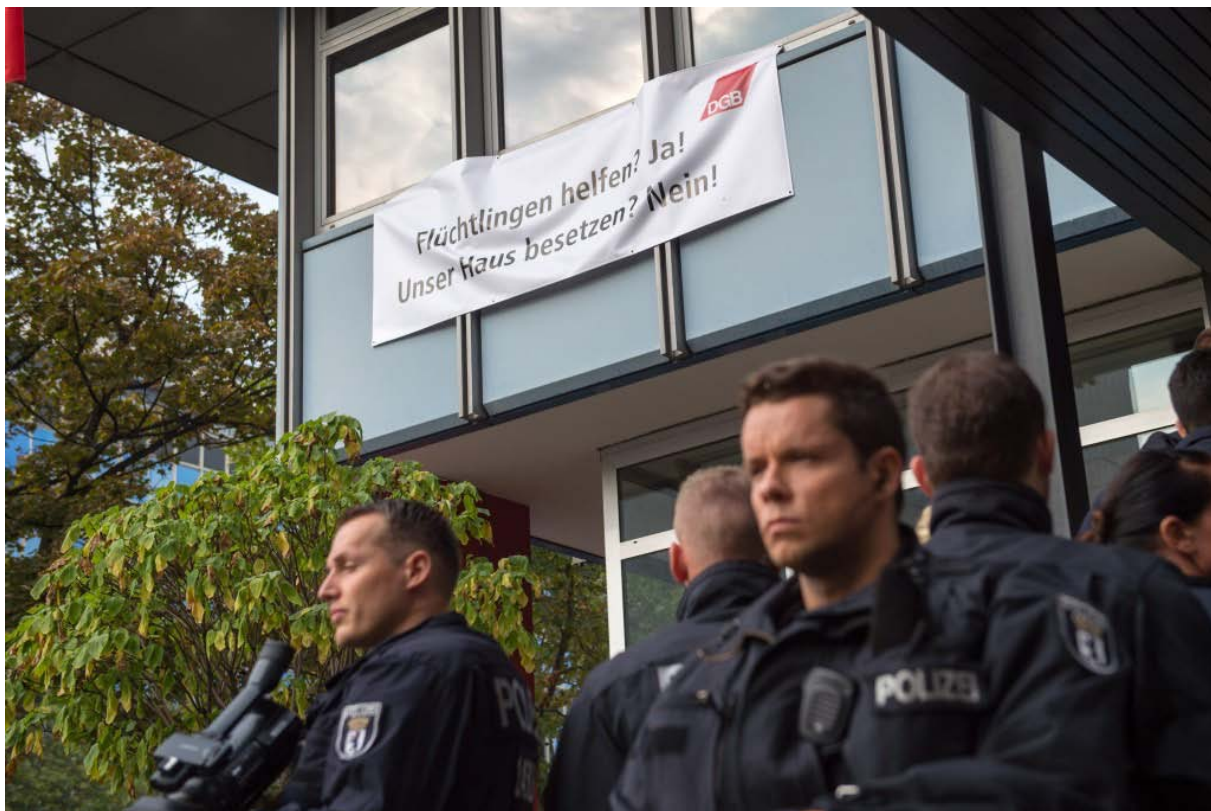
Illustration 11: "Helping refugees? Yes! Occupying our house? No!" Banner of the DGB district Berlin-Brandenburg on the day of the eviction of refugees by police. October 1, 2014. Picture: Christian Ditsch, linksunten.indymedia.org, Creative Commons-by-nc-sa/2.0

Fuelled by expert estimates of 800,000 refugees to arrive in Germany in 2015 (see chapter 4),

labour market integration of refugees has become a hot button topic and national union

leaderships have taken part in the discussion. The question of membership inclusion, not to

speak of an organizing strategy, however, has been avoided by the leadership, so far. In personal conversations with high-ranking union functionaries at conferences or meetings, I was repeatedly told that no decision will be taken in this regard until the union congress of *ver.di* and the metal workers union (*IG Metall*) takes place in September 2015 in which several motions were to deal with the subject. Confronted with a stalling response from the union apparatus and incapable of agreeing to a common strategy, the movement of "unions and refugees" that was formed that October 2014 had all but evaporated by September 2015.

As already indicated earlier, the consultation case work aspect of the activism has been constantly an important dimension in the activism of the AK Undok. It has been a central aspect to legitimize the Working Group with respect to union organizations as well as a certain "incentive" for undocumented workers to approach unions and possibly make use of them as a platform for organizing. As such a central piece in the activist strategy of fostering union solidarity with undocumented migrant workers, a closer look at the dynamics of this case work is warranted to gain a better understanding of the opportunities and challenges for such solidarity.

Supporting undocumented workers: A case

The following detailed case account exemplifies some difficulties in the consultative work of the *AK Undok*. Compared to other cases, this one is somewhat exceptional in that it had promising starting conditions with respect to the goals of the AK to support the collective self-organization of workers and foster their leadership. The case involved a relatively large group—five workers—who also framed their motivation to approach us in terms of justice. In the face of such favourable starting conditions, the development of the case describes various obstacles on the way to redeem the rights of workers. In other instances, already one or two frustrating

experiences already led to the abandonment of the case by the worker, in this particular study, the worker showed considerable patience until they too lost faith in the process. In this respect, the account highlights in particular ways the challenges of fostering MigrAr solidarity. The case is not exceptional, however, in terms of the outcome: Neither did it not redeem the rights violated, nor did it lead to sustainable organizing practices. The last case in which the worker was reportedly content with the concrete gains made as a result of the legal engagement had already been close to four years ago. Moreover, this case also illustrates the emotional stages that I also experienced at other moments of my activist involvement and documents the pitfalls of falling into a paternalistic stance that ultimately contravenes the realization of a reciprocal and communicative practice of solidarity. For the sake of confidentiality, places and persons have been anonymized.

Establishing contact

On May 8, 2015, a friend and union colleague contacted me about a current case of five Nigerian workers with precarious status who had been cheated off their wages and who were about to confront their employer to demand their money a few days later. My friend had heard about this case through another friend who was an activist within a small anarcho-syndicalist group that offered to support the workers. They asked for people of confidence to accompany them, as witnesses and protection, when they were to confront their employer. They did not, however, want to turn this into a public event.

From my previous experience with the *AK* work, I was intrigued with the initiative of the workers themselves to assert their rights. In most of the other cases I became acquainted with, workers were afraid to confront their employers personally. Several cases had petered out also

because the workers had not shown willingness to be more actively involved in their case beyond providing evidence and giving us guidance on what supports they would like from the *AK*. This had repeatedly come into conflict with our own self-understanding of rank-and-file activism. The activists of the *AK Undok* didn't simply want to do a service for someone. In this respect, the agency of the Nigerian workers seemed like a good prerequisite for our solidarity work.

On **May 11,** in coordination with my colleagues of the *AK Undok*, I went and met the group at a supermarket in Berlin. I put on a formal shirt and placed a small pin with the *ver.di* union logo on it. Who knows, I thought, maybe it could impress the employer to convey that there is a larger organization concerned about the case. Upon my arrival, at least my appearance seemed to have impressed the two workers, who came with a friend and three activists related to the syndicalist group. At first, nobody seemed to be at ease around me. I had a visibly different dress code than everyone else. I didn't know the plan of action for the confrontation and the activists told me that they had already tried to surprise the employer a few days earlier but didn't find him on the job. It turned out that the employer "Haq" himself actually worked at the supermarket cleaning and arranging shopping carts. Supermarket colleagues had claimed that Haq would be there the day I arrived.

But Haq wasn't there. He also could not be reached by phone. We waited for about an hour, while the workers looked around and enquired. It was suspected the he was warned about the action beforehand. We exchanged some ideas afterwards and I found out that the workers are in the process of applying for asylum in Germany. They also explained that the total sum of money to be claimed for all five persons was around €2,200. According to the arrangements made with

Haq, the workers had cleaned at a variety of supermarkets in Berlin, mostly during the morning hours prior to the opening, i.e. from 5 to 7 or 8 am. A "flat rate" of €400 per month was agreed upon with the implied wage rate of roughly €10 per hour. No written contract was set up. Haq himself worked for a cleaning subcontractor and had recruited one of the workers who had started to work already in July 2014. The employment relationship seemed functional for both and after working for about three months, the worker also helped Haq to contact four other workers she knew from her Nigerian community. The remaining four started their employment in October, fully aware that the employment was not going to be officially registered due to their precarious residency status. At the end of October, Haq did not pay any of the workers for October and promised them that he would. He claimed he was waiting to be paid by the cleaning contractor before he could pay them. In mid-November he alerted the workers not to show up for work since he allegedly expected an examination of workers and the accounting books by the cleaning contractor. Ever since then, Haq never called the workers again about returning to work. When days later, workers inquired about the employment and the wages for October, he continued to put them off and eventually did not even pick up the phone anymore.

I explained to the two workers and activists, how the *AK Undok* usually goes about supporting a case: First, the *AK* contacts the employer, making the claims and the support of the union known. If the workers agree to become union members, the union can send a legal assertion of claims, a document detailing the demands which is also a precondition for any further legal steps. The point of having the union send such assertion, I explained, is to signal organizational support for the worker. This can already create enough leverage for the worker against her employer and bring him or her to agree to a settlement. If the employer does not react or accommodate such

legal assertion, a new register of measures is possible. This might involve direct actions, public relations campaigns or lawsuits at a labour court. The workers decide on the course of action, and the *AK Undok* supports them with expertise, organizational contacts or bureaucratic processes.

For a first step, I offered the two workers that I could make a call from the phone of the *AK Undok* the next day to let the employer know about the union interest in the case and to urge him to approach the workers in order to settle the issue within a week. If the workers hadn't heard anything (constructive) from him within a week, I suggested that we could have a meeting with all five workers to document the case and, if they wish, prepare a legal assertion against the employer. The workers agreed to this course of action and we tentatively set a date to meet on May 19 at the consultation office in the afternoon. Interestingly, the syndicalist also appeared to be positive about this plan. They were not sure about how they could get involved and were also short-staffed.

On my way back home, I sat with one of the workers on the bus. Mikael was in his late thirties, like me, and we shared some stories about our children. His daughter is as old as mine, but is still in Nigeria. Mikael told me that prior to coming to Germany, he had worked as a mechanic on large freight ships traveling around Africa. His qualifications are not recognized here, so he takes up jobs in whatever he finds.

Getting in touch with the employer

The next day, **on May 12,** I called Haq and told him that workers have approached the "*AK*

Undokumentierte Arbeit, a consultation centre of the German Trade Union Confederation district in Berlin-Brandenburg" and claimed that he had not fully paid them. I offered to assist in finding a solution to the issue. At once, Haq got audibly upset and said that he still hadn't been paid by the cleaning contractor and that he had not been aware that the workers did not have work permits. He immediately suggested that we should all go together to the contractor *Clean Cause* and ask for the money. This is at least the gist of what I understood. He spoke in such a fast and, to my ears, confused fashion that it took me a while to understand what he was saying. Occasionally, he brought in the demand that the workers present him with their social insurance numbers, so he could properly register them. At the same time, he blamed them for having tricked him about claiming to have a work permit, when in fact, they had not. He deflected any wrongdoing to both the contractor and the workers. I continued to insist that he cannot condition the payment of wages. The work is done and as such is to be paid by law. The obligation to pay outstanding wages exists irrespective of registration or residency status, I explained. If, in fact, he wanted to register workers officially, he would have had to stop employing them already the first day, unless they submitted proper paperwork.

Haq's voice grew increasingly heated and since I still did not agree to first go and demand money from *Clean Cause*, he shouted into the phone that I was stupid and misinforming workers. Then he hung up. The conversation, with all its confusing turns, had taken about 10 minutes. A few minutes later, he called back and suggested that we should meet. I was not so excited about the idea, already somewhat concerned about how easily he could snap. I told him that I did not understand what he wanted to discuss. If the cleaning contractors owed him money, that would be his problem not the problem of the workers. If he wanted to offer the workers to register them

officially for future employment, that would be fine, but beside the point of paying outstanding wages. Haq turned angry again and threatened to denounce the workers to custom authorities. I suggested in return that if he was to self-report the employment relationship and be found guilty of illegal employment of foreign workers, he could be faced with hefty penalties. He hung up. I was taken by surprise. My heart was beating since it was the first full-fledged dispute I had with an employer, who was apparently threatened to use the extreme register of denunciation to defend himself. I was doing a quick recap of the conversation on whether I had reacted correctly to avoid any negative consequences for the workers.

A day later, **on May 13,** Haq called one of the workers and claimed that he was willing to pay them, but that they would need to give him a bank account. He didn't want to pay in cash, presumably for accounting reasons. Mikael called me the same to tell me about it. He explained that some of the workers did not have a bank account and others didn't want to give Haq their official name and banking information. As a working group, we could not receive such money either without risking getting into legal trouble. After some to and fro, the workers identified a common friend who was willing to make his bank account available for the payment. Once I had received the account information, I forwarded the information to Haq. The workers preferred me to do the communication with him, since they were already fed up with his temper tantrums and threats. It turned out that Haq had not paid the workers by the time we met on May 19th at the consultation office. I had already been familiar with other employers who claimed to pay regularly, but then did not, and just as regularly came up with an excuse. At the *AK Undok*, we understood such behaviour as a tactic of attrition and delay until employers would change cell phone numbers or simply disappear.

The centre begins to operate: Counselling and pitfalls

On **May 19th**, I was the only one of the *AK Undok* who could be present for the meeting with the five workers. It was actually the first time, I had been in a situation in which more than one worker had shown up to a meeting. At the time, I was so occupied with various other issues in my life, that I had not taken time to prepare myself mentally for the meeting and for thinking about what would be the best way to facilitate a conversation with the workers about what they wanted to do and how the AK could possibly collaborate. I had hoped others from the *AK* could also become involved, because I know from previous experiences that once I had been "sucked into" a case too much, it is more and more difficult to bring in other people of the *AK* as contact persons. Once workers have come to know and eventually trust a member of the *AK*, it becomes more challenging to hand over the case, if only for a sense of personal responsibility. Moreover, the greater the knowledge difference about the details of a particular case between members of the *AK Undok*, the more difficult it becomes to bring others up to speed and to motivate them to take up an active role in the case.

I was excited to see all five workers showing up at a subway station near the consultation office where we agreed to meet up. Besides Mikael, twenty-something year olds Kingsley, Kelvin and Vivian as well as Sandra (in her forties) showed up. We spoke English, though Kelvin could also speak German fluently. From there, I wanted to accompany them to the office, since it is not easy to find in the union office complex. As a group, activists of the *AK* had regularly expressed unease about our office location, as its architectural context spoke the language of administration and legal rules in our interpretation. With regard to workers who are conscious about their precarious legal situation and fearful of their illegality being discovered by public agencies, members of the *AK* had stated concerns about the office being unsuitable for welcoming them.

Illustration 12: Building of the German Trade Union Confederation (DGB) district Berlin-Brandenburg in which the consultation office of the Working Group on Undocumented Labour is currently located. December 9, 2015. Source: Laura-Timeea Chelebet.

Illustration 13: Building of the services sector union ver.di district Berlin-Brandenburg in which the consultation office of the Working Group on Undocumented Labour was located until 2013. December 11, 2015. Source: Anna Basten.

On our way, the workers articulated their anger towards Haq and the fact that he has so far gotten away with not paying. Kingsley said that he also wanted to do something about the case to "teach Haq a lesson" and to prevent him from abusing other workers in similar fashion. They saw that there were several other workers, too, who were recruited by Haq, workers from Iran with whom they hadn't developed any further contact. Meanwhile, most workers giggled and chatted in Yoruba amongst themselves, a language I don't understand. When we entered the office, silence befell the group. I offered seats and something to drink and tried to make them feel comfortable and welcome. I said a few words on our activist and volunteer group, our critical engagement with unions, that we are not professionals, and that we are willing to support them, but that we won't do anything without them taking the initiative or guidance.

Illustration 14: Consultation office of the Working Group on Undocumented Labour in the DGB building. December 9, 2015. Source: Laura-Timeea Chelebet.

I was not successful at contributing to a situation in which people felt encouraged to take leadership. When I asked them what they think or hope about a possible collaboration, I received rather timid responses about how workers felt upset and abused by Haq and wanted to bring

forth "justice". They said that they would appreciate the support for their case by a union that is more competent in matters of the law. Unable to foster an open conversation, I eventually sat down behind the desk to take notes on their individual employment histories on the computer. Only after the meeting, I fully realized about how my behaviour helped recreate a situation similar to the staff-client relationship in a public authority: I took up the role of the expert who is asking questions behind the desk, while the workers assumed the role of clients who respond.

Nevertheless, the meeting did not seem all that bad in view of creating future opportunities. As workers presented their cases, I sensed that people felt increasingly comfortable to talk to me. An apparent problem, however, was that the workers had virtually no proof of their employment relationship. One of the workers at least had a copy of a supermarket time sheet that she had signed. The other workers did not even remember the exact dates they worked, not to speak of how many hours beyond the agreed two hours each day. We also spend a bit of time reconstructing which supermarkets they worked at, since in several cases they remembered the chain of the supermarket and how to get their by public transport, but they didn't remember the street name or address. The workers said they had contact with other supermarket workers and that some might remember them, however, they did not have any contact information about possible witnesses. By that time, their employment had already been six months in the past. Since one of the workers had already worked for a few months with Haq, they were simply not prepared for the possibility of fraud. I already expressed my concern that the lack of evidence will make it very difficult to bring the case to court. We reconstructed the period of their employment as precisely as possible for the legal assertion. In terms of the amount of wages owed, I relied on what the workers had calculated. The amounts owed were between €250 and

€600 per person, altogether €2200 for all five workers. The workers identified Haq as their employer, but didn't know any address. With some internet research, we found out that he is an employee of a small cleaning subcontractor. Collectively, the decision was taken to send the assertion to this company.

The workers expressed interest to join the union and all five filled out membership applications. Workers recruited by the *AK Undok* usually pay the minimum in dues at *ver.di* which is €2,50 per month. I also asked them if they were willing to participate in an event of the federal administration of the German Trade Union Confederation on "Labour Market Integration of Asylum-Seekers" in early June. The event was planned by the DGB relying entirely on non-migrant professional experts and without scheduling any asylum-seeker to speak on the issue. The *AK Undok* had already complained to the event organizers about this issue symbolizing the real disconnect between unions and refugees. To me, it seemed opportune to connect the workers with the event, who, like Mikael, already had had (frustrating) experiences with trying to formally access the labour market with their skills and qualifications. Mikael and Kelvin signalled interest and we agreed to figure out ways for them to participate at the event and share their perspectives in a meaningful way.

The meeting ended on an optimistic note. I promised I would put the legal assertions together based on the information they provided and send them off as soon as possible. All five workers seemed hopeful that such a letter would create an impression on Haq and possibly bring him to pay. But we also spoke about possible next steps, whether going to court or doing an action. In the end, I had the sense that it was clear enough to them that my role was not a service provider

or an expert who could resolve the issue by the stroke of a hand. By contrast, workers continued to express their anger and their willingness to find ways to go against the injustice. We departed under the assumption that either the case would be resolved in about a week, or we would meet soon.

Legal casework and legwork

It took me two days to finalize the legal charges. One complication was that two supermarket locations still had to be identified. Over the phone, I tried to figure them out with Sandra who could not remember them well. Without having been requested to do that, Sandra actually took up the long trip to the supermarket and it was when looking for the connecting bus that she remembered which one to take. I was quite impressed when she called me from her trip. Another obstacle to finalize the letter, was that I realized I could print out the legal charges on official *DGB* letterhead only on the computer in the *DGB* office. Thus, I had to make time to get there only for that purpose.

On May 21, I finally sent off five letters to the employer "*SMG Gebäudeservice*", the small cleaning contractor, by registered mail. The employer was given one week to fulfill the demands and pay the wages. Otherwise, the letter said, that the union would consider pursuing further legal steps. After one week, we still hadn't heard anything from the employer.

On May 29, Just when we were about to organize a next meeting with the workers, we received a notice that the letter could not be delivered and was returned to the address of the office. I double-checked the address of the employer on the website and it seemed correct. Together with

one colleague from the *AK*, we decided to go to the address, see what we find and deliver the letter. The address was a small apartment building. In fact there was no name plate with "*SMG Gebäudeservice*", but we found "*Susanne Maier*", the owner of the cleaning subcontractor. When no one opened upon ringing the bell, we dropped the letter in the mailbox. This meant the employer had a week to respond from then on.

In the meantime, **on June 3**, Kelvin, one of the workers, received a bit of public attention. First, when he participated at the mentioned *DGB* event. The organizers agreed to allot some time for Kelvin to speak (in fluent German) on the issue of labour market integration and on his experiences which was well received. He also got in touch with a journalist of the monthly union membership paper who was doing a special dossier on asylum and labour. The story of how Kelvin came to Germany in 2012 and his experiences with discrimination on the labour market was briefly profiled in an article and his collaboration with *ver.di'*s Working Group on Undocumented Labour was mentioned.

Maria, one of the members of the *AK*, decided to call Susanne Maier a few days after the letter was dropped off. Maier expressed concern about the case and claimed that she didn't know about it. She said that her company had only existed since February and that she therefore did not employ the five workers. She admitted to working with Haq, who turned out to be her brother-in-law, and to leaving some of the assignments to him. She promised to deal with the legal assertion in a timely fashion and offered support for the workers to be paid. Maria's impression was that Susanne Maier concern was authentic and that she was only someone who escaped unemployment by founding a small cleaning company. As a legal educator she knew about

several similar fates of people who were unemployed and jumped into small entrepreneurialism, without being fully competent to deal with managing a business. Maria therefore urged the others of the *AK* to hold off with taking further legal steps and give Susanne Maier some time since she sounded collaborative.

On June 11th, Maria was called by Haq who verbally harassed her on the phone. She ought to leave Susanne Maier alone, he told her, or otherwise she would be sued. Maria felt intimidated by Haq and lost faith in Susanne Maier who apparently handed the case over to her brother-in-law. In order to avoid turning the conflict into a personal issue, Maria asked me to call up Haq.

On **June 12th**, I was home with one of my small kids who was sick. Not being able to do my regular work under such circumstances, I had the chance to spend some time over the phone while watching the kids. I called up the administration of a supermarket chain in which some workers had cleaned to find out which cleaning contractor was hired. My intention was to alert the supermarkets and the primary cleaning contractor *Clean Cause* that there is a current labour conflict in which the union has an interest. I had discussed with Maria that I was going to call Haq a few days later hoping that supermarkets or *Clean Cause* would increase pressure on him in order to prevent them from being sucked into a labour conflict that might turn into bad press. Calling the supermarket administration, I was referred from one employee to another. I briefly explained the conflict, but the bureaucrats I spoke to seemed unimpressed. They finally referred me to district leader of the cleaning contractor *Clean Cause*, Mr. Kaiser, as the person responsible for such labour matters. When I explained the case to Kaiser, he told me that he was "shocked" to hear about it, that he would immediately investigate the case and get back to me as soon as possible.

Clean Cause, as the website boasts, has 3,000 employees and received an award for being one of the best employers in Berlin. Three days later, Mr. Kaiser sent an email implicitly confirming that he knows about the employment of the workers. He stated the name and contact information of a subcontractor with the name "*Jarooq*" who was commissioned by *Clean Cause* to clean the supermarkets. I had not heard of the name before and after double-checking with the workers, they had not heard of him either. I started to suspect that he was the "cousin" that Haq spoke about in his earliest convoluted account about the employment relationship. At least, I was hoping that Kaiser would in one way or another put pressure on Haq to clean up "the mess", ideally urging him to pay the workers.

I communicated with Mikael and Kelvin directly about these new findings and informed the other workers by text message, in order to make sure we all had the same level of information. Mikael, in particular, was my key contact to the group. I was not sure, though, about how intensively the workers communicated amongst each other. At meetings, Mikael appeared to be the informal leader and he was the one who usually reacted when I send a text message, informing me about what the five workers had agreed on. Under ideal circumstances, I would have wanted to consult with each worker or would have asked for more regular meetings of all five to discuss things. But that simply was not feasible for me or anyone else in the *AK* to arrange given the scarcity of resources.

Mikael and Kelvin expressed gratitude that I made these phone-calls, believing that I could convey the impression to the employers of a union organization pursuing the case. Upon my questions about "what do you think" or "what do you want to do", I received answers such as "I

don't know". Or my question "what do you think?" was returned. I realized they entrusted me, in a very personal way, to handle the case. I was a bit uncertain what to make of it, feeling flattered and responsible, on the one side, but also concerned that such relationship is at odds with the organizing approach. Incidentally, around the same time the *ver.di* newspaper article on Kelvin had just been published. One quote by Kelvin's quote created a similarly ambiguous feeling in me with respect to the personal aspect. "Without the help of Markus Kip of the ver.di Working Group on Undocumented Labour, we would not have dared to write the legal assertion."

Moreover, my phone-conversations with Mikael and Kelvin regularly happened under less than ideal discourse conditions, for example, under time-pressure or when someone was in the subway and the conversation was difficult to sustain technically or follow acoustically. In such situations, I felt a certain pressure to come up with concrete next steps and propose to them, since it was sometimes difficult to get a hold off each other for days. My understanding of organizing would have had it that workers themselves take initiative and develop a course of action. My intuitive concern, however, was that the case could lose steam and workers might drop their interest, if there were no substantial developments.

On June 17, I made another phone call to Haq to ask him not to abuse my colleague on the phone as he did a week earlier and I enquired if he had any news concerning the payment of wages. He did not and switched into abusing me over the phone right away. I hung up. Then I tried to call Susanne Maier directly to see how she was going to respond to the legal assertion. Having spoken for half a minute, to my surprise, Haq grabbed the Maier's phone and started to scream at me, urging me to leave her alone. Not sure about what to do, I threatened him saying

that we would meet in court.

Five minutes later the phone rang again. Susanne Maier apparently regained control over her cell and explained to me that she was willing to help, but that she was not responsible for hiring the workers and that the employment happened under the auspices of one of her earlier partners Jarooq who had left the country and who could no longer be reached. This sounded fishy to me, given that she continued to employ (her brother-in-law) Haq who apparently was the alleged cousin of Jarooq. Nevertheless, I started to realize that for a legal case, it might be more promising to target the cleaning contractor one chain up. I suggested to Susanne Maier that it is probably a business model of *Clean Cause* to subcontract cleaning jobs to small enterpreneurs who in turn recruit workers to do the job at low condition and in substandard conditions. Maier agreed and said that she had stopped working with *Clean Cause* and promised to help us find evidence for this kind of practice being frequent.

It required a bit of effort to communicate these findings to both workers as well as colleagues at the *AK Undok*. Mikael, my main contact person among the workers, seemed to have difficulties following my train of thought which was to leave Haq alone and go after *Clean Cause* for the payment of wages. When speaking to him, I realized how much I had already gotten hyped up by my own fantasies about a more publicly visible action against a large cleaning contractor. Mikael said that he was really mad at Haq and that he should pay as promised. Mikael and I agreed that we should meet again with all the workers to bring all up to speed and discuss next steps.

In the meantime, **on June 23,** one of the anarcho-syndicalist activists texted me and commended

me for my support for the workers, with whom she apparently keeps in touch. She invited me to her party, which unfortunately I could not attend. I am mentioning this here, because I definitely experienced the invitation to socialize as another fringe-benefit of the activism.

Experts and clients: Gearing up for organizing?

The meeting with the workers happened **on June 24**. All but one of the group of workers came and four *AK Undok* members were present. We met in the office, but this time we sat around a small table which I thought generated a more communicative atmosphere. At the beginning, I tried to recap what I had found out through my research over the past few weeks. I tried to be as precise as possible, but Louise, a member of the *AK*, interrupted me after a few minutes to allow the workers to speak. "So what do you think?" she asked them. I felt brushed off and thought that I had not even mentioned all the key details. But I kept quiet. Louise tried to encourage people to think about what they wanted to do, what they think the target should be and what they could do as a way to increase pressure. She emphasized again that the *AK Undok* wants to support them, if they want to take up leadership in pursuing the case. Throughout the unfolding conversation, I came to appreciate Louise's intervention as an effort to break the factual leadership role, I had already assumed. Maybe, Louise suggested, the workers could themselves investigate who else is currently working for Haq and under what conditions. The workers responded rather reservedly. Two said that when they have time, they would go to the supermarket and try to find out. Maria had the idea that we should try to activate the legal department of *ver.di*, since the workers had become members and have them take up responsibility for the case. They, we hoped, would be more experienced in legal matters and might have a clearer assessment what strategy would be most promising. Moreover, some *AK*

243

members also agreed to contact the works councils at the supermarkets and inquire about their willingness to support the case and see whether *Clean Cause* has a works council. The meeting concluded on the note that it was still uncertain which target would legally and strategically make most sense to pursue: *Clean Cause*, Susanne Maier or even the supermarkets.

It took a while to arrange for a date to meet with the leader of the district department at the local *ver.di* who is also organizationally responsible for the *AK Undok*, as well as a representative from the legal department. In an email Maria asked them to consider granting an exception for the union to legally represent the workers, even through they hadn't been union members prior to the actual conflict, as per union bylaw.

We finally met **on July 6**. All five workers made it again to the meeting at the *ver.di* local. Prior to the meeting, the five workers were amused to finally see the article with the profile of Kalvin in the ver.di union paper. Three union functionaries, including one from the legal department made it to the meeting, as well as five members of the *AK Undok*. The workers and the *AK* members were quite excited about the meeting with the professionals. Would they know how to crack the case legally and strategically? Would the union make the exception and grant legal representation to their new members? The fact that thirteen people met on the case, it was my impression, created a sense of importance.

In substance, the meeting was rather disappointing though. The division between "experts" and "client" quickly reappeared among the participants. The need for translation catalyzed this situation. Union representatives were hardly proficient in speaking basic English. It was difficult

to make the functionaries stop talking in German to allow for proper translation into English, not to speak of allowing for some time for the workers to provide input. The functionaries had to get a lot of expertise off their chest. Again, I felt ambivalent about this, since on the one side, we had asked them for their assessment and support, but, on the other side, it inadvertently fostered this division among meeting participants. Right from the start, the legal representative pointed to the fact that there is virtually no evidence to bolster the case in court. It is difficult to make the case that Susanne Maier is, in fact, the follow-up company of Jarooq's. And for going against *Clean Cause*, the evidence would be too weak. The alternative of making the case public and targeting the supermarkets was found to be difficult. Clearly, supermarkets could be tackled at their most vulnerable point, their reputation, when accusing them publicly for allowing such exploitative conditions to happen under their roofs. In this strategic scenario, supermarkets could either pay the workers or put enough pressure on their cleaning contractors to do so. The problem, however, was that there were different chains involved in the workers' labour conflicts, such that it would possibly require multiple mobilizations to address the conflict of each individual worker. This, in turn, would have amounted to heavy organizational lifting for fairly small sums between €250 and €600. Moreover, the functionaries pointed out the potential problem of how wages are to be paid by the subcontractor. If a legal or even public strategy is chosen, the problem is for the paying organization to account for the expenses. In the end, they would need to account for company expenses and couldn't simply pay wages without deducting taxes and social insurance contributions. Once the case was public, wages couldn't simply be paid as agreed in an "illegal employment" scheme. But in order to pay them legally, the workers would need to be registered. In other words, this catch-22 situation seemed to require careful planning.

The workers were rather quiet throughout the entire meeting. Occasionally, I had to interrupt the conversation that the functionaries held amongst themselves in German, talking about possible legal or political options, so as to allow for a translation. None of the workers had done any investigation at their former work-site as agreed in the previous meeting. In this way, it was also difficult to assess the gravity and extension of these employment practices. The functionaries didn't generate promising new ideas and the workers apparently assumed the role of spectators to the conversation amongst experts. As the discussion progressed, it became increasingly obvious to everyone that the meeting would not bring about a brilliant strategy. Two functionaries agreed that it would be most realistic to continue to pursue putting pressure on Susanne Maier. It could be pointed out to her that the union doesn't buy the legal argument about her company being a startup and not a *de facto* continuation of Jarooq's company. It could also be stated clearly that unions appeal for an investigation of the business for suspicion of withholding taxes and social insurance contributions. With a prospect of severe penalities, the functionaries felt confident that they could be forceful in writing a letter and discussing the issue to her on the phone. If that doesn't work out, everyone would need to think about something else.

Legal casework exhausted

I was rather pessimistic about the idea, since a few weeks earlier the business had not reacted to my indications of bringing the case to court and of the possibility that they may be found guilty of illegal employment. From the experience of the *AK* it seemed to be a frequent strategy for employers—in the face of legal threats—to simply bury their head into the sand and wait.

It was also hardly a secret that the summer break was upon us. In July and August, unions (just

like several other organizations in Germany) are hardly active as lots of employees take vacation. This was also the case for the *ver.di* functionaries we dealt with. The meeting, therefore, was not an opportune moment to plan a larger action over the next few weeks. We were told that the lawyer and the union secretary would make the call to Susanne Maier a day or two later, but it took more than a week—and a nagging email from me—until I heard back from them.

I was informed that the representative in the legal department made the phone call on **July 13**. She had hardly been able to finish her part, before Haq again took control of Susanne Maier's cell and yelled into the phone. **On July 15**, the union functionary followed up with an email detailing the argumentation against the employer. Two days later, he went on vacation. The employer, however, had not reacted.

On **July 27**, Mikael called me saying that he had obtained relevant documents detailing Jarooq's contracts with *Clean Cause* and wanted to submit them to the lawyer for examination. He wanted to know where to submit them. He didn't tell me how he got these contracts, but I was happy to hear that they still have an active interest on the case. I arranged for them to drop the documents off at the lawyer's private office.

Before going on vacation myself, on **July 29,** I consulted with my *AK* colleagues over the phone, two of whom were also absent for the next few weeks. We concluded to meet at our next regular *AK* meeting on August 26 and to invite the cleaners and see about how to move the case ahead. Maria and I shared the concern that the cleaners might lose interest unless the case moved forward. I texted the invitation for August 26 to the workers and invited the union functionaries

as well. Again, I experienced an inner tension between my eagerness to work towards making something happen in the case, so as to keep workers interested, and the organizing principle that workers themselves take leadership of the case.

Kelvin called me once during my vacation in Italy and enquired about possible news in the case. There were none. Since I had not received a reaction from the workers about the invitation, I took the opportunity to ask him whether he would be available for the meeting and if he knew about the others. He said he could not make it since he is now enrolled in vocational training in elderly care. He promised to check with his colleague, if the proposed date worked for them. I suggested that we could also try to find another date that would be more convenient for them.

Real union action! (Where did the actors go?)

Upon my return to Berlin, I spoke with the union functionary **on August 21**. He excused himself and her colleague for not being able to attend to the proposed meeting. Given that the phone call and the email to the employer went unanswered, he told me that a public action might be the last option. The documents with Jarooq's contracts that Mikael dropped off at the end of July were a "curious piece of information", according to the union secretary, but ultimately not of immediate use to build the legal case. He ensured that he was willing to help register with the public authorities an information picket at the supermarket (as is required by German law) and to mobilize supporters within the union to come out for the action. If the workers would want to go for such option, they would need to decide whether they wanted to participate, and if so, what their role should be. He was concerned that we should check in with an expert on residence law to assess the risks if workers exposed themselves publicly at the event.

The *AK* had also received requests from TV programs to connect reporters with refugees who had been exploited. The arrival of refugees to Germany had become the major news topic, and reporters wanted to investigate "new forms of exploitation" in the context of new arrivals of refugees. With some reservation, my *AK* colleagues as well as the union secretary thought that it could give the cleaners' case some leverage, if the journalists investigate the supermarkets and cleaning contractors. The reporters who contacted us said they would guarantee anonymity, but that it ultimately depended on the cleaners' interest to trust and talk to the reporters. Upon my enquiry with the workers, Kelvin came again forward and expressed willingness.

Again, I was on fire for the case, and already began to imagine vividly how such event might actually attract media attention and also symbolize the possibility of union-refugee solidarity. On **August 25,** the union secretary called me again, stating that he had spoken with a union functionary of the *IG BAU*, the union that is formally responsible for the cleaning sector. He thought this to be necessary, if we were to go public, partly in order to avoid competency conflict with the other union, partly in order to draw on the expertise and support of the other union. The other union secretary apparently signalled willingness to support the case. Any action, therefore, was to be coordinated with the *IG BAU*. While I thought this to be a promising development to gain the attention of two unions, I also grew concerned that the leg room to frame and politicize the case might be restricted. I knew that the *IG BAU* had a particular itch to go against "illegal employment" and in the past their support for migrant workers was often framed as a measure to prevent "illegal employment" (see also chapter 5). By contrast, the focus of the AK is on the critique of the illegalization of labour. And then, of course, there are the workers themselves,

who were likely to have entirely different concerns with media coverage. At any rate, I was curious, if not excited, about the upcoming meeting and to hear what the workers wanted to do.

To our disappointment on **August 26** none of the workers showed up for the meeting. The *AK* members were not entirely surprised though. With regard to the case itself, nothing substantial had happened since the last meeting in on July 6. The delivery of the documents to the lawyer has also gone unnoticed by the union officials. I was disappointed though that they did not even let us know that they were not going to come for the meeting. Sebi, Lukas, Maria and I decided at the meeting that we would not try to beg them to keep up with the case, though some parts in me would have been eager to do that to make use of the organizational momentum in unions. It took a little effort for me to let go of the case after all the effort and to accept that while I still saw possibilities for action or the need for a political event around it, the workers did perceive things differently and had different stakes.

To my surprise, on September 7, Kalvin called in to hear about news. He did not have contact with the other four workers recently, but was left with the impression that the others had become preoccupied with other things leaving no interest to pursue the labour conflict further. He spoke about the case in a personalized way, as a relationship between them and myself. He emphasized that the workers had come to *me* because they believed that *I* could help them. But, as it turned, out, *I* couldn't. Kelvin also noted that he spoke to one of the two reporters; the other had not contacted him. That reporter he spoke to, however, never turned the interview into a program, since he did not find any other asylum-seekers to speak about exploitative employment experiences in order to make for an interesting show. The reporter himself did not investigate

into the supermarkets or cleaning contractor any further. Kelvin and I bid farewell noting that if we have any news on the case, we would be in touch.

In view of the original hopes and intention, the outcome of this case thus was experienced as frustrating. I have selected this case study to illustrate challenges of the solidarity work of the *AK Undok* as they have been frequently experienced. As the description implies, the case could have developed in a different direction and the possibility of success could not have been excluded *apriori* from the beginning. An earlier and more proactive embrace by union professionals might have helped to speed up the case, preventing workers from being worn out and losing confidence in the process. Support for a public action at an earlier stage to put pressure on the supermarkets and cleaning firms, all of whom having profited from the employment, could have contributed to a more successful outcome. Moreover, training in organizing methods and a greater sensitivity to intercultural dynamics would have certainly benefitted not only *AK* activists, but also union professionals. Moreover, if *AK* activists had had more time and resources to actually engage in organizing, the relationship with workers might have also developed differently and generated more motivation. In this respect, the case was not lost from the beginning. With respect to the rationality of solidarity, a key question that comes up is, given such experiences, how do activists rationalize their continued engagement in the *AK Undok*? This is the question that the following part addresses by having explicit conversations on this problem among *AK* activists.

Activists' perspective on realizing solidarity: AK Undok, undocumented workers and unions

I organized focus groups with four current members (Sebi, Lukas, Louise and Maria) and an interview with a former activist (Carola) in February, June and July 2015, i.e. in "phase 3." I used an open conversation to find out how they conceptualized the solidarity inherent in their activist practice and how it relates to solidarity as institutionalized in the union organization, especially *ver.di*. Essentially, I also wanted to enquire into the motivations for participating, given that the actual practice of the *AK* hardly appeared capable to redeem its original mission, namely to provide individual support, offer a platform for migrant workers' self-organizing and target policies that illegalize workers.

Activists' take on solidarity

Prior to their involvement, *AK* activists were already sensitized to social justice issues related to migration and viewed it as an important challenge for political and labour organizations in the current era. Louise argued:

> Solidarity with refugees and migrants is simply a solidarity with people who are very badly treated in society and an immediate sentiment, that if society treats these people in such fashion, then it concerns me as well since it has to do with my own and everyone else's fundamental rights and the constitution of society. And if I wish for a solidaristic society, I find it important to support them.

Carola emphasized that she feels committed to engage for this matter of justice on the basis "that I am privileged, at least in comparison to the undocumented [...] German passport, white, academic education." Nevertheless, *AK Undok* activists rejected the characterization by the group *Respect* of the *AK* as being shaped by middle-class academic culture and thus considerably different from undocumented migrant workers. While recognizing the difference in positions,

activists contended that such stylization is too simplistic and misses actual similarities among many workers regardless of status. Three activists noted that as precariously employed social scientists they too lacked any clear connection to conventional union activities and *ver.di's* structures. For them, just like most undocumented workers, there is no relevant works council, nor even any obvious shopfloor in which to organize and unionize.

Rationality of solidarity

The motivation for *AK* activists to practice solidarity with undocumented workers involves moral and, in certain ways, instrumental interests. However, in Louise's opinion, solidarity could not function on the basis of a straightforward utility calculus. She noted that:

> It's definitely not the case with me, that I engage for migrants and they do the same in return for me and that I consequently would benefit from that. Because that would not work, we have a very different influence on society. It would be different, say, if I worked in the union, and have a colleague, whom I support in his endeavour and he supports me in mine. For me that happens on an entirely different level.

At the same time, solidarity with undocumented migrant workers is not to be misunderstood as humanitarian action. Similar to humanitarian approaches, in the practice of the *AK* those with "more power" engage for those "who have less," however a crucial difference lies in the intent. Sebi said:

> I advocate for an equitable relationship, I want to avoid paternalism. I don't want to look after someone else, but my ideal conception is that we do something together. [...] The utility in my case is not that I expect something of a concrete person [undocumented migrant worker], but that I change a culture, a hegemony or a relationship of social forces. That's what it is for me.

I also confronted *AK* members with the question that the solidarity work operates without having much communication with the workers themselves. And if communication happens, it is rarely about political decisions or strategies. No undocumented worker, or a person with such

experience in Germany, has been involved in the *AK* for years. For *Respect*, as already

mentioned, this was a major failure of the *AK* and a reason to withdraw their participation.

Current *AK* members viewed this issue in a different light. Two lines of argumentation were

given. First, solidarity is based on a matter of principle. As Maria, who is educated in labour law,

responded:

> I always try to hammer home that work done needs to be paid. That is my internalized
> principle in which I find my motivation to do solidarity work, also towards people with
> whom I have no direct or personal contact.

In this respect, the primary orientation of solidarity thus is the principle—not any particular

addressee. Second, solidarity is viewed as the groundwork necessary to facilitate

communication. Louise noted:

> We do seek such contact. We offer advice, so we already open spaces [for communication].
> It continues to be important to be guided by the question, what do I do in order to make
> communication possible and to open spaces for the future?

It is understood that establishing communication with undocumented migrant workers is a real

challenge when structures of illegalization and exclusion undermine the conditions of possibility

for an open communication that is free of fear. To overcome this situation, resources and spaces

are required to establish contact and to compensate for the various vulnerabilities. The

consultation centre is a strategy to establish contact; however, Sebi expressed her concern in the

following terms:

> Really, I do not want to be engaged in politics of representing someone else, and that's
> what bothers me somewhat with the whole idea of labour counselling or contact centres. It
> is this service aspect that also bothers me. It is something that we have always wanted to
> change in principle, but we have been lacking the resources to realize it. For me, it's a work
> in progress.

It would be much preferred that undocumented migrant workers and unions take a more

proactive approach towards communication and collaboration, however as Lukas stated:

254

at present, we simply have to accept the fact that undocumented migrant workers rarely find the way on their own to unions and that unions rarely, if ever, take any organizational initiative to approach undocumented migrant workers. Our advice centre operates as a small link. By offering specialized advice, on the one side, the centre presents a reason for undocumented workers to approach unions. On the other, operating under the banner of unions, the advice centre can pull unions towards assuming greater organizational responsibility for these workers. I mean, we do get people to become union members. And in a way, the AK institutionalization of the labour advice centre is an offer that unions can't refuse. [Pauses] At least in the long run."

By pointing to the long term, Lukas puts short-term difficulties and frustrations that are encountered in everyday activism into perspective. When asked about what helps activists deal with such frustration, activists noted that it is not only a moral matter of "injustice," but also of a political vision or hope. Sebi said:

I am missing success in our work. Currently, I realize very much, that I have the feeling of putting in a lot of work ... [and] that I would need some sort of success. [...] I really hope that things will happen someday. [...] I want to be part of initiating something.

An eschatological imagination of the political also played a part in Louise's account, when she claimed:

And I am convinced, that we are on the right side of history, as it were. It also consoles me a bit. We can't do a lot, though we ought to do so much more. But then I tell myself: "Time is on our side". Sooner or later, people will demand it anyhow, and this [union] organization will have to change itself.

And Lukas added:

I am actually not sure that there will be a political happy end to which we are contributing. Maybe solidarity will in fact lose out against increasing competition and discrimination among workers. I am not certain what will happen. To me, the important thing is that I have a political ideal, a vision if you wish, to which I can connect my or our practice. Obviously, I or we cannot possibly control that, but we can more or less control our contribution and the direction that we want the process to take.

Practicing Solidarity in the Union Context

There are also more mundane motivations for engagement. One incentive for several of the activists is the hope of finding a job in the union organization. In this context, the *AK* poses as an

opportunity to network within the union and as an experiential asset when applying. In fact, in spring 2015, four members of the *AK* (including myself), all in their mid to late 30s, were in a situation of precarious employment or unemployment and were looking for jobs. The job skills aspect should not be overestimated, though, as the *AK* assumed critical stances towards union leadership in several instances, at times creating "enemies" in powerful organizational positions. Other activists like Maria and Carola, both in fairly secure employment positions, emphasized the inherently rewarding character of their engagement. Maria said she is "somewhat proud" of this political work and of achieving partial successes. Carola also stated that

> Although I sometimes got into the meetings pretty exhausted from the day, I left the meetings good-humoured. Discussing or being onto something, that does create energy—if you notice that something advances, you have good ideas, people with whom you feel comfortable.

In general, activists view the union as highly ambivalent with respect to migrant workers, undocumented ones in particular. On the one side, unions support solidarity as the self-declared organization of all workers. Even though the union leadership is criticized for producing little more than "sunday speech solidarity" (Sebi), *AK* activists value the solidarity ideal for it allows them to galvanize other union members about the issue. On the other side, activists perceive that German unions lack organizational self-reflexivity when it comes to their relationship to migrant workers, especially undocumented migrant workers. "Racism, that's always other people," summarized Sebi with regard to the unions' anti-racism policy. Complaining that most union functionaries "are not self-critical at all," Sebi claimed that the *AK* activism is regularly

> Sebi: ...blocked by the claim "We are in solidarity with all!" You don't get to discuss [institutional discrimination] in any way. [...] Because the solidarity they know, is the shop floor. That is union solidarity. But when you start talking about the exploitation of refugees in the labour market, then there is a mixture of sympathy...
>
> Louise [mockingly]: ...Let them found their own works council!...
>
> Sebi: ...exactly! They ought to fit into our structures somehow. So, I think there is no

256

consciousness, that there is a tension between the general speeches about how we ought to be in solidarity as a labour movement [...] and that super precariously employed workers from Poland, Bulgaria, Nigeria are not being thought of.

Maria: That's the lumpenproletariat, we don't want to organize that!

Lukas, by contrast, emphasized another point related to the bureaucratic character of unions.

I really do think that there are a lot of people in the organization who appreciate our concern, and we've already met some of them, including in the highest ranks of unions. But these people simply do not have the time to dedicate to the issue, to do anything besides a friendly meeting with us, or a supportive comment. Let's face it, [solidarity with undocumented workers] is not the issue that most existing members currently care about. We deal with a small topic in a union context of a million competing ones.

Transforming unions

The implication of these statements is that it is very difficult to engage in communicative and open deliberation within union structures. So, I enquired, how the *AK* could possibly bring about a change within the union? How could the sense and practice of solidarity possibly be reverted? Should instrumental or moral rationality be appealed to? My colleagues rejected the dichotomy.

Maria responded:

The question is whether it is of any use to approach people with appeals. I think an important tool is education. To begin clarifying to people, what's at stake here. [...] I realize that when I get into a real conversation with people that […] that awareness is raised, in the sense of, 'you are right, [undocumented workers] are doing the same as we do.'

In this light, fostering an understanding of the dynamics of undocumented labour, it becomes possible to convey a better sense of how both instrumental and moral interests are involved. Unions might get a clearer sense of how the labour market and employer strategies change.

Louise argued in view of unions that:

the more they ignore the topic, the more [the organization] loses ground, its structures are undermined through wage dumping. [...] It's clearly an argument based on utility, but it is also what happens when certain people, because they find themselves in particular relationships of social power, are not in a position to demand their rights on the labour market.

Sebi, however, interjected with a critique of structural barriers that impede an open discursive

culture within unions. "Education," she pointed out, is

> such a huge burden. [If I talk to someone from the union about the significance of our
> work] I don't know where to begin. And then I begin with the utility argument, because I
> have the feeling that on that basis, I am more likely to get through to people. I know that
> education needs to happen, but I feel overwhelmed, I don't know where to begin to present
> the entire set of connections and then to bring people somehow to the point of opening up
> to the issue.

Carola believed that both instrumental and moral appeals did not really work in her experience

with *ZAPO* and the *AK Undok*. She feels at a loss with respect to strategy. For her, waves of

solidarity with migrants have been greatest when migrants and refugees "mobilized radically"

and in smart ways. She pointed to the recent movement of refugees protesting their legal

restriction to move outside of a given district [*Residenzpflicht*] and their internment in camps.

The movement's actions, including the long march to Berlin and the occupation of a public

square and an old school created more sympathy for their cause than the previous activism over

the span of several years.

Concluding remarks: The significance of imagination

MigrAr activism is up against a formidable challenge to foster practices of union solidarity with

undocumented migrant workers. The work of solidarity is framed in terms of individual case

work, infrastructural support for organizing within unions, and a political engagement with

structures and policies that criminalize this group of workers. Based on the understanding that

residence status structures asymmetries among workers, this activism thus is focused on setting

the groundwork so that relationships of mutuality and reciprocity can become possible (part III).

In the individual case work, the difficulties were detailed for activists to foster open deliberation

with workers and to encourage them to assume leadership in their struggles for withheld wages

(part II). The short history of the MigrAr centres describes the variation of how such solidarity has been practiced (part I). While the significance of casework has been relatively constant, a certain shift can be detected in the activism from an emphasis on outreach, networking and public engagements towards greater involvement with unions. This is arguably also reflected in the activists' shift from what I called the "charismatic phase" at the beginning towards a more accommodative positioning within unions more recently. Connecting all three parts of this chapter is the significance of what I would call "political imagination" in MigrAr activism. The imagination of possibilities and of how concrete actions by the activists create the conditions for realizing these possibilities can be discerned as a motor of the activism throughout. Substantially, the imagination relates to the possibility of collaboration and communication proper between workers regardless of status.

This political imagination, to be sure, has also been historically contingent. The imagination during the charismatic phase was premised on the expectation that the activism would soon facilitate organizing processes of undocumented workers within unions as well as open up union organizations to become more inclusive of workers with precarious citizenship status. As this expectation was frustrated for many during the first two years; the imagination of those who stayed on or joined adjusted the expectation towards a longer term perspective. The case study of the support for the supermarket cleaners (part II) documents not only how instrumental and normative rationalities are involved, but also how imagining this case finally overcoming the various hurdles and setting an important example was a strong motivation for the actual activism. Part III further analyzes how the *AK* activism relies on intrinsic features, such as personal feelings of responsibility or the social joys of working together towards a goal. This

rationale, however, does not seem sufficient to explain why that particular form of activism was chosen to practice responsibility or to become involved in a group. A more specific explanation appears to be that activists imaginatively connect their engagement with a broader scenario of union and societal solidarity. As already argued, this form of imagination is not immune to a rational evaluation of circumstances. While activists accept that the process may not be linear or fast, viewing sufficient success remains a precarious and yet decisive aspect for whether the activism is continued or not. The final conclusion chapter attempts to relate this imagination within the Habermasian framework of solidarity.

Chapter 8: Beginning with Ends: Political Imagination and the Transcendence in Reason

Even if all unionists were to affirm the keyword union solidarity to describe why they are members of a union, this research demonstrates that the practical implications of this term are far from being self-evident. Where do the bonds of solidarity end and who is to be included? What are the ends of unionism? And how to ensure organizationally, that members act in a way to realize such ends? Focusing on the issue of undocumented labour raises an interesting perspective on the divergence of responses.

The most challenging aspect, as I have argued throughout, is the asymmetrical relationship between undocumented migrant workers and union members with regular status. First, it has not been agreed upon who should belong. Historically, as chapter 5 details, until the early 2000s, a perspective on undocumented workers as "illegal" and cut-throat competitors has been widespread in German unions. The idea of considering undocumented workers as "colleagues" has only fairly recently become more popular within union discourses. Later, it became clear that even among those who agree on the principle that unions ought to be open to undocumented workers, it is not clear under what conditions they are to become members and how solidarity ought to be practiced.

To understand these debates and to develop some orientation for such a practice of solidarity, Habermas's understanding of solidarity is useful. First of all, Habermas's unique take on the legacy of Critical Theory leads him to affirm the possibility of emancipation and to reconstruct the standpoint of societal reason (Habermas 1985b; Habermas 1990b). Solidarity plays a key role

in his theory, even though he never established an explicit conceptualization of it (Pensky 2009). Second, Habermas's call for postnational or cosmopolitan forms of solidarity suggests at least a family resemblance to the union solidarity efforts with undocumented migrant workers, which is, by virtue of citizenship, transnational. A strong advocate for postnational solidarity, Habermas argues that exclusion from solidarity bonds can no longer be made legitimately in reference to arbitrary status—such as birth place or nationality (Habermas 2000; Habermas 2001a). This reasoning resonates with the MigrAr approach that emphasizes the commonality of workers regardless of citizenship status. Thirdly, Habermas's emphasis on communicative rationality and his subsequent embrace of discursive deliberation as the basis of postconventional politics also demonstrates significant parallels to the developments within labour movements. Under the label of social movement unionism and organizing, calls have been made for greater emphasis on rank-and-file democracy and participation, to demand that union politics ought to be developed discursively from the bottom-up rather than from the top-down (Moody 2007; Sherman and Voss 2000; Fletcher and Gapasin 2008; Bremme, Fürniß, and Meinicke 2007; an explicit connection between Habermas and German unions was proposed by Zoll 1991).

The immediate challenge in using Habermas's theory was to integrate the role of unions. In *Theory of Communicative Action, Volume 2*, unions and labour conflicts belong to "old politics", an issue of the past with decreasing relevance. For Habermas, conflicts around material reproduction had lost in significance, whereas conflicts around symbolic reproduction increasingly gained in this respect. Authors such as Alexander Kluge, Oskar Negt, Nancy Fraser and others have argued that Habermas neglects the role of social conflict in his theory and have

introduced the idea of counterpublics. This could be usefully combined to Rainer Zoll's proposal to conceive of trade unions as discourse organizations (Zoll 1991).

Within the union counterpublic, several activists have made the case that the outlying figure of the undocumented migrant worker – because they border established union boundaries – makes visible conflicts that already affect a broad segment of workers (see chapters 4 and 5). Legal, economic and social vulnerabilities have become more widespread among many workers and make it difficult to access rights through institutionalized channels (e.g. works councils or legal representation through the union). Moreover, it has been argued that the presence of undocumented labour is symptomatic for the need of a broader change of citizenship in a globalizing world (Balibar 2004; Willenbücher 2007). So far, this understanding has not become a defining feature for the subaltern self-perception of unionists who form this counterpublic. The challenging problem within this union discourse is the issue of asymmetry between union members with regular status and undocumented workers.

There are basically three distinct responses as to how unions are to deal with the asymmetry as I detail in chapters 5 and 6. First, some unionists argue on the basis of bureaucratic rules that the illegality of workers disqualifies them from being subjects of solidarity. The other two responses emphasize that undocumented workers ought to be welcomed as union members, but there are two different approaches as to how such inclusion is to be institutionalized. Therefore, the second response to engaging undocumented workers is proposed by one camp of activists that premises their solidarity on the expectation that the inclusion of undocumented workers ultimately holds on to established labour standards and union procedures. The third response

comes from a group of activists highlighting the normative requirements of solidarity to find

adequate measures to partially compensate the intersecting inequalities affecting undocumented

workers. Moreover, solidarity in this sense also implies engaging politically against policies that

illegalize workers in other areas outside of the employment realm.

The conflict inherent in these three responses to the problem of asymmetrical solidarity raised

my concern for how to conceive of any real prospect for union solidarity. Drawing on

Habermas's theory, is it possible to establish a standpoint of rationality from which to

discriminate between practices of union solidarity? Thus, the initial questions that I raised in

chapter 1 were:

1. *Can the substance of union solidarity with undocumented migrant workers be rationally decided?*

2. *If so, what significance do instrumental and normative rationalities play in the practice of such solidarity?*

3. *What is the motivational source of the activism to bring unions to practice solidarity, if neither moral predispositions among union members nor instrumental rationality are apparently sufficient?*

Ad 1) Yes, in parts. From an organizational point of view, the rationality of including

undocumented workers in unions can be shown. As we shall see in my second answer, problems

arise with respect to the conditions of union solidarity.

What I have argued in chapter 3 is that Habermas's framework can be reworked to make sense of unions as emancipatory movements capable of protecting or reinstating communicative reason at a societal level. They can do so by strengthening the role of the worker and the citizen. I refocused Habermas's theory to pay greater attention to how material concerns are intrinsically connected with the opportunity of workers to deliberate and achieve a consensus on solidarity. Labour scholars and activists have repeatedly pointed to the rational reasons for union solidarity to focus on the equal application of labour and social law to all workers lest workers fall into a downward spiral of cut-throat competition. As outlined in chapter 1, the radical shifts that have undermined unions positions in the tripartite system of German labour relations have increasingly raised doubts among labour scholars that it is rational to hold on to a business model of unionism centred on clientel-like relationship between union bureaucracy and members. Scholars of social movement unionism, in particular, highlight that it becomes rational for workers to embrace a form of unionism that actively engages non-unionized workers to build bonds of solidarity with them. This is demonstrated to be an indispensable condition for strengthening the unions' ability to assert and realize the rights of workers (see, for example, Bremme, Fürniß, and Meinicke 2007; Kahmann 2006; Moody 1988).

It is in this context of discussions that scholars and activists have emphasized the significance of including undocumented migrant workers as well. As chapter 5 details, this insight has gradually seeped into union organizations over the past two decades as a result of activists' experiments and interventions. So far, the insight has not yet led to any major organizational commitments towards enhancing the practice of union solidarity with undocumented migrant workers. However, by now, any rendering of undocumented workers as "illegal competitors" or as

ineligible for union membership within union discourses will face heated objection from within union ranks. The idea of an inclusive unionism thus implies a normative outlook that disqualifies the possibility of excluding workers from union membership on contingent grounds such as race, birthplace, citizenship and the like.

Ad 2) Instrumental and normative considerations both play an important role in the constitution of union solidarity. Unions ability to effectively decommodify labour (Esping-Andersen 1990) on the one side, and workers' commitments to stand in for each other, on the other, can be viewed in a mutually constitutive relationship. As already indicated within the idea of a unionism inclusive of undocumented workers, there are significant differences in view of solidarity. The main controversy is marked by the question of whether the ends of solidarity are already given (safeguarding or expanding standards) or whether there are higher norms that need to be applied in this asymmetrical constellation.

As we have seen in chapter 6, advocates for what I termed "social justice unionism" (Scipes 2014) put emphasis on the equal application of standards and procedures for all workers, including the undocumented. By contrast, other activists more inclined towards what I referred to as a social movement unionism (Scipes 2014), claimed that the structural discrimination of undocumented workers in society requires unions to adopt a normative engagement. By instituting measures that are sensitive and flexible enough to address the specific vulnerabilities of this group of workers, unions can enable workers to participate in the organization and to actively engage in labour conflict. Without such measures, unions would effectively reproduce existing forms of exclusion.

266

Chapters 5, 6 and 7 document the problems that both approaches carry. Social justice unionism towards undocumented migrant workers, arguably, has become the de facto practice of union solidarity towards undocumented workers, particularly in the services sector union *ver.di*. As recently reaffirmed by the *ver.di* elite of functionaries, membership is open to workers regardless of status (Bsirske 2015). At the same time, unions, including *ver.di* have not made significant investments towards addressing undocumented workers' specific vulnerabilities, including the frequently exhibiting distance, if not fearful reservation, of these workers towards unions. The implication of this approach clearly is that union procedures are to apply to all regardless of specific circumstances. From the perspective of union solidarity, the main problem of this approach is that it has not led to any major unionization among undocumented workers. Only a very small number of undocumented workers have become union members through the MigrAr centres. Except for two larger activist efforts in Munich (2011) and in Hamburg (2013) in which a few hundred workers with precarious status have signed membership cards, the total number is arguably closer to a few handful of new members in Germany per year.

The discussion around undocumented labour in *ver.di* shows an uncanny resemblance to Mancur Olson's description of the free-rider problem (Olson 2001). Ostensibly, there are several voices in the union, including its leadership, that for the sake of strengthening the union of workers argue for the inclusion of undocumented workers. At the same time, there are only few union activists who actually "invest" efforts towards including these workers. According to Olson (2001), described in the free-rider dilemma, actors with an outlook of instrumental rationality can have a preference for a collective good (such as a stronger union by including undocumented workers), yet in a large group this preference is not incentive enough for individual actors to

make a contribution towards the collective good. The risk is that the actor's contribution may not be complemented by other group members' contribution. This would leave the person who made a contribution in a worse position: She made efforts, but if it is not enough to provide the collective good, she also can't draw advantages from it. In this calculation, it is more rational to have other people pay the costs for the provision of the collective good and still be able to benefit from it.

By contrast, the social movement unionist approach confronts the problem that it is too weak to realize its vision of union solidarity with undocumented workers. While its adherents would like to support more actively organizing and unionization processes among undocumented workers, these activists are lacking the organizational support and resources to make this happen. So far, no democratic majorities could be found among delegates at union congresses for motions in that regard. As a consequence, for several activists, such as the group *Respect* in Berlin, it became questionable that continuing to work within *ver.di* would make sense to advance their ethical and political agenda.

Ad 3) The motivational source for persons to practice union solidarity with undocumented migrant workers points to a paradox in Habermas's oeuvre. Whereas MigrAr activism could be considered as reasonable from the standpoint of protecting and enabling lifeworld communication against the intrusion of systemic imperatives, it becomes difficult to discern the rationality of individual activists within Habermas's framework.

However, the fieldwork illustrates that the imagination necessary to the linking a concrete practice of solidarity with a desired end counts as a significant motivating force for MigrAr activists. This imagination is also contingent on experience making certain connections appear more or less plausible. As I will argue later on, this faculty requires of a sociological theory of solidarity to go beyond the confines of Habermas's narrow conceptions of instrumental and normative rationality.

Chapter 7 provides a closer look at the motivational dimension of solidarity activism in the case of MigrAr centre in Berlin (*AK Undokumentierte Arbeit*). At the level of ideals, the activism of the *AK Undok* shows several parallels to the social movement unionism, combining organizing with a perspective on social change. The activism of the *AK Undok* has been shown to be subject to historical conjunctures that shape actors' perception of what their engagement can achieve with some likelihood and in what areas activism appears to be possible or necessary. The initial phase of the MigrAr activism was carried by an optimism that it could function as an impulse to foster organizing among undocumented workers within unions and to create greater interest in the union organization to influence the politics of illegalization. The hope to initiate such self-sustaining processes, however, has been frustrated within the first three years of the MigrAr activism (roughly from 2009 to 2011). More recently, the activist engagement within the union organization has become more modest with respect to its efficacy. It is practiced with a consciousness that quick changes in solidarity practices with undocumented workers are unlikely to happen. With respect to MigrAr's activism in *ver.di*, a focus has been on securing the possibility of union membership for undocumented workers.

Another challenge has been to support the organizing activities among workers in unions through particular case work. Several obstacles that the MigrAr activism has encountered are detailed in the ethnography of a case involving employees in supermarkets who have been cheated of their wages. Once the case was framed within the law, the complexity of the labour conflict called for expertise in law and union politics. This situation exacerbated the unevenness among workers, on the one side, and "experts", such as union staff and MigrAr activists on the other. In such context, a key problem for the *AK Undok* has been to foster self-organizing rather than cementing a sense of dependency on experts.

In the face of such difficulties, the question of what motivates activists to keep up their engagement becomes more acute. The interviews with activists highlight the imaginative capacities to understand a concrete practice as a contribution towards a particular end. The activism therefore attains value as a prefiguration of a certain vision, yet activists are also acutely aware of the need for a strategy (for a discussion of prefigurative activism see Thompson 2010). Activists make ongoing judgments about whether the practical likelihood of realizing the ends is sufficient to warrant the activism. A key question for several activists has been whether unions are the right place for their activism.

If we accept Habermas's take on postmetaphysical morality, we also discard the idea that substantial conceptions of the good life could be universally redeemed (Habermas 2001b; Habermas 1994). At the same time, Habermas defends the discourse theory of morality as a possibility to discern injustices and argues against strands of philosophical relativism. In several publications, Habermas values social movements for their ability to renew democracy and

ultimately to establish societal reason. As if exhorting himself as a philosopher, Habermas writes

that the gradual embodiment of moral principles in society is owed "primarily to collective

efforts and sacrifices of social and political movements. Philosophy must not pretend to sit above

the historical dimension that these movements inhabit" (Habermas 1985a, 1049). Yet in

Habermas's framework there is no moral standpoint in which the "sacrifices" and possibly even

risks of activists could be considered rational. Movement participants do not enact the kind of

moral action that Habermas would designate as universally valid.

Solidarity on the Horizon – An expanded view on Rationality

Applying Habermas's framework in the context of the relationship between German unions and

undocumented migrant workers, I drew on the Extended Case Method by Michael Burawoy

(1991; 1998; 2000). In this line, I engaged in the ethnographic method of participant—activist—

observation and put on the glasses of Habermas's theory of solidarity, so to speak. As such, the

theory cannot be problematized in general, but empirical data can point to the need for

theoretical modifications. Working within Habermas's framework, I propose a notion of union

solidarity that is not only functions within the structures of rationality, but is also inclusive of the

capacity of political imagination.

Habermas's perspective on solidarity is grounded on protecting solidarity, not on generating

solidarity in instances of damaged and unjust relationships, as the following quote illustrates.

Habermas writes:

> Justice concerns the equal freedoms of unique and self-determining individuals, while
> solidarity concerns the welfare of consociates who are intimately linked in an
> intersubjectively shared form of life—and thus also to the maintenance of the integrity of

this form of life itself. Moral norms cannot protect one without the other: they cannot protect the equal rights and freedoms of the individual without protecting the welfare of one's fellow man and of the community to which the individuals belong (Habermas 1990a, 244).

As Michael Hölzl (2004) emphasizes, Habermas builds his theory of justice and solidarity on the assumption of symmetrical reciprocity. Hölzl thus is right to ask the question, where in this model solidarity actions would fit in, that are taken in situations of asymmetry. Due to Habermas's focus on a theory of morality with universal validity, actions that require sacrifice are disqualified from being rational. Habermas agrees with Kohlberg, following Dworkin and Rawls, that calculations of the public benefit must not infringe upon fundamental liberties and rights of individuals (Habermas 1990a, 249). From such account, as we have seen, Habermas is not able to devise a moral rule to solve the life-boat-dilemma of three people sitting in a boat on the ocean that has only capacity for two. He claims:

> It becomes clear that supererogatory action alternatives that cannot be grounded morally are involved when one looks at the dilemma as a demand for principles and rules that could be applied in a case of this kind. In this regard there is no interest that could be universalized, and there is no corresponding norm to which everyone could not exclude a priori the possibility of ever being in a comparable situation would have to assent (Habermas 1990a, 248).

This, as already argued in chapter 3 has led Michael Hölzl to criticize Habermas's account for failing to understand practices of solidarity in asymmetrical constellations that involve a certain degree of sacrifice. "Asymmetrical forms of solidarity are real acts making the ideal forms of solidarity possible" as Hölzl (2004, 62) concludes. Although less dramatic than the issue of sacrificing one's life, activism against injustice similarly requires a certain degree of self-sacrifice. Even when involving fun or meaning, activism remains an effort, a spending of time and resources without plausibility that the actions will be successful in realizing goals or whether anyone will reciprocate the efforts in some way.

Political imagination

In the face of such theoretical aporias, I argue for a centering of asymmetry in the conception of solidarity. In this vein, Hölzl proposes to revise Habermas's conception of solidarity by introducing intersubjectivity as a "triangular relation", between two (or more) persons and a "transcendent referent" (Hölzl 2004, 61–62). This construction circumvents the requirement of "the other" to agree. Hölzl himself leaves the definition of this transcendence open, stating:

> By assuming this transcendent referent to which we owe intersubjective relations, no moral judgment is made. A suicide bombing can be seen as a radical act of asymmetrical solidarity just as well as the sacrifice someone makes for the sake of the life of others. This ambivalent nature of the transcendent referent leads once more to the theological question concerning what kind of transcendent referent this is and how we have to act in accordance with it (Hölzl 2004, 62).

Leaving the theological dimension aside, I propose a political imagination as such a transcendent referent. In my fieldwork, the imagination of political scenarios and the ability to link the current situation with an envisioned goal repeatedly called my attention among activists. Such imagination appeared to constitute an important orientation and motivation that could not be captured by Habermas's take on rationality. Political imagination is not an autonomous "third party", but rather a particular intersubjectively constituted construct, that in its objective form could be seen as a mediating referent to substitute reciprocity in an asymmetrical relationship.

Political imagination itself is not "rational" in the instrumental or moral sense. It entails a willingness to engage risks. Its temporal outlook over longer periods and uncertain outcomes hardly fits a strict means-end calculation. At the same time, it involves a course of action that is hardly the only possible and therefore cannot claim (moral) universality. In contrast to a Weberian ethics of responsibility that is based on values, political imagination is goal driven, a

concrete utopia to be established. It is the imagined future that structures and motivates the present action and sense of solidarity.

Against a Habermasian objection that such political imagination of a societal good is not possibly universalizable under postmetaphysical conditions, I would respond that this does not rule out the political imagination as a carrier of emancipatory politics. As I have tried to argue throughout this dissertation, the MigrAr centres contribute towards fostering workers' deliberation in situations of great asymmetry between workers. The experience of the MigrAr centres suggests, in fact, that activists and supporters apparently hold on to different ideas of the ultimate societal good, including not only social democratic or socialist unionists, but also church-based supporters and anti-racist anarchists. As we have seen, their distinctive motivations make collaboration under the umbrella of MigrAr is precarious and riven with conflicts. Nevertheless, it is their actual motivations that make such a project possible in the first place. In this case then, union solidarity is more than instrumental and communicative rationalities combined.

There are interesting parallels of this proposal to Habermas's discussion on the relationship between rationality and religion. In his article "An Awareness of What is Missing" from 2007, Habermas recognizes that the problem of fostering solidarity against the centrifugal forces of modernity cannot be solved by a reliance on reason alone (Habermas 2007). While rational morality does provide us with a "weak force of good reasons to act morally" (Habermas 2008, 97; translation quoted from Kaelin 2008, 21) and addresses our personal sense of responsibility, it fails to relate to collective action and common practices. Even when injustices are perceived,

individuals' feeling of powerlessness can lead them to the "withdrawal into the private sphere and the repression of embarrassing cognitive dissonances" (Habermas 2008, 96). Practical reason, he deplores, no longer has "sufficient strength to awaken, and to keep awake, in the minds of secular subjects, an awareness of the violations of solidarity throughout the world, an awareness of what is missing, of what cries out to heaven " (Habermas 2007; translation quoted from Fish 2010). In this situation Habermas turns to religion as a resource of motivational power to combat the "unjust distribution of life chances" (Habermas 2007, 95). Summarizing these ideas, Habermas (2002, 108) notes,

> On the premises of postmetaphysical thought, philosophy cannot provide a substitute for the consolation whereby religion invests unavoidable suffering and unrecompensed injustice, the contingencies of need, loneliness, sickness, and death, with new significance and teaches us to bear them. But even today philosophy can explicate the moral point of view from which we can judge something impartially as just or unjust; to this extent, communicative reason is by no means equally indifferent to morality and immorality. However, it is altogether a different matter to provide a motivating response to the question of why we should follow our moral insights or why we should be moral at all.

As Michael Hölzl (2010, 158) observes in Habermas's thought, religion is "granted a right of coexistence and is admitted to have a positive function" by complementing his postmetaphysical account of rationality.

I think Lukas Kaelin (2008, 25) is right to criticize that Habermas's search for sources of solidarity that are simply waiting to be discovered looks "dated" and to argue that it seems more promising to forge new solidarities. At the same time, I would argue that the discussion on the relationship between religion and reason can also help us think of Habermas's endeavour as consisting of more than a search for already existing sources of solidarity. Arguing that such creation of meaning and motivation is not restricted to religion, Michael Hölzl introduces the concept of "narrative rationality" that relates to interpretative and symbolic dimensions of

thinking. "Narrative rationality" apparently relates to union activists in solidarity with migrant workers who have also resorted to symbolic (colours, symbols such as fists, shaking hands, hearts, roses and so on) and narrative (sister-and brotherhood, comradeship, equality, mutuality, liberation etc.) elements common to labour, anti-racist and religious movements.

The challenge that Habermas identifies for making such narratives commensurable with communicative reason is the difficult work of translation. Symbolic language may be used by adherents, yet Habermas's programme of "methodical atheism" (Habermas 2002, 77) requires them to translate related terms into truth claims that the deliberative community can validate communicatively and democratically. The burden of translation, as Max Pensky acutely observes, however, should not only rest on the shoulder of "religionists". He writes that

> The work of translation between secular, postmetaphysical semantics and religious language, though, is also the work of secular citizens, who cannot afford to be complacent that their own secularism is an entirely adequate medium for a full participation in their own public political culture. They must enter into the public exchange of ideas with a translation attitude as well, a view that they have something to learn from their religious co-citizens (Pensky 2009, 159).

Rather than "narrative rationality", I prefer to call such reflective and symbolic capacity "political imagination" particularly in instances of solidarity against inequalities. "Political imagination" highlights the orientation to a goal and praxis. As Aristotle already noted, "praxis" is a purpose onto itself and refers to ethical and political action to realize the actors' own happiness ("*eudaemonia*"). For Aristotle, praxis implies a distinct motivation different from *poiesis* which is purposive or instrumental rationality, the production of an object different from the producer (Knight 2007, 16–19). The praxis aspect of solidarity practice—oriented to a goal and yet a purpose onto itself—illuminates why activists do what they do without being paid and

without clear guarantees of success. The statement by activists that their engagement also involves "fun" or is meaningful to them can be interpreted in this light.

Thus, is the redemption of asymmetrical relationships possible without sacrifice after all? Hannah Arendt intimates a polarity of political praxis in her idea of agonistic politics (Debrix and Barder 2013, 35) that resembles the ambivalent character of the sacrifice, its redemptive and its destructive polarity. Political imagination of solidarity, too, carries this ambivalence, of a promise and exigency to create new realities, but also to wear oneself out and possibly fail.

Imagining solidarity with undocumented workers

The constellation of undocumented labour within union politics thus opens up a perspective on a challenge for unions that hardly comes into view in day to day: What kind of society, after all, do unions strive towards and what does it take to realize it today? Or even more pointedly: For what goals are unions willing to sacrifice themselves? A politics that is only trying to avoid failure, such as avoiding the risks of a decisive political and organizing campaign with undocumented migrant workers, may be rational but might not be reasonable. Or as Richard Hyman admonishes unions, "playing safe is the most risky strategy" (Hyman 2002, 12).

Another challenge for organizing becomes clear in this respect. Common goals are not readily available, given different religious affiliations or ideological preferences. The wide spectrum of different moralities makes it difficult to agree on standards. The alternative of focusing organizing appeals to instrumental rationality (higher wages, holding on to established union procedures) is understandable, however, but may also run into problems of exclusion and free-

riding. The idea of political imagination suggests that there are goals and motivations beyond Habermas's narrow accounts of rationality. Originating from different sources, the unleashing of such motivations might in fact be indispensable for the work of justice. Rather than bracketing these symbolic powers as a potential source of conflict, labour organizing should also try to draw on their "power". This requires the "work of translation" and the development of new common imaginations. Of course, such a general recommendation does not solve the problem of union solidarity with undocumented migrant workers in Germany. The "work of translation" is, after all, additional work. It cannot be the work of a small group alone, it is a challenge for the broader union movement.

As the dissertation suggests, the challenge of fostering union solidarity with undocumented migrant workers in Germany is immense due to the various obstacles. Chapter 6 and 7 suggest that social justice unionism—an approach that is based on the idea that everyone benefits, if all workers are organized—is unlikely to be adequate to foster union solidarity. Instead, at the level of ideas, social movement unionism offers more prospects for realizing union solidarity with undocumented workers, given its outlook towards social change. Its apparent problem is that the approach itself is only weakly anchored within German unions. Counting on few institutional resources, another way to tap into resources may be in the direction of integrating symbolic and imaginative resources of union members. Rather than shying away from ethical and religious questions as potentially conflictive issues, how about fostering mutual understanding? Accordingly, the departure of organizing drives may not only be the most immediate problem at the workplace, but could also be broader ethical or religious concerns. In such organizing exchanges, perhaps, communists could discover the transcendence of their own convictions, and

Catholics, the compatibility of several aspects of their faith with communist ideas. This might deepen the sense of unions as counterpublic beyond the hollow notion of "union solidarity".

How such imaginations, particularly in contexts of religious and cultural diversity, have been integrated into labour organizing points to a much-needed avenue for future research. Counter-narratives to the dividing lines of legal citizenship, in fact, can be found in a wide variety of cultural and ideological sources. Whether and how they are re-imagined in labour solidarity beyond citizenship invites further historical and comparative ethnographies.

Appendix: Information on the support work of the Working Group on Undocumented Labour

Of all the MigrAr centres in Germany, only the Berlin-based Working Group on Undocumented Labour (*AK Undokumentierte Arbeit*) at the services sector union *ver.di* made statistics available in the report on its activities covering the period from 2009 to 2014 (see AK Undokumentierte Arbeit 2015). In my double-role as activist and researcher, I prepared and led the processing of available data into statistics. The data basis for this report were brief internal case reports collected since the beginning of the centre for undocumented migrant workers as well as the recollections of several current activists who were involved in the various cases, remembering their conversations with the various workers seeking support. The report was collectively discussed within the *AK Undok* and was made official in January 2015. The data analysis in the report serves as a communicative tool of the group especially with respect to the union counterpublic as well as migrant justice and advocacy organizations.

The Berlin statistic counts 40 cases from the inception of the centre in March 2009 to January 2015. Per year, the number of cases breaks down as follows:
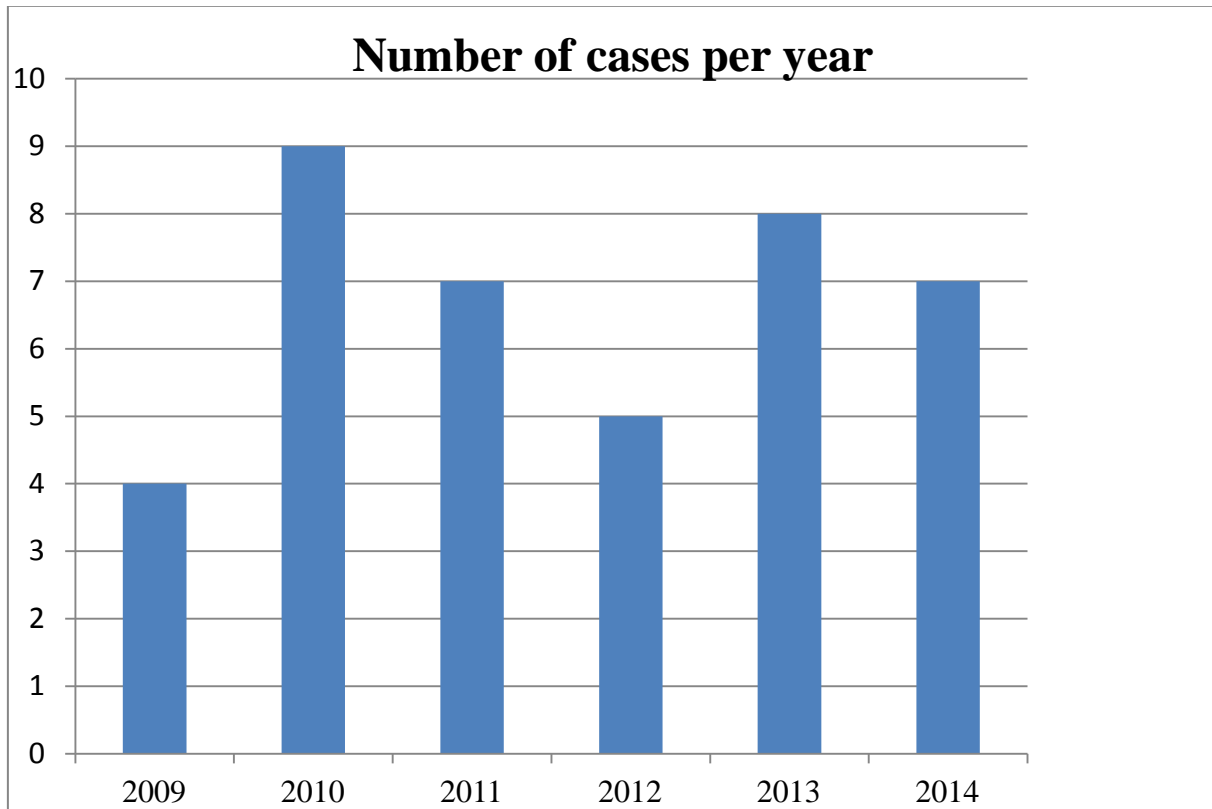
Figure 1: Numbers of support cases per year

With respect to the countries of origin of the workers coming to the counselling session a diverse picture emerges. This information, however, was not routinely asked for in the encounters with workers. Based on statements of workers, the *AK Undok* found out that the countries of origin include Bosnia, Chile, China, Colombia, Cuba, Ecuador, Ethiopia, Italy, Kenya, Mexico, Mozambique, Nigeria, Peru, Senegal, Sudan, Togo, Tunesia, Ukraine, USA and Venezuela.

So far flyers exist in German, English, French, Spanish, Arabic, Russian and Turkish.

Illustration 15: Front side of the flyer in English. Design by Michael Niedworok, 2015.

Illustration 16: Back side of the flyer in English. Design by Michael Niedworok, 2015.

A wide spectrum of industrial branches and jobs is represented in the cases of MigrAr Berlin. The distribution of all 40 cases in Berlin between 2009 and 2014 looks as follows:

Distribution of employment sectors in consultation
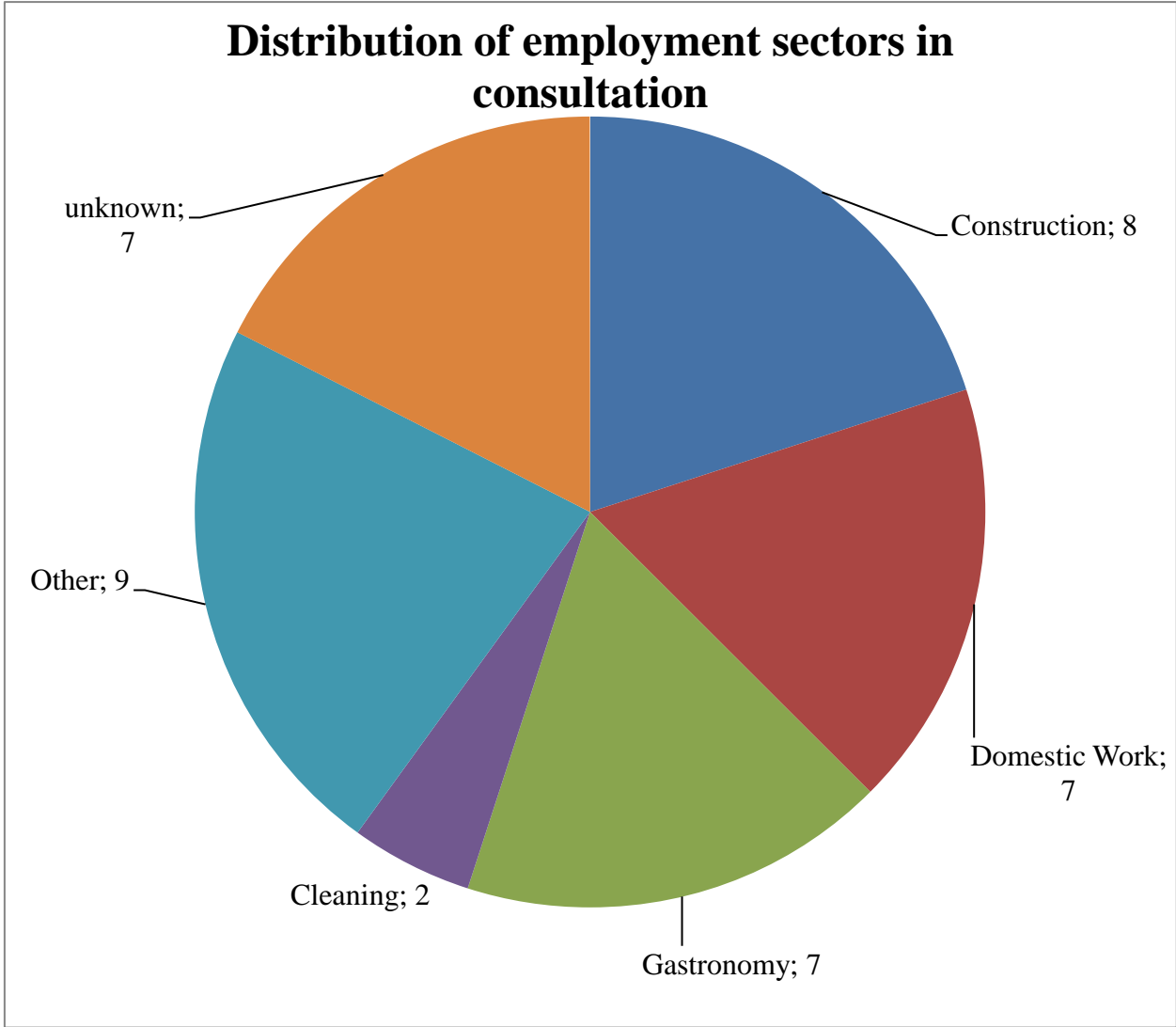
Figure 2: Distribution of employment sectors in support cases

The main labour segment, construction, includes one case of landscaping. "Domestic work" is a general denominator covering different employment relationships, including "au-pair", live-in domestic workers, live-in care worker as well as a self-employed housekeeper. "Gastronomy" includes cooks, kitchen helpers as well as waiters and other service workers. The category "Other" entails students, a retail worker, a musician, an academic scientist, a newspaper

deliverer, a data processor, a translator and a driver. It should be noted that in several cases, in which workers spoke about previous employment history to MigrAr activists, workers had experiences in a variety of sectors and were hardly fixed to any specific branch. Moreover, it became known that several workers have vocational or academic qualifications that are not recognized in Germany, thus requiring them to work in (so-called) unskilled low-paying jobs. Most jobs were performed in small workplaces of five workers or less, often in private households. In some instances, jobs were at the bottom of a subcontracting scheme at larger construction sites, hotels or supermarkets. Most employment relationships dealt with at the centre are signficantly shorter than one year and often only lasted for a couple of weeks.

Over time, a shift can be discerned in the distribution of employment sectors in the consultation.
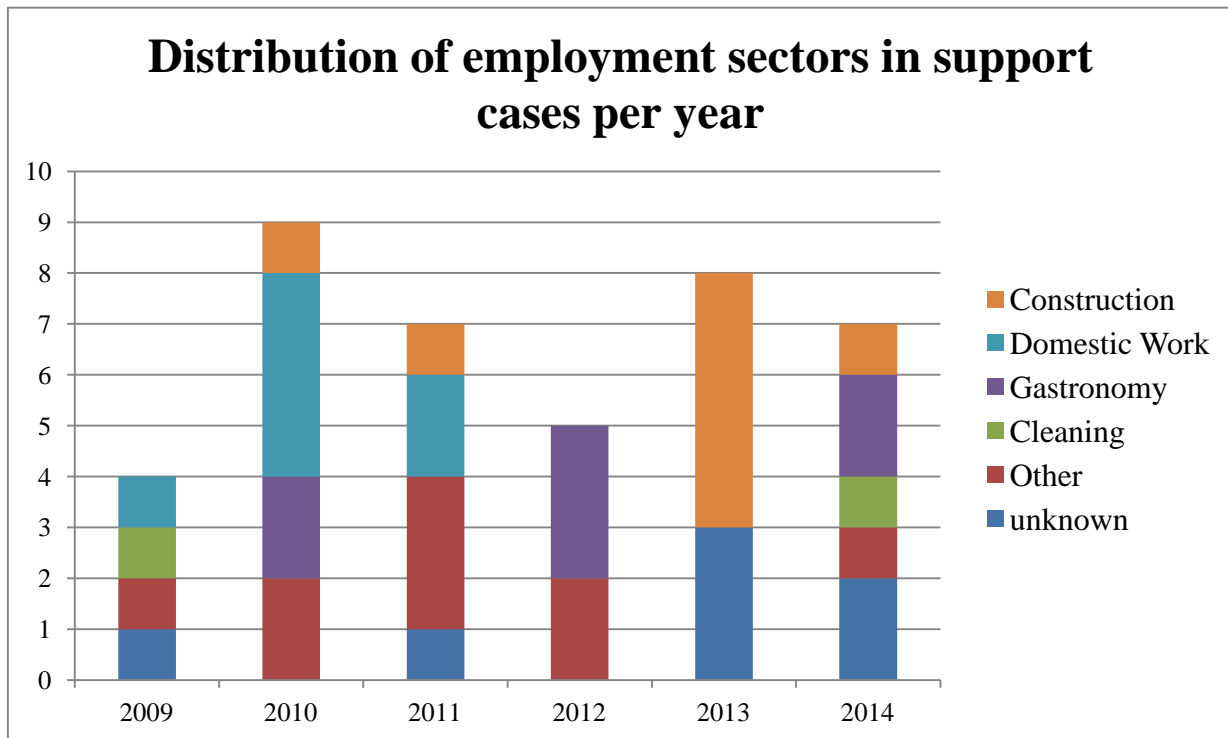
Figure 3: Distribution of employment sectors in support cases per year

What is particularly striking about this statistic is that each of the six cases involving domestic

work came to the centre in the period of 2009 to 2011. Not one case in domestic work came in

afterwards. The comparatively high number of cases (5) related to the construction sector in

2013 is also remarkable. The temporal distribution of this sector appears to be almost the reverse

of domestic work. While only two cases related to construction were engaged in 2009 to 2011,

six cases were supported between 2012 and 2014.

The distribution of gender in the consultations shows a significant disproportion. About two

thirds of those are of male, 28 per cent of female gender, with a margin of 4 per cent unknown. It

is difficult to draw conclusions with respect to how far this statistic represents the actual

distribution of labour rights violations in undocumented labour. It is interesting to note a certain

coincidence with Vogel and Assner's (2011, 31) estimate of the female proportion of

undocumented migrants at 35 per cent for 2010.
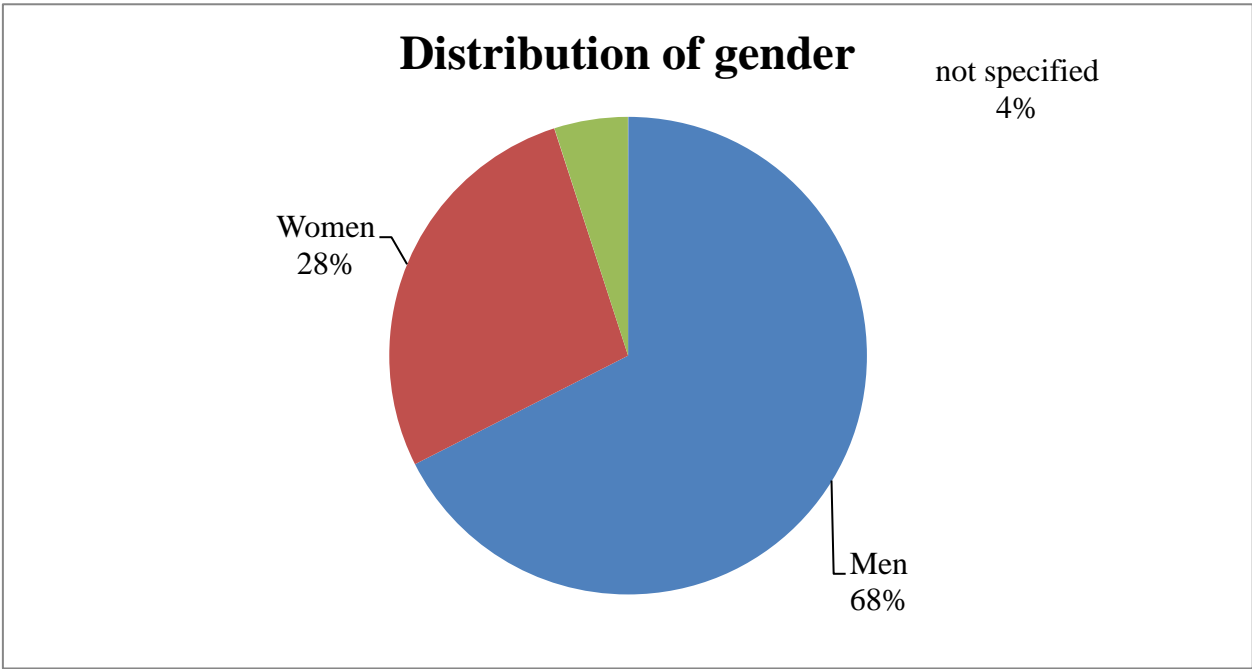
Figure 4: Distribution of gender among supported individuals.
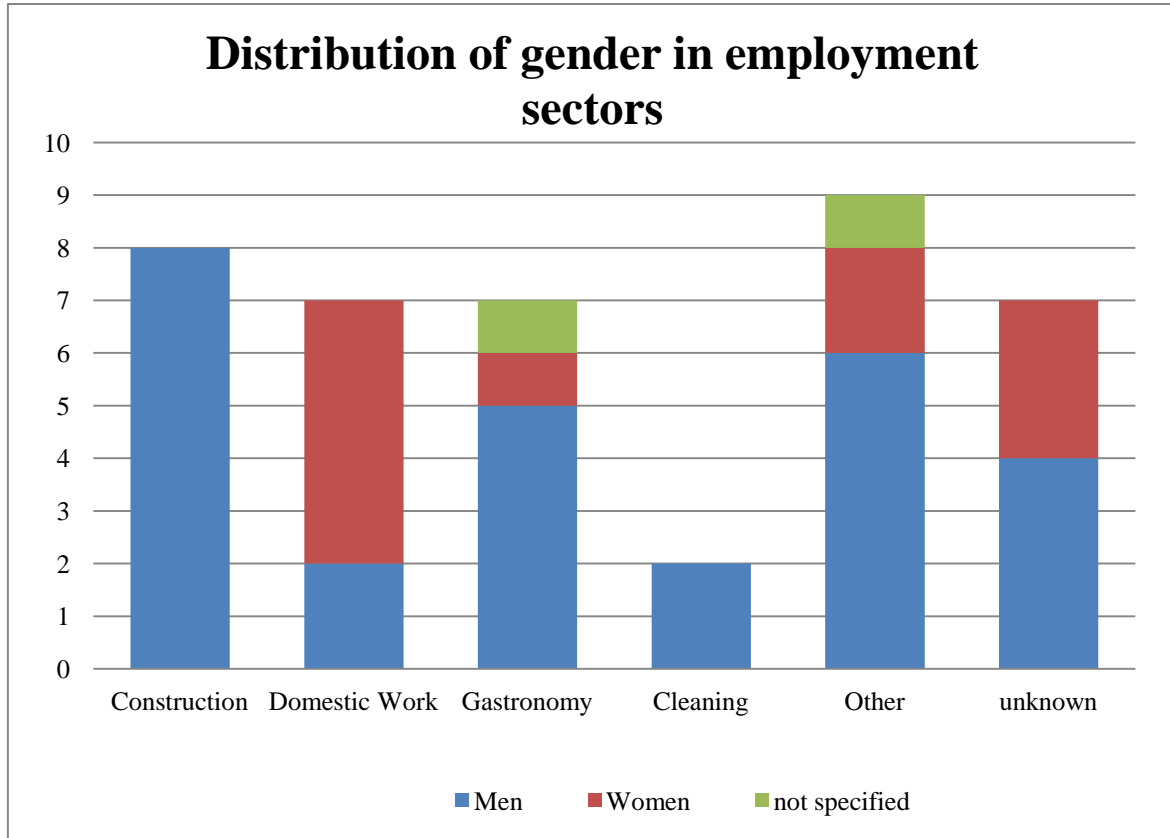
Figure 5: Distribution of gender in support cases by employment sector

All eight cases of construction-related cases involved men, while five (of seven) cases in domestic work involved women. A temporal analysis of the case statistics reveals a shift in distribution of gender.
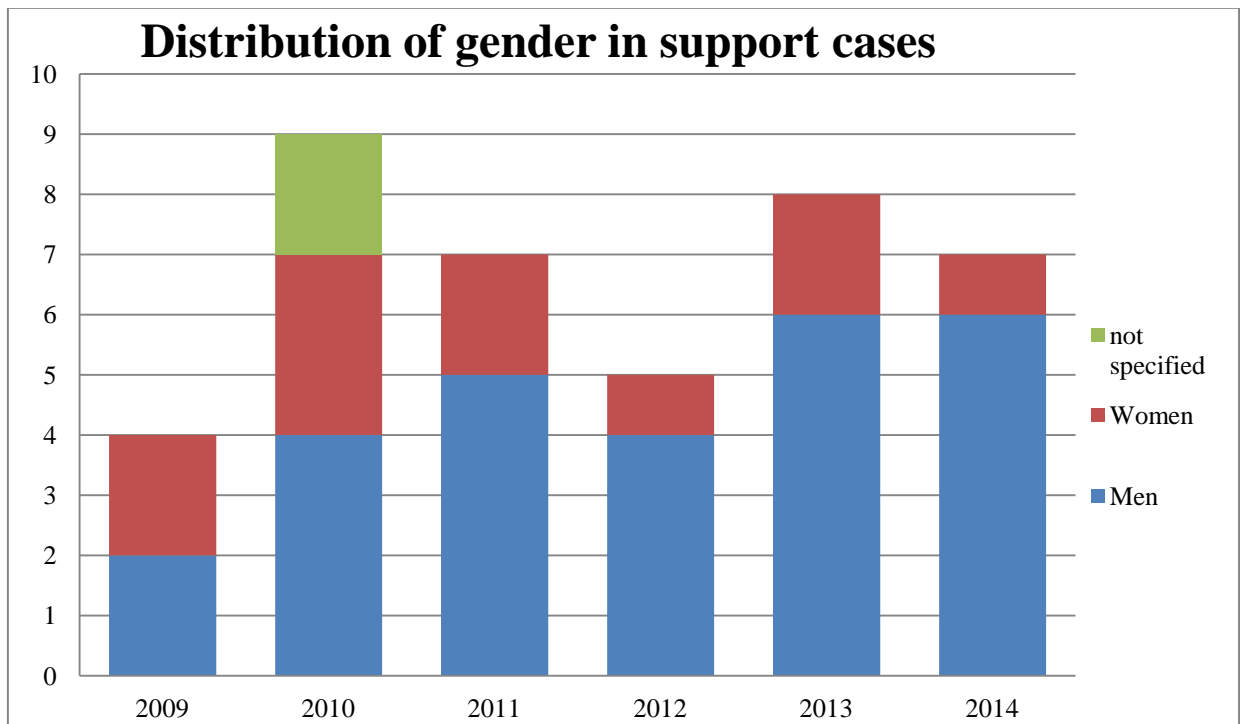
Figure 6: Distribution of gender in support cases per year.

It seems reasonable to assume a correlation between the temporal shifts in distribution of gender and industrial sector. Compared to the years 2009 to 2011 with a male/female ratio of 11:7 (plus two cases in which gender identities were not reported), in years 2012 to 2014 the ratio was 16:4. In other words, from 2009 to 2011 women constituted (at least) 35% of cases (55% men, 10% not reported). From 2012 to 2014, women represented only 20% of cases coming to the consultation. In this respect, the fact that no cases of domestic work were brought to the centre after 2011 is apparently at least partially related to the trend of decreasing female representation in the consultation.

Conflicts and problems brought to the MigrAr centre

What are the problems presented in the consultation?
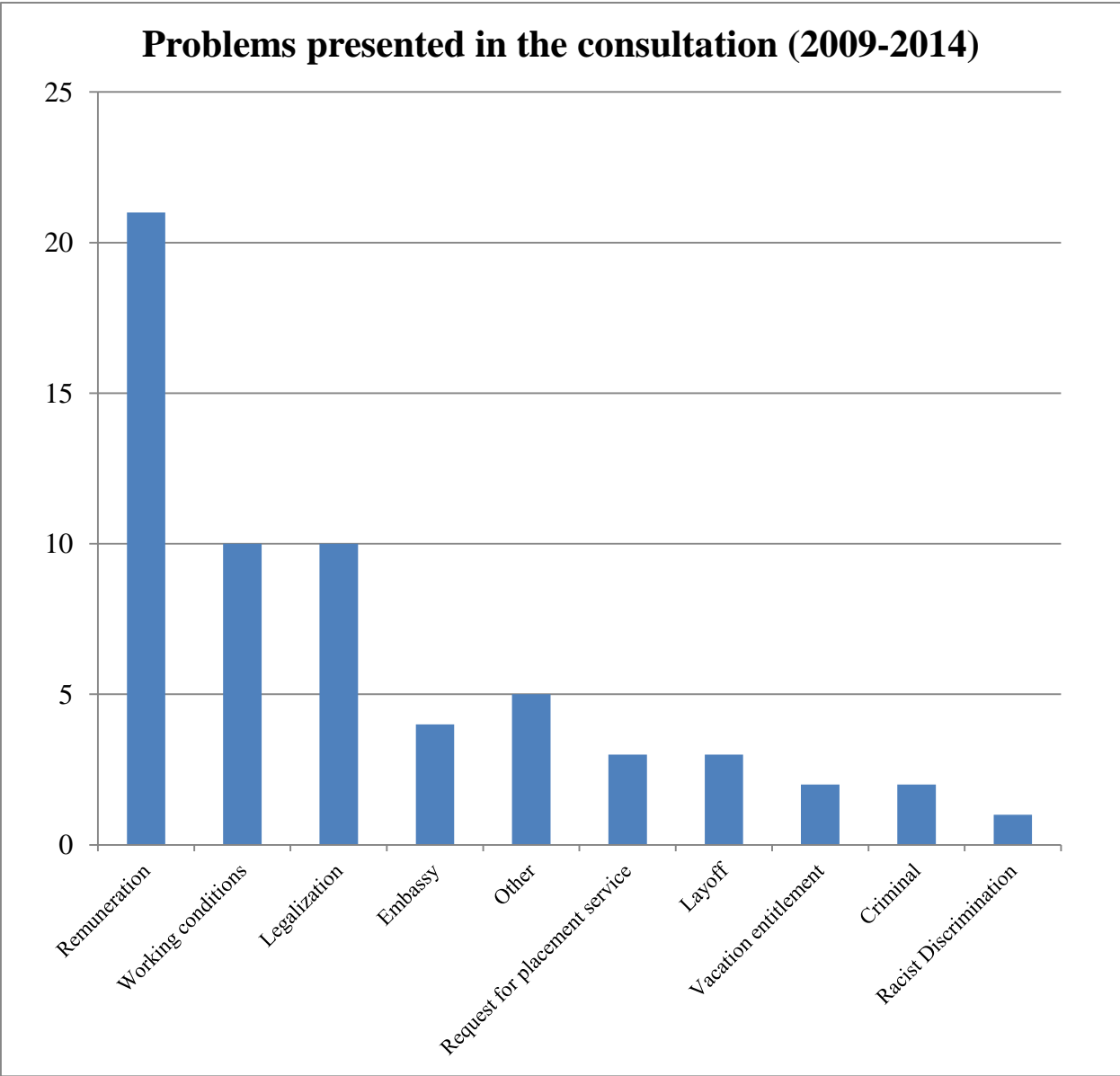
Figure 7: Categorization of problems presented in the consultation.

Some consultations dealt with several issues at the same time, thus the total number of concerns

is greater than the number of cases (40). In 21 cases, i.e. in most cases, people brought up issues

related to remuneration. 16 of them complained that agreed upon wages were not paid. In three cases, workers sought to go against an hourly wage that was too low and, additionally, in one case, the grievance was a wrongly calculated pay stub. In ten instances, working conditions were an issue, sometimes unspecified in the case reports, sometimes specified in relation to working hours, health and safety. One case of racial discrimination is counted separately, although it could be also included in this category of working conditions. Legalization, i.e. questions around the possibilities and procedures of regularizing one's residence or employment status were also a frequent concern that workers brought up in the consultation. As the centre activists are not qualified to offer advice in this respect, the centre usually refers people to other institutionalized forms of support in the extended network of collaborating organizations. Job placement, too, is a request of some advice-seekers that the centre does not address. Remarkably, four cases involved workers employed by embassies or ambassadors. Though not describing a grievance per se, these employment relationships raise the challenge for the consultation to determine whether German labour law applies or not. Less frequent are grievances related to job dimissal (3) or vacation entitlement (2). Within the category of "Other" are single instances, such as a worker facing criminal charges by the employer, issues around accessing unemployment benefits, or dealing with a work-related theft by a colleague. Only one person explicitly approached the center with the stated interest in becoming part of an organizing effort as envisioned by the original idea of the MigrAr centre ("platform for organizing").

In two cases, the grievances also involved not only offenses against labour, but also criminal law (in particular against §233 StGB, anti-trafficking law). In one case, a domestic worker reported

not having been able to leave the worksite for several months, in another, the employer kept the passport of the worker and threatened with physical violence against the worker or her family, should the person press charges. In both cases, the offer to support was not made use of. In one case, the worker explicitly stated the fear that the German legal system will not provide sufficient protection against possible retaliation from the employer. In the other case, the worker broke off contact with the centre.

Measures of support

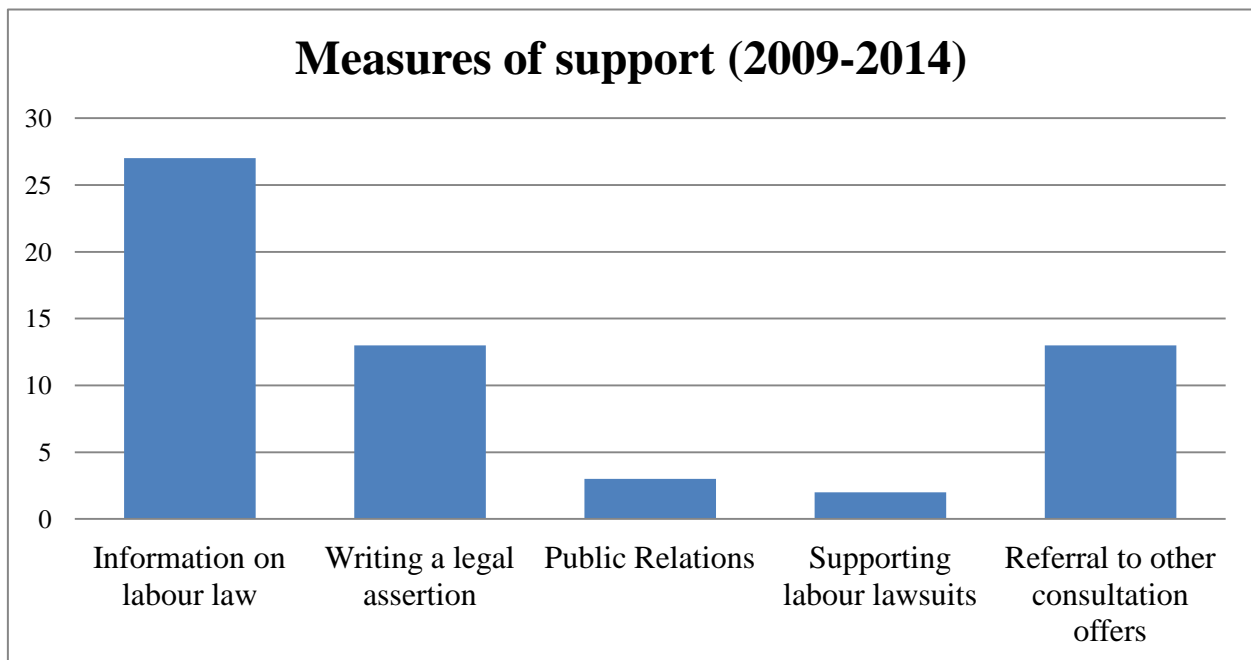What kind of support did the centre provide?

Figure 8: Measures of support taken by the Working Group on Undocumented Labour.

In most instances (27), the centre offered information with respect to the legal situation according to the labour law. In 13 cases a legal assertion ["*Geltendmachung*"] was formulated and prepared against the employer. This is a letter sent to the employer in which the demands of

the worker are specified and, usually, in which the union officially takes on the role of representing the worker in the dispute. Since this is a legally binding document, it is important that the claims made within the assertion are thought out and strategized in view of a longer legal dispute. Usually, for a trade union to claim a worker's legal representation, it is necessary for the worker to become union member and to formally agree to such representation.

In three instances, public relations campaigns were either implemented or prepared far enough for the employer to see a potential threat. In two additional instances, the centre also supported the worker moving forward to press charges at a labour court. While the MigrAr centre did not represent the worker, the support was given to to arrange a lawyer or to acquire financial means for legal representation. In one instance, the centre also helped with the translation and communication with the employer.

In 13 cases, the centre referred the advice-seeker to another organization that offers consultation. In three cases a referral to other legal centres of trade unions were made. This happened in situations that did not involve questions of legal residence status. There are other union centres specified for labour rights of EU citizens that are run by professional staff with greater expertise in labour law than the volunteers of the MigrAr centre. Ten workers among the 13 referrals were connected with NGOs that have a focus other than labour law.

Success and obstacles in the consultation

Among the 27 cases that fell within the scope of the centre, in six cases at least partial successes are known. It is possible to imagine that beyond those six, other workers are felt reassured after the consultation and pursued their case by themselves with success–without MigrAr activists

being aware of. The MigrAr centre, of course, is but one variable explaining the outcome of the dispute.

Currently, only in one case an unrestricted success can be reported. By way of public pressure an employer could be obliged to provide a residence for a gravely ill domestic worker until her recovery. In each of the five remaining cases, the worker had to make do with significant compromises. In one case, the claimed wage could be won, however, at the expense of the worker having to accept a job dismissal. In four cases, parts of the claimed wages could be recovered, making up, however, only a fraction of the agreed upon remuneration. The centre knows about one case in which the worker received €1,100, another with €1,000, two cases with €300 and one in which the sum was not reported.
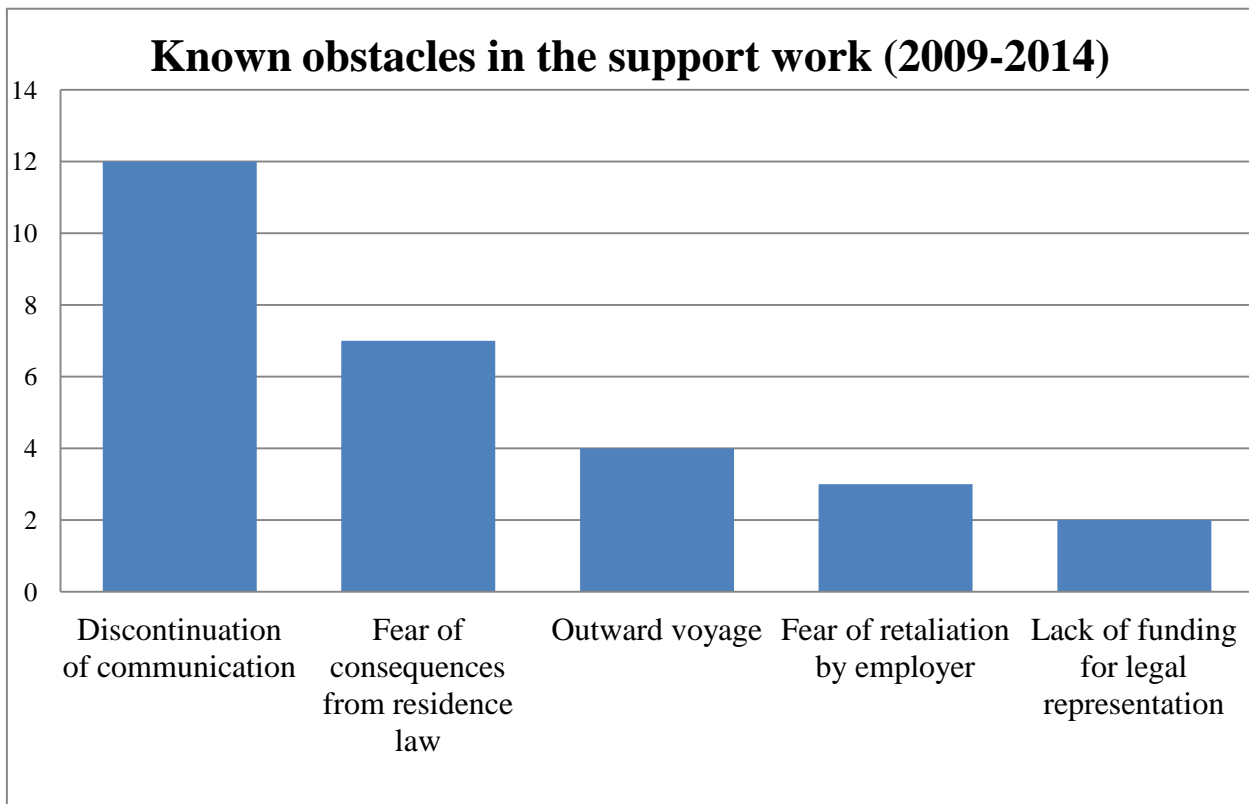
Figure 9: Known obstacles in the support work of the Working Group.

In twelve instances the worker stopped communicating with the centre—and without giving a rationale. It seems reasonable to assume that several of these workers feel discouraged to continue pursuing a legal conflict due to their weak base of evidence, i.e. having kept no time sheets, no pictures or addresses of worksites taken, no official names or contact information of their employers at hand. In other instances, it also appears that deadlines to make legal assertions (especially relevant in the construction sector) have passed. In addition, some workers apparently realize the difficulties, that the process of pursuing legal claims may be long and drawn-out process, that their assistance in organizing missing documentation, information, and so on, is required.

In seven instances, workers expressed concerns about legal repercussions related to their residence status as a consequence of pursuing legal steps. Fear was also involved in three cases in which workers explicitly stated being afraid of retaliation through the employer—against which they would not be sufficiently protected. Workers cited concerns about the physical safety for themselves or their family from violent acts on the authority of the employer.

In four cases ("outward voyage") workers moved from one city to another or one country to another to find alternative employment, to go back to their families in the home country, or to deal with an asylum case pending in another EU country etc. As a result, communication between the worker and the *AK Undok* centre and the preparation of the case became more difficult. Filling out forms (including the official German-language form for legal aid) often involves a lot of technical language that is also difficult to understand for MigrAr activists. The forms further involve ambiguities especially when applied to workers originating from countries

outside of the EU. Geographical distance also limited the options available, for example, making public relations campaigns more difficult to conceive of.

In two instances, the lack of financial means for legal representation constituted an obstacle to bring the case to labour court. With reference to bylaw regulations (legal representation at the earliest three months after becoming union member), unions so far have not granted legal representation to the workers supported by the *AK Undok*.

Bibliography

Abendroth, Wolfgang. 1972. *Short History of the European Working Class*. Translated by N.

    Jacobs and B. Trench. Reprint edition. London: New Left Books.

AG3F. 2005. "Workers Center in Germany?" *arranca!*, January. Accessed December 13, 2015.

    http://labournet.de/diskussion/arbeit/realpolitik/prekaer/workerscenterd.html.

Agamben, Giorgio. 1995. "We Refugees." *Symposium: A Quarterly Journal in Modern*

    Literatures 49 (2): 114–19.

Ağtaş, Özge Berber, Beate Amler, and Luciole Sauviat. 2007. "Between Organising and

    Exclusion: Trade Union Strategies and Undocumented Migrant Workers." *Heimatkunde -*

    Migrationspolitisches Portal. Accessed December 13, 2015.

    https://heimatkunde.boell.de/2007/12/01/between-organising-and-exclusion-trade-union-

    strategies-and-undocumented-migrant-workers.

AK Undokumentierte Arbeit. 2010. "AK Undokumentierte Arbeit Ver.di Berlin."

    Kompass.Antira.Info. Accessed December 13, 2015.

    http://kompass.antira.info/netzwerke/gewerkschaftliche-anlaufstellen-fur-migrantinnen-

    mit-und-ohne-papiere/ak-undokumentierte-arbeit-ver-di-berlin/.

———. 2013a. "Offener Brief von Ver.di Mitgliedern an den Bundesvorstand:

    Migrationskontrolle ist nicht unser Geschäft! – Für Eine Ver.di-Mitgliedschaft

    Unabhängig Vom Aufenthaltsstatus!" December 16. Accessed December 13, 2015.

    http://www.labournet.de/wp-content/uploads/2013/11/lampedusa_hh_adverdi.pdf.

———. 2013b. "Pressemitteilung: Illegal Beschäftigte klagt." *DGB Bezirk Berlin-Brandenburg*.

    Accessed December 13, 2015. September 9. http://berlin-

    brandenburg.dgb.de/beratung/ak-undokumentierte-arbeit/presse.

———. 2014. "Stellungnahme des AK Undokumentierte Arbeit, ver.di Berlin-Brandenburg, zu

    der Räumung der Geflüchteten aus dem DGB Haus" October 2. Accessed December 13,

    2015. http://www.labournet.de/wp-content/uploads/2014/10/dgbberlin_akundok.pdf.

———. 2015. "Tätigkeitsbericht des AK Undokumentierte Arbeit." DGB Bezirk Berlin-

    Brandenburg. Accessed December 13, 2015. http://berlin-

    brandenburg.dgb.de/beratung/ak-undokumentierte-arbeit/infos-

    material/taetigkeitsbericht/++co++278bb73e-ece8-11e4-9603-52540023ef1a.

Albert, Michael. 2004. *Parecon: Life After Capitalism*. New York: Verso Books.

Alscher, Stefan, Rainer Münz, and Veysel Özcan. 2001. *Illegal Anwesende und illegal*

    beschäftigte Ausländerinnen und Ausländer in Berlin : Lebensverhältnisse,

    Problemlagen, Empfehlungen. Demographie Aktuell 17. Berlin: Institut für

    Sozialwissenschaften, Philosophische Fakultät III, Humboldt-Universität zu Berlin.

Alt, Jörg. 1999. *Illegal in Deutschland: Forschungsprojekt zur Lebenssituation "illegaler"·*

    Migranten in Leipzig. Karlsruhe: von Loeper.

———. 2003. *Leben in der Schattenwelt*. Karlsruhe: von Loeper.

———. 2004. "Größenschätzung. Anlage 4 Zum Statement von Jörg Alt zum

    Themenschwerpunkt Zuwanderung und Asyl anlässlich der Anhörung der Unabhängigen

    Kommission Zuwanderung am 26./27. April 2001 - Aktualisierte Fassung nach der EU-

    Osterweiterung." Accessed December 13, 2015. http://joerg-

    alt.de/Publikationen/Materialanlagen/04Statistik.doc.

Anderson, Bridget. 2000. *Doing the Dirty Work?: The Global Politics of Domestic Labour*.

    London; New York: Zed Books.

———. 2010. "Migration, Immigration Controls and the Fashioning of Precarious Workers."
Work, Employment and Society 24 (2): 300–317.

Anderson, Philip. 2003. *Dass Sie uns nicht vergessen… Menschen in der Illegalität in München:
Eine empirische Studie*. München: Sozialreferat, Stelle für Interkulturelle
Zusammenarbeit.

Anlaufstelle Sans Papiers. 2010. "Anlaufstelle Sans Papier bei ver.di München." *Antira-
Kompass*. Accessed December 13, 2015.
http://kompass.antira.info/netzwerke/gewerkschaftliche-anlaufstellen-fur-migrantinnen-
mit-und-ohne-papiere/anlaufstelle-sans-papier-bei-verdi-munchen/.

Apel, Karl-Otto. 1975. "The Problem of Philosophical Fundamental-Grounding in Light of a
Transcendental Pragmatic of Language." *Man and World* 8 (3): 239–75.

Arbeitskreis Internationalismus IG Metall Berlin. 2004. "Menschen ohne Papiere bei der
Legalisierung Begleiten." Accessed December 13, 2015. http://www.arbeitskreis-
internationalismus.de/menschen-ohne-papiere-bei-der-legalisierung-begleiten/.

Arendt, Hannah. 1966. *The Origins of Totalitarianism*. New York: Harcourt, Brace & World.

Associated Press. 2013. "'Illegal Immigrant' No More." *AP Definitive Source*. April 2. Accessed
December 13, 2015. https://blog.ap.org/announcements/illegal-immigrant-no-more.

Babbie, Earl R. 2007. *The Practice of Social Research*. Belmont, CA: Thomson Wadsworth.

Balan, Mihai. 2008. "Patroni wider Willen." *Express Zeitschrift für sozialistische Betriebs- und
Gewerkschaftsarbeit*, No. 1.

Balibar, Etienne. 2004. *We, the People of Europe?: Reflections on Transnational Citizenship*.
Princeton, NJ: Princeton University Press.

Bapat, Sheila. 2014. *Part of the Family?: Nannies, Housekeepers, Caregivers and the Battle for Domestic Workers' Rights*. New York: IG Publishing.

Barron, Pierre, Bory Anne, Lucie Tourette, Sébastien Chauvin, and Nicolas Jounin. 2011. *On bosse ici, on reste ici! La grève des sans-papiers: Une aventure inédite*. Paris: La Découverte.

Bartsch, Matthias, and Özlem Gezer. 2013. "Waiting in Pain: Migrant's Case Highlights Modern Slavery in Germany." *Spiegel Online*, April 17, sec. International. Accessed December 13, 2015. http://www.spiegel.de/international/germany/bulgarian-migrant-worker-case-exposes-problems-in-german-labor-market-a-894611.html.

Bayertz, Kurt. 1998. *Solidarität: Begriff und Problem*. Frankfurt: Suhrkamp.

———. 1999a. "Four Uses of 'solidarity.'" In *Solidarity*, edited by Kurt Bayertz, 3–28. Dordrecht: Kluwer.

———. , ed. 1999b. *Solidarity*. Dordrecht: Kluwer.

Beauftragte der Bundesregierung für Migration Flüchtlinge und Integration. 2012. *9. Bericht der Beauftragten der Bundesregierung für Migration, Flüchtlinge und Integration über die Lage der Ausländerinnen und Ausländer in Deutschland*. Berlin. Accessed December 13, 2015. http://www.bundesregierung.de/Content/DE/_Anlagen/IB/2012-06-27-neunter-lagebericht.pdf?__blob=publicationFile.

Becker, Howard S. 1967. "Whose Side Are We On?" *Social Problems* 14 (3): 239–47.

Beck, Ulrich. 2000. *The Brave New World of Work*. Cambridge; Malden, MA: Polity Press.

Benhabib, Seyla. 1985. "The Generalized and the Concrete Other: The Kohlberg-Gilligan Controversy and Feminist Theory." *Praxis International*, No. 4: 402–24.

———. 2002. *The Claims of Culture: Equality and Diversity in the Global Era*. Princeton, NJ: Princeton University Press.

———. 2004. *The Rights of Others: Aliens, Residents, and Citizens*. Cambridge: Cambridge University Press.

Benz, Martina. 2014. *Zwischen Migration und Arbeit: Worker Centers und die Organisierung prekär und informell Beschäftigter in den USA*. Münster: Westfälisches Dampfboot.

Berg, Laurie. 2014. *Migrant Rights at Work: Law's Precariousness at the Intersection of Migration and Labour.* London: Routledge.

Betts, Alexander. 2011. *Global Migration Governance*. Oxford; New York: Oxford University Press.

Bevington, Douglas, and Chris Dixon. 2005. "Movement-Relevant Theory: Rethinking Social Movement Scholarship and Activism." *Social Movement Studies* 4 (3): 185–208.

Bieler, Andreas, and Ingemar Lindberg, eds. 2011. *Global Restructuring, Labour and the Challenges for Transnational Solidarity*. London: Routledge.

Bieler, Andreas, Ingemar Lindberg, and Devan Pillay, eds. 2008a. *Labour and the Challenges of Globalization: What Prospects for Transnational Solidarity?* London: Pluto Press.

———. 2008b. "What Future Strategy for the Global Working Class? The Need for a New Historical Subject." In *Labour and the Challenges of Globalization: What Prospects for Transnational Solidarity?*, edited by Andreas Bieler, Ingemar Lindberg, and Devan Pillay, 264–86. London: Pluto Press.

Birke, Peter. 2010. *Die grosse Wut und die kleinen Schritte: gewerkschaftliches Organizing zwischen Protest und Projekt*. Berlin; Hamburg: Assoziation A.

Bischoff, Christine. 2010. "The Making of 'Illegality': strategies of illegalizing social outsiders."

    In *Images of Illegalized Immigration: Towards a Critical Iconology of Politics*, edited by

    Christine Bischoff, Francesca Falk, and Sylvia Kafehsy, 47–56. Bielefeld: transcript.

Block, Fred. 2001. "Introduction." In *The Great Transformation: The Political and Economic*

    Origins of Our Time, 2nd edition, xviii – xxxviii. Boston, MA: Beacon Press.

Blumer, Herbert. 1969. *Symbolic Interactionism: Perspective and Method.* Englewood Cliffs,

    NJ: Prentice-Hall.

Blüm, Norbert. 1995. "Standpunkt der Bundesregierung." In *Dokumentation der Konferenz*

    "Europäischer Arbeitsmarkt–Grenzenlos Mobil?" 6.–8. März in Bonn, edited by Bruno

    Köbele and Gerhard Leuschner, 127-131. Baden-Baden: Nomos.

Bojadžijev, Manuela. 2002. "Antirassistischer Widerstand von MigrantInnen in Der

    Bundesrepublik Deutschland." In *Landschaften der Tat. Vermessung, Transformationen*

    und Ambivalenzen des Antirassismus in Europa, edited by Ljubomir Bratic, 13–31. St.

    Pölten: Sozaktiv.

———. 2008. *Die windige Internationale: Rassismus und Kämpfe der Migration*. Münster:

    Westfälisches Dampfboot.

Bourdieu, Pierre, and Loïc J. D. Wacquant. 1992. *An Invitation to Reflexive Sociology*. 1st

    edition. Chicago: University Of Chicago Press.

Bremme, Peter. 2007. "Respekt und bessere Jobs. Organizing im Hamburger

    Sicherheitsgewerbe." In *Never work alone: Organizing - ein Zukunftsmodell für*

    Gewerkschaften, edited by Peter Bremme, Ulrike Fürniß, and Ulrich Meinicke, 194–217.

    Hamburg: VSA.

Bremme, Peter, Ulrike Fürniß, and Ulrich Meinecke. 2007. "Organizing als Zukunftsmodell für bundesdeutsche Gewerkschaften." In *Never work alone: Organizing - ein Zukunftsmodell für Gewerkschaften*, edited by Peter Bremme, Ulrike Fürniß, and Ulrich Meinicke, 10–23. Hamburg: VSA.

Bremme, Peter, Ulrike Fürniß, and Ulrich Meinicke, eds. 2007. *Never work alone: Organizing - ein Zukunftsmodell für Gewerkschaften*. Hamburg: VSA.

Brinkmann, Ulrich, Hae-Lin Choi, Richard Detje, Klaus Dörre, Hajo Holst, Serhat Karakayalı, and Catharina Schmalstieg. 2008. "Strategic Unionism: Aus der Krise zur Erneuerung? Umrisse eines Forschungsprogramms." Wiesbaden: VS Verlag für Sozialwissenschaften.

Bronfenbrenner, Kate. 2007. *Global Unions: Challenging Transnational Capital through Cross-Border Campaigns*. 13. Ithaca, NY: Cornell University Press.

Bronfenbrenner, Kate, Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald, and Ronald L. Seeber, eds. 1998. *Organizing to Win: New Research on Union Strategies*. 1st edition. Ithaca, NY: ILR Press.

Brunkhorst, Hauke. 1997. *Solidarität unter Fremden*. Frankfurt: Fischer.

———. 2005. *Solidarity: From Civic Friendship to a Global Legal Community*. Translated by Jeffrey Flynn. Cambridge, MA: MIT Press.

Bsirske, Frank. 2015. "Arbeitsrechte lassen sich nicht teilen: Kommentar." *migration-online*. July 1. Accessed December 13, 2015. http://www.migration-online.de/beitrag._aWQ9OTkxOA_.html.

Buckel, Sonja. 2008. "Zwischen Schutz und Maskerade. Kritik(en) des Rechts." In *Kritik und Materialität*, edited by Alex. Demirovic, 110–31. Münster: Westfälisches Dampfboot.

Bucken-Knapp, Gregg. 2009. *Defending the Swedish Model: Social Democrats, Trade Unions, and Labor Migration Policy Reform*. Lanham: Lexington Books.

Bundesamt für Migration und Flüchtlinge. 2015a. "Aktuelle Zahlen Zu Asyl." Accessed December 13, 2015. https://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/statistik-anlage-teil-4-aktuelle-zahlen-zu-asyl.pdf?__blob=publicationFile.

———. 2015b. "Bis Zu 800.000 Asylbewerber Erwartet." *BAMF - Bundesamt Für Migration Und Flüchtlinge - Aktuelle Meldungen*. August 20. Accessed December 13, 2015. https://www.bamf.de/SharedDocs/Meldungen/DE/2015/20150819-BM-zur-Asylprognose.html.

Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege. 2014. "Positionspapier: Menschen in der aufenthaltsrechtlichen Illegalität in Deutschland." Accessed December 13, 2015. http://www.forum-illegalitaet.de/mediapool/99/993476/data/Illegale_Bagfw_100305_web.pdf.

Bundesministerium der Finanzen. 2015. "Bundesweite Bündnisse." *Zoll Online*. Accessed December 13, 2015. http://www.zoll.de/DE/Fachthemen/Arbeit/Bekaempfung-der-Schwarzarbeit-und-illegalen-Beschaeftigung/Zusammenarbeit/Buendnisse/buendnisse_node.html.

Bundesministerium des Innern. 2007. "Illegal Aufhältige Migranten in Deutschland. Datenlage, Rechtslage, Handlungsoptionen." Accessed December 13, 2015. http://www.bmi.bund.de/cae/servlet/contentblob/151394/publicationFile/13641/Pruefbericht_Illegalitaet.pdf.

Burawoy, Michael. 1991. "Reconstructing Social Theories." In *Ethnography Unbound: Power and Resistance in the Modern Metropolis*, edited by Michael Burawoy, Alice Burton, Ann Arnett Ferguson, Kathryn J. Fox, Joshua Gamson, Leslie Hurst, Nadine G. Julius, Charles Kurzman, Leslie Slazinger, Josepha Schiffman, and Shiori Ui, 8–27. Oakland: University of California Press.

———. 1998. "The Extended Case Method." *Sociological Theory* 16 (1): 4–33.

———. 2000. "Introduction: Reaching for the Global." In *Global Ethnography: Forces, Connections, and Imaginations in a Postmodern World*, edited by Michael Burawoy, Joseph A. Blum, Sheba George, Zsuzsa Gille, Teresa Gowan, Lynne Haney, Maren Klawiter, Steven H. Lopez, Seán Ó Riain, and Millie Thayer. 1–40. Oakland: University of California Press.

Butterwegge, Christoph, Bettina Lösch, and Ralf Ptak. 2008. *Kritik des Neoliberalismus*. 2nd edition. Wiesbaden: VS Verlag für Sozialwissenschaften.

Campbell, Kristina M. 2011. "The Road to S.B. 1070: How Arizona Became Ground Zero for the Immigrants' Rights Movement and the Continuing Struggle for Latino Civil Rights in America." *Harvard Latino Law Review* 14 (1): 1–21.

Castles, Stephen. 2011. "Migration, Crisis, and the Global Labour Market." *Globalizations* 8 (3): 311–24.

Choi, Hae-Lin. 2011. *Die Organisierung der Unorganisierbaren: USA, Südkorea, Italien: Gewerkschaftliche Strategien*. Hamburg: VSA.

Choudry, Aziz, Jill Hanley, and Eric Shragge. 2012a. "Introduction: Organize! Looking Back, Thinking Ahead." In *Organize!: Building from the Local for Global Justice*, edited by Aziz Choudry, Jill Hanley, and Eric Shragge, 1–22. Oakland: PM Press.

———. , eds. 2012b. *Organize!: Building from the Local for Global Justice*. Oakland: PM
   Press.

Choudry, Aziz, and Mondli Hlatshwayo. 2015. *Just Work? Migrant Workers' Struggles Today*.
   London: Pluto Press.

Choudry, Aziz, and Mark Thomas. 2013. "Labour Struggles for Workplace Justice: Migrant and
   Immigrant Worker Organizing in Canada." *Journal of Industrial Relations* 55 (2): 212–
   26.

Clawson, Dan, and Mary Ann Clawson. 1999. "What Has Happened to the US Labor
   Movement? Union Decline and Renewal." *Annual Review of Sociology* 25: 95–119.

Cohen, Jean L. 1985. "Strategy or Identity: New Theoretical Paradigms and Contemporary
   Social Movements." *Social Research* 52 (4): 663–716.

Cohen, Jean L, and Andrew Arato. 1997. *Civil Society and Political Theory*. Cambridge, MA:
   MIT Press.

Cox, Robert. 1987. *Production Power and World Order*. New York: Columbia University Press.

Croucher, Richard, and Elizabeth Cotton. 2009. *Global Unions. Global Business: Global Union
   Federations and International Business*. London: Libri Publishing.

Cyrus, Norbert. 2002. "Changing Rhetoric and Narratives. German Trade Unions and Polish
   Migrant Workers." In *Europeanisation, National Identities and Migration. Changes in
   Boundary Constructions between Western and Eastern Europe*, edited by Willfried
   Spohn and Anna Triandafyllidou, 192–222. London: Routledge.

———. , ed. 2003. *Zwischen dosierter Öffnung und verschärfter Kontrolle:
   Arbeitsmöglichkeiten für Migrantinnen und Migranten in Deutschland. Dokumentation
   der Fachtagung der Friedrich-Ebert-Stiftung in Kooperation mit dem Institut für Bildung*

und Kommunikation in Migrationsprozessen (IBKM) an der Universität Oldenburg, EU-Forschungsprojekt IAPASIS am 2. April 2003, Berlin. Berlin: Friedrich-Ebert-Stiftung.

———. 2004. "Towards a Dual Approach to Asserting Working Standards for the (irregular) Employment of Migrant Workers." *CLR News*, No. 4: 22–33.

———. 2005. *Trafficking for Labour and Sexual Exploitation in Germany.* Geneva: International Labour Office. Accessed December 13, 2015. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081996.pdf.

Cyrus, Norbert, and Markus Kip. 2015. "Arbeitsrechte Mobilisieren ohne Aufenthaltsstatus. Von faktischer Rechtlosigkeit zur Veränderung geltenden Rechts? (Mobilisation of Labour Law Rights without Residence Status. From a Factual Lack of Rights to a Change in Established Law?)." *Industrielle Beziehungen - Zeitschrift für Arbeit, Organisation und Management - The German Journal of Industrial Relations* 22 (1): 51–71.

Cyrus, Norbert, and Dita Vogel. 2006. "Managing Access to the German Labour Market: Opportunities and Restrictions." In *Irregular Immigration in Europe: Beyond Control?*, edited by Franck Düvell, 75–105. Houndsmill, NY: Palgrave Macmillan.

Dälken, Michaela. 2012. *Grenzenlos Faire Mobilität? Zur Situation von mobilen Beschäftigten aus den mittel- und osteuropäischen Staaten.* Berlin: DGB Bildungswerk.

Debrix, Francois, and Alexander D. Barder. 2013. *Beyond Biopolitics: Theory, Violence, and Horror in World Politics.* London: Routledge.

De Genova, Nicholas. 2002. "Migrant 'Illegality' and Deportability in Everyday Life." *Annual Review of Anthropology* 31: 419–47.

———. 2004. "The Legal Production of Mexican Migrant 'Illegality.'" *Latino Studies* 2 (2):
160–85.

Delgado, Héctor L. 1993. *New Immigrants, Old Unions: Organizing Undocumented Workers in
Los Angeles*. Philadelphia: Temple University Press.

Della Porta, Donatella. 2006. "From corporatist unions to protest unions? On the (difficult)
relations between organized labour and new social movements." In *The Diversity of
Democracy : Corporatism, Social Order and Political Conflict*, edited by Colin Crouch
and Wolfgang Streeck, 71–97. Cheltenham, UK: Edward Elgar.

Deutsche Bischofskonferenz. 2001. *Leben in der Illegalität in Deutschland: Eine humanitäre
und pastorale Herausforderung*. Bonn: Sekretariat der deutschen Bischofskonferenz.

Deutscher Bundestag. 1996. "Antwort des parlamentarischen Staatssekretärs Rudolf Kraus vom
28. Juni 1996." Drucksache 13/5234. Bonn.

Deutscher Gewerkschaftsbund. 2009. "Diskussionspapier: Situation von Menschen ohne
regulären Aufenthaltsstatus in Deutschland." Edited by Volker Roßocha and Vera
Egenberger. Berlin: Deutscher Gewerkschaftsbund.

———. 2013. "Stellungnahme des Deutschen Gewerkschaftsbundes (DGB) zum geplanten 12.
Bericht der Bundesregierung über die Auswirkungen des Gesetzes zur Bekämpfung der
illegalen Beschäftigung." Accessed December 13, 2015.
http://www.dgb.de/themen/++co++bff6328e-8dbb-11e3-a5f1-52540023ef1a.

———. 2015. "Die Mitglieder Der DGB-Gewerkschaften." Accessed December 13, 2015.
http://www.dgb.de/uber-uns/dgb-heute/mitgliederzahlen.

DGB Bundesvorstand. 2012. "Stellungnahme zur Anwendung von Übergangsfristen für die
Arbeitnehmerfreizügigkeit und die Dienstleistungsfreiheit für Kroatien." *DGB.de*.

November 7. Accessed December 13, 2015.

http://www.dgb.de/themen/++co++578f741a-28e7-11e2-afb0-00188b4dc422.

DGB Hamburg. 2010. "Pressemitteilung: Gewerkschaften beraten Beschäftigte ohne gesicherten

Aufenthalt.'" *DGB Hamburg*. January 24. Accessed December 13, 2015.

http://hamburg.dgb.de/themen/++co++d31e4410-6bf3-11e0-6423-

00188b4dc422?k:list=Arbeit.

Dörre, Klaus. 2013. "Organizing – Ein Konzept zur Erneuerung gewerkschaftlicher

Organisationsmacht." In *Internationale Solidarität Revisited. Gewerkschaften Im Spiegel

Globaler Migrationsprozesse. MID-Dossier*, edited by Elisabeth Gregull and Heinrich-

Böll-Stiftung, 96–110. Berlin: Heinrich-Böll-Stiftung. Accessed December 13, 2015.

http://heimatkunde.boell.de/2013/09/10/editorial-dossier-internationale-solidaritaet-

revisited.

Dörre, Klaus, Ingo Matuschek, and Anja Happ. 2013. *Das Gesellschaftsbild der

LohnarbeiterInnen: Soziologische Untersuchungen in ost- und westdeutschen

Industriebetrieben*. Hamburg: VSA.

Dörre, Klaus, and Stefan Schmalz. 2013. *Comeback der Gewerkschaften?: Machtressourcen,

innovative Praktiken, internationale Perspektiven*. Frankfurt: Campus.

Dribbusch, Heiner. 2011. "Organisieren am Konflikt: Zum Verhältnis von Streik und

Mitgliederentwicklung." In *Gewerkschaftliche Modernisierung*, edited by Thomas

Haipeter and Klaus Dörre, 231–63. Wiesbaden: VS Verlag für Sozialwissenschaften.

Düperthal, Gitta. 2013. "Wir fordern ein Signal gegen Ausgrenzung" *Junge Welt*, December 9.

Durkheim, Emile. 1997. *The Division of Labor in Society*. Translated by Lewis A. Coser. Reprint

edition. New York: Free Press.

———. 2008. *The Elementary Forms of Religious Life*. Edited by Mark S. Cladis. Translated by

    Carol Cosman. 1st edition. Oxford: Oxford University Press.

Düvell, Franck. 2002. *Die Globalisierung des Migrationsregimes: Zur neuen*

    Einwanderungspolitik in Europa. Berlin: Assoziation A.

———. 2008. "Clandestine Migration in Europe." *Social Sciences Information* 47 (4): 479–497.

Eidelson, Josh. 2013. "Alt-Labor." *The American Prospect*, January 29. Accessed December 13,

    2015. http://prospect.org/article/alt-labor.

Elixir-A. 2004. *Resistance Against Unpaid Wages and Racism: Evaluation*. Berlin.

Engeman, Cassandra. 2015. "Social Movement Unionism in Practice: Organizational

    Dimensions of Union Mobilization in the Los Angeles Immigrant Rights Marches."

    Work, Employment & Society 29 (3): 444–461.

Erne, Roland. 2010. *European Unions: Labor's Quest for a Transnational Democracy*. 1st

    edition. Ithaca, NY: ILR Press.

Esping-Andersen, Gøsta. 1990. *The Three Worlds of Welfare Capitalism*. Princeton, NJ:

    Princeton University Press.

———. 1999. *Social Foundations of Postindustrial Economies*. 1st edition. Oxford: Oxford

    University Press.

Esquerré, Marion, and Bernard Rondeau. 2009. *Des hommes libres: Une Histoire de la grève des*

    travailleurs sans papiers. Paris: Le Cherche-midi.

Exner, Andreas, and Brigitte Kratzwald. 2012. *Solidarische Ökonomie & Commons: Eine*

    Einführung. Wien: Mandelbaum.

Fantasia, Rick. 1988. *Cultures of Solidarity: Consciousness, Action, and Contemporary*

    American Workers. Berkeley: University of California Press.

Featherstone, David. 2012. *Solidarity Hidden Histories and Geographies of Internationalism.* London: Zed Books.

Fine, Janice. 2006. *Worker Centers: Organizing Communities at the Edge of the Dream*. Ithaca, NY: ILR Press.

———. 2007. "A Marriage Made in Heaven? Mismatches and Misunderstandings between Worker Centres and Unions." *British Journal of Industrial Relations* 45 (2): 335–60.

———. 2011. "New Forms to Settle Old Scores: Updating the Worker Centre Story in the United States." *Relations Industrielles / Industrial Relations* 66 (4): 604–30.

Fischer-Lescano, Andreas, Eva Kocher, and Ghazaleh Nassibi. 2012a. *Arbeit in der Illegalität: Die Rechte von Menschen ohne Arbeitspapieren*. Frankfurt: Campus.

———. 2012b. "Einleitung." In *Arbeit in der Illegalität: Die Rechte von Menschen ohne Arbeitspapieren*, edited by Andreas Fischer-Lescano, Eva Kocher, and Ghazaleh Nassibi, 7–12. Frankfurt: campus.

Fischer, Ruth. 1982. *Stalin and German Communism: A Study in the Origins of the State Party*. New Brunswick NJ: Transaction Books.

Fish, Stanley. 2010. "Does Reason Know What It Is Missing?" *New York Times*, April 12. Accessed December 13, 2015. http://opinionator.blogs.nytimes.com/2010/04/12/does-reason-know-what-it-is-missing/.

Fletcher, Bill, and Fernando Gapasin. 2008. *Solidarity Divided: The Crisis in Organized Labor and a New Path toward Social Justice*. Berkeley: University of California Press.

Fougner, Tore, and Ayça Kurtoğlu. 2011. "Transnational Labour Solidarity and Social Movement Unionism: Insights from and beyond a Women Workers' Strike in Turkey." *British Journal of Industrial Relations* 49 (2): 353–75.

Fraktion Bündnis 90/Die Grünen. 2011. *Entwurf eines Gesetzes zur Verbesserung der sozialen Situation von Menschen, die ohne Aufenthaltsstatus in Deutschland leben*. June 8. Bundestag Drucksache 17/6167.

Fraktion der SPD. 2009. *Entwurf eines … Gesetzes zur Änderung des Aufenthaltsgesetzes*. November 24. Bundestag Drucksache 17/56.

Frampton, Caelie, Gary Kinsman, Andrew Thompson, and Kate Tilleczek, eds. 2006. *Sociology for Changing the World: Social Movements/Social Research*. Black Point, NS: Fernwood Publishing.

Fraser, Nancy. 1990. "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy." *Social Text*, No. 25/26 (January): 56–80.

Fritsch, Kelly, Clare O'Connor, and AK Thompson. 2016a. "Introduction." In *Keywords for Radicals: The Contested Vocabulary of Late Capitalist Struggle*, edited by Kelly Fritsch, Clare O'Connor, and AK Thompson. Oakland: AK Press.

Fritsch, Kelly, Clare O'Connor, and A. K. Thompson, eds. 2016b. *Keywords for Radicals: The Contested Vocabulary of Late Capitalist Struggle*. Oakland: AK Press.

Gajewska, Katarzyna. 2013. *Transnational Labour Solidarity: Mechanisms of Commitment to Cooperation within the European Trade Union Movement*. Reprint edition. London: Routledge.

Gäsche, Daniel. 2014. *Eingereist und abgetaucht: Illegal in Deutschland*. Leipzig: Militzke.

Gaztambide-Fernández, Rubén A. 2012. "Decolonization and the Pedagogy of Solidarity." *Decolonization: Indigeneity, Education & Society* 1 (1): 41–67. Accessed December 13, 2015. http://decolonization.org/index.php/des/article/view/18633.

Gaztambide-Fernández, Rubén A., and Adam Howard. 2013. "Social Justice, Deferred

     Complicity, and the Moral Plight of the Wealthy." *Democracy and Education* 21 (1): 1–

     4.

Gesellschaft für Legalisierung. 2003. "Antrag für ver.di Bundeskongress: Mitglieder ohne

     Aufenthalts- und Arbeitserlaubnis." *Wir sind unter Euch!* Accessed December 13, 2015.

     http://www.rechtauflegalisierung.de/text/verdi-antrag.html.

Gester, Jochen, and Ria Reich. 2007. "Die eigenen Beschlüsse ernst nehmen. Zum

     Gewerkschaftstag der IG Metall im November in Leipzig." *SoZ -Sozialistische Zeitung*,

     November, 8.

Ghosh, Bimal. 1998. *Huddled Masses and Uncertain Shores: Insights into Irregular Migration*.

     The Hague; Boston: Martinus Nijhoff Publishers.

Gilman-Opalsky, Richard. 2008. *Unbounded Publics: Transgressive Public Spheres, Zapatismo,*

     and Political Theory. Lanham: Lexington Books.

Glaser, Barney G., and Anselm L. Strauss. 1967. *The Discovery of Grounded Theory: Strategies*

     for Qualitative Research. Chicago: Aldine Publishers.

Gleeson, Shannon. 2013. *Conflicting Commitments the Politics of Enforcing Immigrant Worker*

     Rights in San Jose and Houston. Ithaca, NY: ILR Press.

Goldring, Luin, and Patricia Landolt. 2013. "Precarious Legal Status in Canada: Theorizing

     Non-Citizenship and Conditionality." In *Producing and Negotiating Non-Citizenship*

     Precarious Legal Status in Canada, edited by Luin Goldring and Patricia Landolt, 3–27.

     Toronto: University of Toronto Press.

Gordon, Jennifer. 2005. *Suburban Sweatshops: The Fight for Immigrant Rights*. Cambridge,

     MA: Belknap Press of Harvard University Press.

Gouldner, Alvin W. 1976. "The Dark Side of the Dialectic: Toward a New Objectivity."

    Sociological Inquiry 46 (1): 3–15.

Graeber, David. 2004. *Fragments of an Anarchist Anthropology*. Chicago: Prickly Paradigm

    Press.

Greer, Ian, and Marco Hauptmeier. 2008. "Political Entrepreneurs and Co-Managers: Labour

    Transnationalism at Four Multinational Auto Companies." *British Journal of Industrial*

    Relations 46 (1): 76–97.

Habermas, Jürgen. 1973. *Theory and Practice*. Boston: Beacon Press.

———. 1985a. "Moral und Sittlichkeit." *Merkur* 39 (12): 1041–52.

———. 1985b. *The Theory of Communicative Action, Volume 1: Reason and the*

    Rationalization of Society. Translated by Thomas McCarthy. Boston: Beacon Press.

———. 1985c. *The Theory of Communicative Action, Volume 2: Lifeworld and System: A*

    Critique of Functionalist Reason. Translated by Thomas McCarthy. Boston: Beacon

    Press.

———. 1990a. "Justice and Solidarity: On the Discussion Concerning Stage 6." In *The Moral*

    Domain: Essays in the Ongoing Discussion between Philosophy and the Social Sciences,

    edited by Thomas E. Wren, 224–54. Cambridge, MA: MIT Press.

———. 1990b. *The Philosophical Discourse of Modernity: Twelve Lectures*. Translated by

    Frederick G. Lawrence. Reprint edition. Cambridge, MA: MIT Press.

———. 1991. *The Structural Transformation of the Public Sphere: An Inquiry into a Category*

    of Bourgeois Society. Translated by Thomas Burger. Cambridge, MA: MIT Press.

———. 1994. *Justification and Application: Remarks on Discourse Ethics*. Translated by Ciaran

    P. Cronin. Cambridge, MA: MIT Press.

———. 1998. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Translated by William Rehg. Cambridge, MA: MIT Press.

———. 2000a. "A Genealogical Analysis of the Cognitive Content of Morality." In *The Inclusion of the Other: Studies in Political Theory*, edited by Ciaran P. Cronin and Pablo de De Greiff. Reprint edition, 3–48. Cambridge, MA: MIT Press.

———. 2000b. "Kant's Idea of Perpetual Peace: At Two Hundred Years' Historical Remove." In *The Inclusion of the Other: Studies in Political Theory,* edited by Ciaran P. Cronin and Pablo de De Greiff. Reprint edition, 165–202. Cambridge, MA: MIT Press.

———. 2001a. *The Postnational Constellation: Political Essays*. Translated by Max Pensky. Cambridge, MA: MIT Press.

———. 2001b. "Discourse Ethics: Notes on a Program of Philosophical Justification." In *Moral Consciousness and Communicative Action: Moral Conciousness and Communicative Action*. Translated by Christian Lenhardt and Shierry Weber Nicholsen, 43–115. Cambridge, MA: MIT Press.

———. 2002. *Religion and Rationality: Essays on Reason, God and Modernity*. Edited by Eduardo Mendieta.Cambridge, MA: MIT Press.

———. 2003. "Toward a Cosmopolitan Europe." *Journal of Democracy* 14 (4): 86–100.

———. 2007. "Ein Bewusstsein von dem, was fehlt." *Neue Zürcher Zeitung*, October 2. Accessed December 13, 2015. http://www.nzz.ch/articleevb7x-1.110807.

———. 2008. "Eine Replik." In *Ein Bewußtsein von dem, was fehlt: Eine Diskussion mit Jürgen Habermas*, edited by Michael Reder and Josef Schmidt, 94–107. Frankfurt: Suhrkamp.

Hadj-Moussa, Ratiba. 2003. "New Media, Community and Politics in Algeria." *Media, Culture & Society* 25 (4): 451–68.

Hardt, Michael, and Antonio Negri. 2000. *Empire*. Cambridge, MA: Harvard University Press.

Harning, Olaf, and Matthias Maurer. 2004. "Diskussionspapier: Unsere Regeln taugen nichts!"
July 10. Accessed December 13, 2015.
http://labournet.de/diskussion/arbeit/realpolitik/kombilohn/adblockwart1.pdf.

Harvey, David. 2001. "Globalization and the Spatial Fix." *Geographische Revue* 2 (3): 23–31.

Hattam, Victoria Charlotte. 1993. *Labor Visions and State Power: The Origins of Business
Unionism in the United States*. Princeton, NJ: Princeton University Press.

Hauer, Dirk. 2004. "Die Kollegin vom Straßenstrich. Arbeitsplatz Prostitution und
Gewerkschaftsarbeit." *Analyse Und Kritik, Nr. 481*. February 20. Accessed December 13,
2015. https://www.akweb.de/ak_s/ak481/07.htm.

Heck, Gerda. 2008. *»Illegale Einwanderung«: Eine umkämpfte Konstruktion in Deutschland und
den USA*. Münster: Unrast.

Heckmann, Friedrich. 1981. *Die Bundesrepublik, ein Einwanderungsland?: Zur Soziologie der
Gastarbeiterbevölkerung als Einwandererminorität*. Stuttgart: Klett-Cotta.

Heery, Edmund James, Lee Adler, Carola Frege, and John Kelly. "Organizing the Unorganized."
In *Varieties of Unionism: Strategies for Union Revitalization in a Globalizing Economy*,
edited by Carola Frege and John Kelly, 45–70. Oxford: Oxford University Press.

Herbert, Ulrich. 2003. *Geschichte der Ausländerpolitik in Deutschland. Saisonarbeiter -
Zwangsarbeiter - Gastarbeiter - Flüchtlinge*. Bonn: Bundezsentrale für politische
Bildung.

Herod, Andrew. 2001. "Labor Internationalism and the Contradictions of Globalization: Or,
Why the Local Is Sometimes Still Important in a Global Economy." *Antipode* 33 (3):
407–26.

———. 2004. "Geographies of Labor Internationalism." *Social Science History* 27 (4): 501–23.

Hirsch, Joachim. 1997. "Globalization of Capital, Nation-States and Democracy." *Studies in Political Economy* 54: 39–58. Accessed December 13, 2015. http://spe.library.utoronto.ca/index.php/spe/article/viewArticle/6856.

Hölzl, Michael. 2004. "Recognizing the Sacrificial Victim: The Problem of Solidarity for Critical Social Theory." *Journal for Cultural and Religious Studies* 6 (1): 45–64.

———. 2010. "Towards a Thicker Description of Transcendence." In *Discoursing the Post-Secular: Essays on the Habermasian Post-Secular Turn*, edited by Péter Losonczi and Aakash Singh, 153–66. Münster: LIT.

Hoffrogge, Ralf. 2011. *Sozialismus und Arbeiterbewegung in Deutschland: von den Anfängen bis 1914*. Stuttgart: Schmetterling

Hollifield, James F. 2004. "The Emerging Migration State." *International Migration Review* 38 (3): 885–912.

Homann, Ralf. 2014. "Appeal 'No One Is Illegal' (passed at Documenta X)." *Ralfhomann.info* January 3. Accessed December 13, 2015. http://wiki.ralfhomann.info/appeal_no_one_is_illegal.

Honneth, Axel. 1996. *The Struggle for Recognition: The Moral Grammar of Social Conflicts*. Translated by Joel Anderson. Cambridge, MA: MIT Press.

Horkheimer, Max. 1972. "Traditional and Critical Theory." In *Critical Theory. Selected Essays*, 188–243. Translated by Matthew J. O'Connell. New York: Herder and Herder.

Hoxie, Robert F. 1914. "Trade Unionism in the United States." *The Journal of Political Economy* 22 (3): 201–17.

Huckenbeck, Kirsten, and Hagen Kopp. 2006. "Zwischen Protektionismus und Migration. Zu
     einigen Fallen der Mindestlohndiskussion." *Analyse & Kritik*, May 19 (506).

Hurd, Richard, Ruth Milkman, and Lowell Turner. 2003. "Reviving the American Labour
     Movement: Institutions and Mobilization." *European Journal of Industrial Relations* 9
     (1): 99–117.

Huschke, Susann. 2014. "Fragile Fabric: Illegality Knowledge, Social Capital and Health-
     Seeking of Undocumented Latin American Migrants in Berlin." *Journal of Ethnic and
     Migration Studies* 40 (12): 2010–29.

Hussey, Ian. 2012. "'Political Activist as Ethnographer', Revisited." *Canadian Journal of
     Sociology* 37 (1): 1–24.

Hyman, Richard. 1975. *Marxism and the Sociology of Trade Unionism*. London: Pluto Press.

———. 1979. "Theory in Industrial Relations. Towards a Materialist Analysis." *Sociologie du
     Travail* 79 (4): 418–38.

———. 1994. "Theory and Industrial Relations." *British Journal of Industrial Relations* 32 (2):
     165–80.

———. 2002a. "The International Labour Movement on the Threshold of Two Centuries:
     Agitation, Organisation, Bureaucracy, Diplomacy." *Arbetarrörelsens Arkiv Och
     Bibliotek*. Accessed December 13, 2015. http://www.arbark.se/pdf_wrd/Hyman_int.pdf.

———. 2002b. "Where Does Solidarity End." *Transit: Europaeische Revue*, No. 24: 1–7.

———. 2004. "Union Renewal: A View from Europe." *Labor History* 45 (3): 333–82.

———. 2011. "Trade Unions, Global Competition and Options for Solidarity." In *Global
     Restructuring, Labour and the Challenges for Transnational Solidarity*, edited by
     Andreas Bieler and Ingemar Lindberg, 16–30. London: Routledge.

Initiative Zivilcourage. 2011. "Tarifveträge – Unterstützung der Ausbeutung oder des Widerstands?" *Initiative Zivilcourage*. Accessed December 13, 2015. http://inizivi.antira.info/diskussionen/tarifvetrage-unterstutzung-der-ausbeutung-oder-des-widerstands/.

International Labour Conference. 2011. *Convention 189: Convention Concerning Decent Work for Domestic Workers*. Geneva: ILO.

International Trade Union Confederation. 2010. "Resolution on Migrant Workers."Accessed December 13, 2015. http://www.ituc-csi.org/resolution-on-migrant-workers.

———. 2011. *Never Work Alone: Trade Unions and NGOs Joining Forces to Combat Forced Labour and Trafficking in Europe*. Brussels: ITUC. Accessed December 13, 2015. www.ituc-csi.org/IMG/pdf/Forced_labour_EN_FINAL.pdf.

Isaksen, Lise Widding, Sambasivan Uma Devi, and Arlie Russell Hochschild. 2008. "Global Care Crisis A Problem of Capital, Care Chain, or Commons?" *American Behavioral Scientist* 52 (3): 405–25.

Jackson, Andrew. 2003. *In Solidarity the Union Advantage*. Ottawa: Canadian Labour Congress.

Jacobi, Otto. 2007. "Restructuring without Unions. The Polycentric Region of Greater Frankfurt." In *Labor in the New Urban Battlegrounds: Local Solidarity in a Global Economy*, edited by Lowell Turner and Daniel B. Cornfield, 224–34. Ithaca, NY: ILR Press.

Jayaraman, Sarumathi, and Immanuel Ness. 2005. *The New Urban Immigrant Workforce: Innovative Models for Labor Organizing*. Armonk, N.Y.: M.E. Sharpe.

Jenkins, Steve. 2002. "Organizing, Advocacy, and Member Power." *Working USA* 6 (2): 56–89.

Jessop, Bob. 2002. *The Future of the Capitalist State*. Cambridge, UK; Malden, MA: Polity Press.

Johns, Rebecca A. 1998. "Bridging the Gap between Class and Space: US Worker Solidarity with Guatemala." *Economic Geography* 74 (3): 252–71.

Johnston, Paul. 1994. *Success While Others Fail: Social Movement Unionism and the Public Workplace*. Ithaca, NY: ILR Press.

Jordan, Bill, and Franck Düvell. 2002. *Irregular Migration: The Dilemmas of Transnational Mobility*. Cheltenham, UK: Edward Elgar.

Jubany, Olga, and Berta Güell. 2012. "Final Report: Trade Unions, Economic Change and Active Inclusion of Migrant Workers." Barcelona: Universitat de Barcelona, European Commission. Accessed December 13, 2015. http://www.ub.edu/TEAM/webfm_send/133.

Junkert, Christoph, and Axel Kreienbrink. 2008. "Irregular Employment of Migrant Workers in Germany–Legal Situation and Approaches to Tackling the Phenomenon." In *Addressing the Irregular Employment of Immigrants in the European Union: Between Sanctions and Rights. Budapest*, edited by International Office for Migration, 13–88. Geneva: International Office for Migration.

Kaelin, Lukas. 2008. "Habermas, the Jesuits and Religion: Notes on a Discussion about the Role of Religion in Society." *Prajna Vihara* 9 (2): 15–30.

Kahmann, Marcus. 2006. "The Posting of Workers in the German Construction Industry: Responses and Problems of Trade Union Action." *Transfer: European Review of Labour and Research* 12 (2): 183–96.

Kanalan, Ibrahim. 2012. "Illegale Migration und die Rechte von illegalen Migrantinnen und
Migranten als Regelungsgegenstände des Europarechts." In *Arbeit in der Illegalität: die
Rechte von Menschen ohne Arbeitspapieren*, edited by Andreas Fischer-Lescano, Eva
Kocher, and Ghazaleh Nassibi, 91–113. Frankfurt: Campus.

Karakayalı, Serhat. 2005. "Lotta Continua in Frankfurt, Türken-Terror in Köln. Migrantische
Kämpfe in Der Geschichte Der Bundesrepublik." In *Vorwärts und viel vergessen:
Beiträge zur Geschichte und Geschichtsschreibung neuer sozialer Bewegungen*, edited
by Bernd Hüttner, Gottfried Oy, Norbert Schepers, 121–34. Neu-Ulm: AG SPAK.

———. 2008. *Gespenster der Migration: zur Genealogie illegaler Einwanderung in der
Bundesrepublik Deutschland*. Bielefeld: transcript.

Karakayalı, Serhat, and Vassilis Tsianos. 2005. "Mapping the Order of New Migration.
Undokumentierte Arbeit und die Autonomie der Migration." *Peripherie. Zeitschrift Für
Politik Und Ökonomie in Der Dritten Welt* 97 (98): 35–64.

Katz, Henryk. 1992. *The Emancipation of Labor: A History of the First International*. Westport,
CT: Greenwood Publishing Group.

Kazin, Michael. 2013. "How Labor Learned to Love Immigration." *The New Republic*, May 13.
Accessed December 13, 2015. http://www.newrepublic.com/article/113203/labor-and-
immigration-how-unions-got-board-immigration-reform.

Keil, Roger. 2007. "Empire and the Global City: Perspectives of Urbanism after 9/11." *Studies in
Political Economy* 79: 167–192. Accessed December 13, 2015.
http://spe.library.utoronto.ca/index.php/spe/article/view/5200.

Keil, Roger, and Rianne Mahon. 2010. *Leviathan Undone?: Towards a Political Economy of
Scale*. Vancouver: University of British Columbia Press.

Kim, Jaeeun. 2011. "Establishing Identity: Documents, Performance, and Biometric Information in Immigration Proceedings." *Law & Social Inquiry* 36 (3): 760–86.

Kip, Markus. 2011. "Making Sense of Failure. Why German Trade Unions Did Not Mobilize against the Hartz IV Reforms. Partisan Research in Frankfurt, Germany." In *Lumpencity. Discourses of Marginality | Marginalizing Discourses*, edited by Alan Bourke, Tia Dafnos, and Markus Kip, 249–83. Ottawa: Red Quill Press.

———. 2016. "Keyword 'Solidarity.'" In *Keywords for Radicals*, edited by Kelly Fritsch, Clare O'Connor, and AK Thompson. Oakland: AK Press.

Kluth, Winfried. 2013. "Soziale Menschenrechte Illegal Aufhältiger Personen Und Behördliche Meldepflichten Im Aufenthaltsrecht : Ein Systembedingter Anachronismus?" *ZAR - Zeitschrift für Ausländerrecht und Ausländerpolitik* 33 (5-6): 182–87.

Knight, Kelvin. 2007. *Aristotelian Philosophy: Ethics and Politics from Aristotle to MacIntyre*. Cambridge, UK; Malden, MA: Polity Press.

Kocher, Eva. 2012. "Hausarbeit Als Erwerbsarbeit: Der Rechtsrahmen in Deutschland. Voraussetzungen einer Ratifikation der ILO-Domestic Workers Convention durch die Bundesrepublik Deutschland." Gutachten für die Hans-Böckler-Stiftung, Düsseldorf: Hans-Böckler-Stiftung. Accessed December 13, 2015. http://www.forschungsnetzwerk.at/downloadpub/Kocher_2012_524_31.pdf.

Kocher, Eva, and Ghazaleh Nassibi. 2012. "Rechte für Beschäftigte als Sanktionen gegen Arbeitgeber/innen – Eine erste Einschätzung der Neuregelung in § 98a AufenthG." In *Arbeit in der Illegalität: die Rechte von Menschen ohne Arbeitspapieren*, edited by Andreas Fischer-Lescano, Eva Kocher, and Ghazaleh Nassibi, 135–39. Frankfurt: Campus.

Kohlhagen, Dominik. 2006. "Illegale Migration und Rechtskultur: Beobachtungen aus einer

    Feldforschung unter Afrikanern in Deutschland." *Zeitschrift für Rechtssoziologie* 27 (2):

    239–50.

Kompass.Antira.Info. 2011. "Antira-Kompass." *Gewerkschaftliche Anlaufstellen Für*

    MigrantInnen Mit Und Ohne Papiere. Accessed December 13, 2015.

    http://kompass.antira.info/netzwerke/gewerkschaftliche-anlaufstellen-fur-migrantinnen-

    mit-und-ohne-papiere/.

Korpi, Walter. 1978. *The Working Class in Welfare Capitalism: Work, Unions, and Politics in*

    Sweden. London; Boston: Routledge & Kegan Paul.

———. 1983. *The Democratic Class Struggle*. London; Boston: Routledge & K. Paul.

Korpi, Walter, and Joakim Palme. 2003. "New Politics and Class Politics in the Context of

    Austerity and Globalization: Welfare State Regress in 18 Countries, 1975–95." *American*

    Political Science Review 97 (03): 425–46.

Kovacheva, Vesela, and Dita Vogel. 2012. "Weniger Rechtsverletzungen durch mehr

    Informationen? Arbeitsmarkterfahrungen und Informationsbedarf bulgarisch- und

    albanischsprachiger Zugewanderter in Berlin." HWWI research paper. Accessed

    December 13, 2015. http://www.econstor.eu/handle/10419/58271.

Krieger, Wolfgang, Monika Ludwig, Patrick Schupp, and Annegret Will. 2006. *Lebenslage*

    "illegal": Menschen ohne Aufenthaltsstatus in Frankfurt am Main. Karlsruhe: von

    Loeper.

Kurasawa, Fuyuki. 2007. *The Work of Global Justice: Human Rights as Practices*. Cambridge,

    UK: Cambridge University Press.

Laitinen, Arto, and Anne Birgitta Pessi. 2014. *Solidarity: Theory and Practice*. Lanham, MD:

    Rowman and Littlefield.

Lederer, Harald W. 2004. *Indikatoren der Migration: Zur Messung des Umfangs und der Arten*

    von Migration in Deutschland unter besonderer Berücksichtigung des Ehegatten- und

    Familiennachzugs sowie der illegalen Migration. Bamberg: Europäisches Forum für

    Migrationsstudien (efms).

Leuckfeld, Silke. 2014. "Kontrolle ist Besser: Im Visier den Hungerlohn: Die 'Finanzkontrolle

    Schwarzarbeit' hat viel zu zun und viel zu wenig Personal." *ver.di Publik*, May 30, sec.

    Migration Spezial. Accessed December 13, 2015.

    https://publik.verdi.de/2014/ausgabe/spezial/migration/seite-18/A1.

Lewin, Kurt. 1946. "Action Research and Minority Problems." *Journal of Social Issues* 2 (4):

    34–46.

———. 1947. "Group Decision and Social Change." *Readings in Social Psychology* 3: 197–211.

Lipset, Seymour Martin, Martin Trow, and James Coleman. 1977. *Union Democracy: The Inside*

    Politics of the International Typographical Union. New York: Free Press.

Loach, Ken. 2001. *Bread and roses*. DVD. 110 mins. Lions Gate Home Entertainment.

Luft, Stefan. 2013. "Herausforderungen Europäischer Grenzpolitik." *Aus Politik und*

    Zeitgeschichte 63 (47): 13–17.

Lüthje, Boy, and Christoph Scherrer. 1997. *Zwischen Rassismus und Solidarität:*

    Diskriminierung, Einwanderung und Gewerkschaften in den USA. Münster:

    Westfälisches Dampfboot.

Lyon-Callo, Vincent. 2004. *Inequality, Poverty, and Neoliberal Governance: Activist Ethnography in the Homeless Sheltering Industry*. 2 edition. Toronto: University of Toronto Press.

Marcuse, Herbert. 1968. *One-Dimensional Man, Studies in the Ideology of Advanced Industrial Society*. Boston: Beacon Press.

Marko, Sonja. 2012. "Arbeitsrechte für Menschen ohne Papiere. Die Agenda der Gewerkschaften." In *Arbeit in der Illegalität: Die Rechte von Menschen ohne Arbeitspapieren*, edited by Andreas Fischer-Lescano, Eva Kocher, and Ghazaleh Nassibi, 212–17. Frankfurt am Main: campus.

Martin, Nina, Sandra Morales, and Nik Theodore. 2007. "Migrant Worker Centers: Contending with Downgrading in the Low-Wage Labor Market." *GeoJournal* 68 (2-3): 155–65.

Marx, Karl, and Friedrich Engels. 2008. *The Communist Manifesto*. Reissue edition. Oxford; New York: Oxford University Press.

Massey, Douglas. 1996. "The False Legacy of the 1965 Immigration Act." *World on the Move* 2: 2–3.

———. 2005. *Backfire at the Border: Why Enforcement without Legalization Cannot Stop Illegal Immigration*. Washington, D.C.: Cato Institute.

Matziari, Rodoula. 2014. *Migrantinnen und Migranten in der Industriegewerkschaft Metall - Eine Erfolgsgeschichte?* Duisburg: Verlag Dialog-Edition.

Mayer, Alf. 2009. *Ausbeutung Einkalkuliert: Arbeitsmigranten auf dem Bau*. DVD. 55 mins. Stiftung Soziale Gesellschaft.

McAlevey, Jane. 2014. *Raising Expectations (and Raising Hell): My Decade Fighting for the Labor Movement*. Reprint. New York: Verso.

McHardy, Neil. 1994. "Das Recht der Illegalen." *Recht der Arbeit* 47: 93–104.

McIntyre, Lisa J. 2005. *Need to Know: Social Science Research Methods*. Boston: McGraw-Hill.

Mead, George Herbert. 1967a. "The Social Creativity of the Emergent Self." In *Mind, Self, and Society from the Standpoint of a Social Behaviorist*. Chicago: University of Chicago Press.

———. 1967b. *Mind, Self, and Society from the Standpoint of a Social Behaviorist*. Edited by Charles W. Morris. Chicago: University of Chicago Press.

Meiritz, Annett. 2015. "Neue Flüchtlingszahlen: Die Millionen-Prognose." *Spiegel Online*. October 5. Accessed December 13, 2015. http://www.spiegel.de/artikel/a-1056174.html.

Menz, Georg. 2014. "Employers and Migrant Legality." In *Migrants at Work: Immigration and Vulnerability in Labour Law*, edited by Cathryn Costello and Mark Freedland, 44–59. Oxford: Oxford University Press.

Michels, Robert. 1966. *Political Parties. A Sociological Study of the Oligarchical Tendencies in Modern Democracies.* New York: Free Press.

Milkman, Ruth. 2000. *Organizing Immigrants: The Challenge for Unions in Contemporary California*. Ithaca, NY: ILR Press.

———. 2006. *L.A. Story: Immigrant Workers and the Future of the U.S. Labor Movement*. New York: Russell Sage Foundation.

———. 2011. "Immigrant Workers, Precarious Work, and the US Labor Movement." *Globalizations* 8 (3): 361–72.

———. 2013. "Back to the Future? US Labour in the New Gilded Age." *British Journal of Industrial Relations* 51 (4): 645–65.

Milkman, Ruth, Joshua. Bloom, and Victor Narro. 2010. *Working for Justice: The L.A. Model of Organizing and Advocacy*. Ithaca, NY: ILR Press.

Milkman, Ruth, and Ed Ott. 2014. *New Labor in New York: Precarious Workers and the Future of the Labor Movement*. Ithaca, NY: ILR Press.

Milkman, Ruth, and Kim. Voss. 2004. *Rebuilding Labor: Organizing and Organizers in the New Union Movement*. Ithaca, NY: ILR Press.

Mills, C. Wright. *The Sociological Imagination*. Oxford: Oxford University Press.

Mitrović, Emilija. 2010a. *Menschen ohne Papiere: Zur Lebenssituation von Menschen ohne gültige Aufenthaltspapiere in Hamburg: Bildung - Gesundheit - Arbeit*. Marburg: BdWi.

———. 2010b. "Without Papers but Not without Rights: The Case of Ana S. MigrAr: Trade Union Drop-In Center for Undocumented Workers in Hamburg." In *Mobilizing Against Inequality*. The Worker Institute. Ithaca, NY. Accessed December 13, 2015. http://www.ilr.cornell.edu/sites/ilr.cornell.edu/files/Mitrovic-The-Case-of-Ana-S.pdf.

———. 2015. "MigrAr - Anlaufstelle Für Papierlose." Presented at the conference "Extreme Ausbeutungsbedingungen für Migrant_innen", ver.di,Hamburg, June 12.

Mohanty, Chandra Talpade. 2003. *Feminism without Borders: Decolonizing Theory, Practicing Solidarity*. Durham, NC; London: Duke University Press.

Moody, Kim. 1988. *An Injury to All: The Decline of American Unionism*. New York: Verso.

———. 2001. *Workers in a Lean World: Unions in the International Economy*. New York: Verso.

———. 2007. *US Labor in Trouble and Transition: The Failure of Reform from Above, the Promise of Revival from below*. New York: Verso.

Moore, Sally Falk. 1973. "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study." *Law & Society Review* 7 (4): 719–46.

Morgan, David L. 1996. "Focus Groups." *Annual Review of Sociology* 22 (January): 129–52.

Morgan, David L., and Richard A. Krueger. 1993. "When to Use Focus Groups and Why." In *Successful Focus Groups. Advancing the State of the Art*, edited by David L. Morgan, 3–19. Thousand Oaks: Sage.

Moulier Boutang, Yann. 2001. "Migrations Internationales et Criminalité Organisée: Changer Sérieusement de Point de Vue et de Pratiques." In *I crimini della globalizzazione,* edited by Marco Antonio Pirrone and Salvo Vaccaro. 147–160. Trieste: Asterios.

Mulinari, Diana, and Anders Neergaard. 2004. *Den nya svenska arbetarklassen: Rasifierade arbetares kamp inom facket*. Umeå: Boréa.

Munck, Ronaldo, ed. 2004. *Labour and Globalisation: Results and Prospects*. Liverpool: Liverpool University Press.

Munck, Ronaldo, Carl Ulrik Schierup, and Raúl Delgado Wise. 2011. "Migration, Work, and Citizenship in the New World Order." *Globalizations* 8 (3): 249–60.

Munck, Ronaldo, and Peter Waterman, eds. 1999. *Labour Worldwide in the Era of Globalization: Alternative Union Models in the New World Order*. New York: Palgrave Macmillan.

Negt, Oskar, and Alexander Kluge. 1993. *Public Sphere and Experience: Toward an Analysis of the Bourgeois and Proletarian Public Sphere*. Translated by Assenka Oksiloff and Peter Labanyo. Minneapolis: University of Minnesota Press.

Nelson, Bruce. 1990. *Workers on the Waterfront: Seamen, Longshoremen, and Unionism in the 1930s*. Reprint. Urbana: University of Illinois Press.

Ness, Immanuel. 1998. "Organizing Immigrant Communities. UNITE's Workers Center

      Strategy." In *Organizing to Win: New Research on Union Strategies*, edited by Kate

      Bronfenbrenner, Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald, and Ronald

      L. Seeber, 87–101. Ithaca: ILR Press.

———. 2005. *Immigrants, Unions, and the New U.S. Labor Market*. Philadelphia: Temple

      University Press.

———. 2014. *New Forms of Worker Organization the Syndicalist and Autonomist Restoration*

      of Class-Struggle Unionism. Oakland: PM Press.

Never Mind the Papers – United We Stand! 2015. Accessed December 13, 2015.

      https://www.youtube.com/watch?v=-rjxJjMpjJo&feature=youtube_gdata_player.

New York Times correspondents. 2005. *Class Matters*. New York: Times Books.

Nickel, Susanne. 2004. "Gewerkschaften Und Migration. Aktuelle Entwicklungen Und

      Strategien Am Beispiel Der Industriegewerkschaft Bauen-Agrar-Umwelt." Master

      Thesis, Frankfurt: University of Frankfurt.

Nijhawan, Michael. 2005. "Deportability, Medicine, and the Law." *Anthropology & Medicine* 12

      (3): 271–85.

Novelli, Mario, and Anibel Ferus-Comelo. 2009. *Globalisation, Knowledge and Labour:*

      Education for Solidarity within Spaces of Resistance. London: Routledge.

Nowak, Peter. 2013. "Eingeschränkte Solidarität (neues deutschland)." *neues deutschland*,

      December 14. Accessed December 13, 2015. http://www.neues-

      deutschland.de/artikel/918085.eingeschraenkte-solidaritaet.html.

———. 2014. "Nach Räumung Der Flüchtlinge: Gewerkschafter Kritisieren DGB." *Die*

      Tageszeitung. October 6. Accessed December 13, 2015. http://www.taz.de/!147195/.

OECD. 2015. "Union Members and Employees." *OECD.StatExtracts*. Accessed December 13, 2015. https://stats.oecd.org/Index.aspx?DataSetCode=U_D_D.

Olson, Mancur. 2001. *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge, MA: Harvard University Press.

Panitch, Leo, and Donald Swartz. 2003. *From Consent to Coercion: The Assault on Trade Union Freedoms.* 2nd edition. Toronto: University of Toronto Press.

Papadopoulos, Dimitris, and Vassilis Tsianos. 2007. "The Autonomy of Migration : The Animals of Undocumented Mobility." In *Deleuzian Encounters: Studies in Contemporary Social Issues*, edited by Anna Hickey-Moody and Peta Malins, 223–35. Basingstoke; New York: Palgrave Macmillan.

Peirce, Charles Sanders. 1998. "Pragmatism as the logic of abduction." *The Essential Peirce Volume 2 Selected Philosophical Writings 1893– 1913*, edited by Peirce Edition Project, 226-41. Bloomington: Indiana University Press.

Penninx, Rinus, and Judith Roosblad. 2000. "Introduction." In *Trade Unions, Immigration and Immigrants in Europe, 1960-1993*, edited by Rinus Penninx and Judith Roosblad, 1–20. New York: Berghahn Books.

Pensky, Max. 2009. *The Ends of Solidarity: Discourse Theory in Ethics and Politics*. Albany: State University of New York Press.

phase2. 2010. "Internationalistische Praxis Nach Dem Internationalismus - Interview Mit Olaf Bernau." *Afrique-Europe-Interact.net*. phase2 No. 37 (September). Accessed December 13, 2015. http://afrique-europe-interact.net/index.php?article_id=259&clang=0.

Pichardo, Nelson A. 1997. "New Social Movements: A Critical Review." *Annual Review of Sociology* 23: 411–30.

Piore, Michael J. 1979. *Birds of Passage: Migrant Labor and Industrial Societies*. Cambridge: Cambridge University Press.

Platzer, Hans Wolfgang, Torsten Müller, and Hans-Böckler-Stiftung. 2009. *Die globalen und europäischen Gewerkschaftsverbände: Handbuch und Analysen zur transnationalen Gewerkschaftspolitik*. Berlin: Edition Sigma.

Polanyi, Karl. 2001. *The Great Transformation: The Political and Economic Origins of Our Time*. 2nd edition. Boston: Beacon Press.

Pound, Roscoe. 1910. "Law in Books and Law in Action." *American Law Review* 44: 12–36.

Pratt, Geraldine. 2008. "International Accompaniment and Witnessing State Violence in the Philippines." *Antipode* 40 (5): 751–79.

Pupo, Norene, and Mark P. Thomas. 2010. *Interrogating the New Economy: Restructuring Work in the 21st Century*. Toronto: University of Toronto Press.

Quintin, Marion. 2009. "The CGT Campaign Supporting the 'Sans-Papiers.'" In *Mobilizing Against Inequality*. The Worker Institute. Ithaca, NY. Accessed December 13, 2015. http://www.ilr.cornell.edu/sites/ilr.cornell.edu/files/Quintin_CGTSansPapiersCase.pdf.

Raabe, Detlef. 2013. "Aufnahme von Flüchtlingen Als Mitglieder in ver.di." Internal report. July 12. Accessed December 13, 2015. http://www.labournet.de/wp-content/uploads/2013/11/lampedusa_hh_verdi.pdf.

Rabe, Heike, and Manuela Kamp. 2012. *Arbeitsausbeutung und Menschenhandel. Arbeitnehmerinnen und Arbeitnehmern zu ihren Rechten verhelfen. Eine Handreichung für Beratungsstellen*. Deutsches Institut für Menschenrechte. Accessed December 13, 2015. http://www.institut-fuer-

menschenrechte.de/fileadmin/_migrated/tx_commerce/handreichung_arbeitsausbeutung_
und_menschenhandel.pdf.

Rabe, Heike, and Simone Katter. 2011. "Untersuchung Der Arbeitsgerichtlichen Verfahren Im
Bereich Des Menschenhandels Zur Arbeitsausbeutung." In *Studie Zur Entwicklung
Tragfähiger Strukturen Für Betroffene von Menschenhandel Zur Arbeitsausbeutung*,
edited by KOK, 123–63. Berlin: Bundesministerium für Arbeit und Sozialordnung.

Rakowitz, Nadja. 2002. Kehrseiten der Kontrolle: Die IG BAU und die illegalisierten
Bauarbeiter. *Express - Zeitschrift für sozialistische Betriebs- und Gewerkschaftsarbeit*,
No. 10 (October). Accessed December 13, 2015.
http://labournet.de/diskussion/wipo/migration/igbau.html

———. 2005. "Kein Ort – Nirgends? Viele Orte – überall?" *Express - Zeitschrift für
sozialistische Betriebs- und Gewerkschaftsarbeit*, No. 4 (April). Accessed December 13,
2015. http://labournet.de/diskussion/arbeit/realpolitik/prekaer/wcgrm.html.

Rancière, Jacques. 1995. *On the Shores of Politics*. New York: Verso.

Redaktion express. 2010. "Besondere Dienstleistungen!? 1, 2, 3 – Ganz Viele Anlaufstellen."
LabourNet.de Express - Zeitschrift für sozialistische Betriebs- und Gewerkschaftsarbeit,
No. 3 (March). Accessed December 13, 2015.
http://labournet.de/diskussion/wipo/migration/verdi_express032010.html.

Rehg, William. 1997. *Insight and Solidarity: The Discourse Ethics of Jürgen Habermas*.
Oakland: University of California Press.

Respect Berlin. 2012a. "Gratwanderungen. Ein Politisch-Solidarisches Netzwerk Für Die Rechte
Migrantischer Hausarbeiterinnen." *LuXemburg* 2 (October): 126–133.

———. 2012b. "Austritt Aus Dem AK Undokumentierte Arbeit in Ver.di." November 27.

    Accessed December 13, 2015. http://www.respectberlin.org/wordpress/2012/11/austritt-

    aus-dem-ak-undokumentierte-arbeit-in-ver-di/.

———. 2015. "Respect Berlin." Accessed December 13, 2015.

    http://www.respectberlin.org/wordpress/category/allgemein/?lang=en.

Respect Berlin, and kanak attak. 2003. "Organizing by ver.di? How the United Service Union of

    Germany Reacts to Illegalization." *Respect Berlin*. Accessed December 13, 2015.

    http://www.respectberlin.org/wordpress/wp-

    content/uploads/2012/03/2003Organizing_englisch.pdf.

Riedner, Lisa. 2016. "Gewerkschaftliche Praxis und Kämpfe prekarisierter migrantischer

    Arbeiterinnen und Arbeiter in München." In *Subjekte in Bewegung, Organisationen in*

    Bewegung? Gewerkschaften Und Migration, edited by Sebastian Bischoff, Dagmar

    Lieske, and Thorsten Mense. Studien Zur Historischen Migrationsforschung. Paderborn:

    Ferdinand Schöningh.

Riedner, Lisa, and Philipp Zehmisch. 2009. "Widerstand auf der Baustelle. Ein ethnografisches

    Fallbeispiel zur Aushandlung transnationaler Realitäten der Werkvertragsarbeit in

    München und Istanbul." In *Crossing Munich. Beiträge zur Migration aus Kunst,*

    Wissenschaft und Aktivismus, edited by Natalie Bayer, Andrea Engl, Sabine Hess, and

    Johannes Moser, 161–166. München: Schreiber.

Robinson, Ian E. 1993. "Economistic Unionism in Crisis: The Origins, Consequences, and

    Prospects of Canada-US Labour Movement Character Divergence." In *The Challenge of*

    Restructuring: North American Labor Movements Respond, edited by Jane Jensen and

    Rianne Mahon, 19–47. Philadelphia: Temple University Press.

Robinson, William I. 2006. "'Aqui Estamos Y No Nos Vamos!' Global Capital and Immigrant

    Rights." *Race & Class* 48 (2): 77–91.

Ross, Stephanie. 2007. "Varieties of Social Unionism: Towards a Framework for Comparison."

    Just Labour 11 (Autumn): 16–36. Accessed December 13, 2015.

    http://www.justlabour.yorku.ca/index.php?volume=11&page=ross_ab.

Roth, Conny. 1999. "Neue Zielgruppen Am Beispiel Zapo." *Migration-Online, DGB*

    Bildungswerk. May 12. In *Migration und Prekäre Beschäftigung:*

    Tagungsdokumentation, edited by DGB Bundesvorstand, Referat Migration, 40–41.

    Berlin: DGB Bundesvorstand. Accessed December 13, 2015. http://www.migration-

    online.de/data/publikationen_datei_1339506783.pdf.

Sahlström, Olle. 2008. "Migration: A Lever for Union Renewal?" *Eurozine*. July 22. Accessed

    December 13, 2015. http://www.eurozine.com/pdf/2008-07-22-sahlstrom-en.pdf.

Sassen-Koob, Saskia. 1980. "The Internationalization of the Labor Force." *Studies in*

    Comparative International Development 154: 3–25.

Sassen, Saskia. 1990. *The Mobility of Labor and Capital. A Study in International Investment*

    and Labor Flow. Cambridge: Cambridge University Press.

———. 1991. *The Global City: New York, London, Tokyo*. Princeton, NJ: Princeton University

    Press.

———. 1996. *Losing Control?: Sovereignty in an Age of Globalization*. New York: Columbia

    University Press.

———. 2011. *Cities in a World Economy*. 4th edition. New York: Sage.

Schierbaum, Doris, and Monika Becker. 2006. "Vor- und Widerworte." In *Doing the Dirty Work. Migrantinnen in Der Bezahlten Hausarbeit in Europa*. 7–19. Berlin: Assoziation A.

Schierup, Carl-Ulrik, Peo. Hansen, and Stephen Castles. 2006. *Migration, Citizenship, and the European Welfare State: A European Dilemma*. Oxford: Oxford University Press.

Schmidt-Hullmann, Frank. 2008. "EVW: überhaupt Kein Ende. Nur Ein Neuer Anfang." *LabourNet.de*. November 11. Accessed December 13, 2015. http://labournet.de/diskussion/gewerkschaft/real/evw_sh.html.

———. 2011. "Kommentar zu: Tarifveträge – Unterstützung Der Ausbeutung Oder Des Widerstands?" *Initiative Zivilcourage*. Accessed January 24, 2014. http://inizivi.antira.info/diskussionen/tarifvetrage-unterstutzung-der-ausbeutung-oder-des-widerstands/.

———. 2012. "Gewerkschaftliche Handlungsspielräume: Von der außergerichtlichen Interessendurchsetzung bis zum gewerkschaftlichen Rechtsschutz." In *Arbeit in der Illegalität: Die Rechte von Menschen ohne Arbeitspapieren*, edited by Andreas Fischer-Lescano, Eva Kocher, and Ghazaleh Nassibi, 199–211. Frankfurt: Campus.

Schmidt, Ingo. 2005. "Can Germany's Corporatist Labor Movement Survive?" *Monthly Review* 57 (4): 49.

Schmidt, Verena, and Helen Schwenken. 2006. "Irregulare Migration Und Gewerkschaften Im Internationalen Vergleich." *WSI Mitteilungen* 59 (1): 41–46.

Schmitt, Carl. 1976. *The Concept of the Political*. New Brunswick, NJ: Rutgers University Press.

Scholz, Sally J. 2008. *Political Solidarity*. University Park, PA: Pennsylvania State University Press.

Schröder, Berit. 2015. *Gewerkschaften und Wanderarbeit: Von Saisonarbeit, Werkverträgen und migrantischer Organisierung in der Baubranche und im Grünen Bereich*. Münster: Westfälisches Dampfboot.

Schwärzer, Constanze. 2011. "Extreme Arbeitsausbeutung von WanderarbeitnehmerInnen auf dem Berliner Arbeitsmarkt – Was tun die Gewerkschaften?" presented at the conference "Extreme Arbeitsausbeutung von WanderarbeitnehmerInnen - aktuelle Entwicklungen in Politik und Praxis," October 7, Berlin, DGB Bundesvorstand.

Schwenken, Helen. 2006. *Rechtlos, aber nicht ohne Stimme: Politische Mobilisierungen um irreguläre Migration in die Europäische Union*. Bielefeld: transcript.

———. 2014. ",Menschenwürdige Arbeit für Hausangestellte'.Bedeutung und Reichweite des Übereinkommens Nr. 189 der Internationalen Arbeitsorganisation." In *Migration und Arbeit in Europa*, edited by Hartmut Tölle and Patrick Schreiner, 186–96. Köln: PapyRossa.

Scipes, Kim. 1992. "Social Movement Unionism and the Kilusang Mayo Uno." *Kasarinlan: Philippine Journal of Third World Studies* 7 (2): 121–62.

———. 2014. "Social Movement Unionism or Social Justice Unionism? Disentangling Theoretical Confusion within the Global Labor Movement." *Class, Race and Corporate Power* 2 (3). Accessed December 13, 2015. http://digitalcommons.fiu.edu/classracecorporatepower/vol2/iss3/9.

Seidman, Gay W. 1994. *Manufacturing Militance: Workers' Movements in Brazil and South Africa, 1970-1985*. Berkeley: University of California Press.

Sennett, Richard. 2012. *Together: The Rituals, Pleasures, and Politics of Cooperation*. New Haven, CT: Yale University Press.

Seyfert, Robert. 2012. "Beyond Personal Feelings and Collective Emotions: Toward a Theory of Social Affect." *Theory, Culture & Society* 29 (6): 27–46.

Sherman, Rachel, and Kim Voss. 2000. "'Organize or Die': Labor's New Tactics and Immigrant Workers." *Organizing Immigrants: The Challenge for Unions in Contemporary California*, edited by Ruth Milkman, 81–108. Ithaca, NY: ILR Press.

Shukaitis, Stevphen, David Graeber, and Erika Biddle. 2007. *Constituent Imagination: Militant Investigations//Collective Theorization*. Oakland: AK Press.

Smith, George W. 1990. "Political Activist as Ethnographer." *Social Problems* 37 (4): 629–48.

Spiegel Online. 2012. "Racial Profiling: German Court Forbids Police Checks Based on Skin Color," October 31. Accessed December 13, 2015. http://www.spiegel.de/international/germany/racial-profiling-german-court-forbids-police-checks-based-on-skin-color-a-864455.html.

Spieß, Katharina. 2012. "Der Schutz irregulärer Migrantinnen und Migranten in ihren Rechten in der Arbeit durch die UN-Menschenrechtskonventionen: Ein Überblick." In *Arbeit in der Illegalität: Die Rechte von Menschen ohne Arbeitspapieren*, edited by Andreas Fischer-Lescano, Eva Kocher, and Ghazaleh Nassibi, 114–34. Frankfurt: Campus.

Standing, Guy. 2011. *The Precariat the New Dangerous Class*. London; New York: Bloomsbury Academic.

Stock, Alke. 2005. "Die Legalisierungsbegleiterinnen." *LabourNet.de*. Accessed December 13, 2015. http://archiv.labournet.de/diskussion/wipo/migration/gewlegal.pdf.

Strauss, Anselm, and Juliet M. Corbin. 1990. *Basics of Qualitative Research: Grounded Theory Procedures and Techniques.* New York: Sage.

Streeck, Wolfgang. 1982. "Organizational Consequences of Corporatist Co-Operation inWest German Labor Unions." In *Patterns of Corporatist Policy-Making*, edited by Philippe C. Schmitter and Gerhard Lehmbruch, 29–81. New York: Sage.

———. 1991. *From National Corporatism to Transnational Pluralism: European Interest Politics and the Single Market*. Helen Kellogg Institute for International Studies, University of Notre Dame. Working Paper No. 164, August 1991. Accessed December 13, 2015. https://kellogg.nd.edu/publications/workingpapers/WPS/164.pdf.

———. 2008. *Re-Forming Capitalism: Institutional Change in the German Political Economy: Institutional Change in the German Political Economy*. Oxford: Oxford University Press.

Streeck, Wolfgang, and Jelle Visser. 1998. "An Evolutionary Dynamic of Trade Union Systems." MPIfG Discussion Paper No. 98/4. Accessed December 13, 2015. http://www.econstor.eu/handle/10419/43164.

tageszeitung. 2003. "Erfolgreicher Protest. Arbeiter erhalten nach Kundgebung ihren Lohn bezahlt." June 13. Accessed December 13, 2015. http://www.taz.de/1/archiv/?dig=2003/06/13/a0274.

Teubner, Günther. 1989. "How the Law Thinks: Toward a Constructivist Epistemology of Law." *Law & Society Review* 5 (23): 727–57.

Theodore, Nik, Abel Valenzuela Jr, and Edwin Meléndez. 2009. "Worker Centers: Defending Labor Standards for Migrant Workers in the Informal Economy." *International Journal of Manpower* 30 (5): 422–36.

Thomas, Mark P. 2008. "Labor Rights and Social Justice for Migrant Workers." In *Agenda for Social Justice: Solutions 2008*, edited by R Perrucci, K Ferraro, J Miller, and GW Muschert, 8–15. Knoxville, TN: Society for the Study of Social Problems. Accessed

December 13, 2015.

http://www.sssp1.org/file/AgendaforSocialJustice/Agenda_For_Social_Justice_2008_Ch apter_2.pdf.

———. 2011. "Global Industrial Relations? Framework Agreements and the Regulation of International Labor Standards." *Labor Studies Journal* 36 (2): 269–87.

Thompson, A. K. 2010. *Black Bloc, White Riot: Antiglobalization and the Genealogy of Dissent*. Oakland: AK Press.

Thornley, Carole, Steve Jefferys, and Béatrice Appay. 2010. *Globalization and Precarious Forms of Production and Employment: Challenges for Workers and Unions*. Cheltenham: Edward Elgar.

Tilly, Charles. 2006. *Popular Contention in Great Britain, 1758-1834*. Boulder: Paradigm.

Tilly, Charles, and Lesley J. Wood. 2012. *Social Movements, 1768-2012*. Boulder: Paradigm.

Tilton, Timothy Alan. 1990. *The Political Theory of Swedish Social Democracy: Through the Welfare State to Socialism*. Oxford:Oxford University Press.

Torpey, John. 2000. *The Invention of the Passport: Surveillance, Citizenship and the State*. Cambridge: Cambridge University Press.

Touraine, Alain. 2000. *Can We Live Together? Equality and Difference*. Translated by David Macey. Stanford: Stanford University Press.

Treichler, Andreas. 1998. *Arbeitsmigration und Gewerkschaften. Das Problem der sozialen Ungleichheit im internationalen Maßstab und die Rolle der Gewerkschaften bei der Regulation transnationaler Migrationen, untersucht am Beispiel Deutschlands und der Arbeitsmigrationen aus der Türkei und Polen*. Münster: LIT.

Tsianos, Vassilis, and Serhat Karakayalı. 2010. "Transnational Migration and the Emergence of the European Border Regime: An Ethnographic Analysis." *European Journal of Social Theory* 13 (3): 373–87.

Turner, Lowell, ed. 1997. *Negotiating the New Germany: Can Social Partnership Survive?* Ithaca, NY: ILR Press.

———. 2004. "Why Revitalize? Labour's Urgent Mission in a Contested Global Economy." *Varieties of Unionism: Strategies for Union Revitalization in a Globalizing Economy*, edited by Carola Frege and John Kelly, 1–10. Ithaca, NY: ILR Press.

———. 2005. "From Transformation to Revitalization A New Research Agenda for a Contested Global Economy." *Work and Occupations* 32 (4): 383–99.

———. 2009. "Institutions and Activism: Crisis and Opportunity for a German Labor Movement in Decline." *Industrial & Labor Relations Review* 62 (3): 294–312.

Turner, Lowell, and Daniel B Cornfield, eds. 2007. *Labor in the New Urban Battlegrounds: Local Solidarity in a Global Economy*. Ithaca, NY: ILR Press.

Turner, Lowell, Harry Charles Katz, and Richard W Hurd, eds. 2001. *Rekindling the Movement: Labor's Quest for Relevance in the Twenty-First Century*. Ithaca, NY: ILR Press.

Twickel, Christoph. 2015. "Die verdienen was Anderes." *Zeit Online*. October 18. Accessed December 13, 2015. http://www.zeit.de/2015/40/fluechtlinge-hamburg-schwarzarbeit-billstrasse.

Upchurch, Martin, Graham Taylor, and Andy Mathers. 2008. "The Crisis of 'Social Democratic' Unionism: The 'Opening Up' of Civil Society and the Prospects for Union Renewal in the United Kingdom, France, and Germany." *Labor Studies Journal* 34 (4): 519–542.

———. 2009. *The Crisis of Social Democratic Trade Unionism in Western Europe*. Surrey:

    Ashgate.

Velluti, Samantha. 2014. "The Road to the Common European Asylum System: From

    Amsterdam to Lisbon and Beyond." In *Reforming the Common European Asylum System

    — Legislative Developments and Judicial Activism of the European Courts*, edited by

    Samantha Velluti, 5–38. Berlin: Springer.

ver.di. 2003. "Kongressjahr 2003, Bundeskongress, Tagesprotokolle." *ver.di Congress 2003

    Minutes*. October 24. Accessed December 13, 2015.

    http://kongressjahr2003.verdi.de/bundeskongress/protokolle/1024-1.html.

ver.di Hessen. 2010. "Pressemitteilung: Einladung zum Pressegespräch - Eröffnung Anlaufstelle

    für Migrantinnen und Migranten in prekären Arbeitsverhältnissen, mit und ohne

    Papiere." Frankfurt.

Vogel, Dita. 2014. "Statuslose in Deutschland und der EU." Presentation at the conference

    "Forum Illegalität – Irreguläre Migration im Wandel." March 20, Berlin. Accessed

    December 13, 2015. http://www.forum-

    illegalitaet.de/mediapool/99/993476/data/Pr_sentation_Dita_Vogel_OhneStatus_Deutsch

    land_EU.pdf.

Vogel, Dita, and Manuel Aßner. 2011. "Umfang, Entwicklung und Struktur der irregulären

    Bevölkerung in Deutschland." *Expertise im Auftrag der deutschen nationalen

    Kontaktstelle für das Europäische Migrationsnetzwerk (EMN) beim Bundesamt für

    Migration und Flüchtlinge*. October. Accessed December 13, 2015.

    https://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Expertisen/emn-wp-41-

    expertise.pdf?__blob=publicationFile.

Vogel, Dita, and Norbert Cyrus. 2008. "Der politische Umgang mit illegalem Aufenthalt in den

    Mitgliedstaaten der Europäischen Union." *Bundeszentrale für politische Bildung:*

    Kurzdossier Irreguläre Migration. February 1. Accessed December 13, 2015.

    http://www.bpb.de/gesellschaft/migration/kurzdossiers/57355/der-politische-umgang.

Vosko, Leah F., ed. 2006. *Precarious Employment: Understanding Labour Market Insecurity in*

    Canada. Montreal: McGill-Queen's University Press.

Voss, Kim. 2010. "Democratic Dilemmas: Union Democracy and Union Renewal." *Transfer:*

    European Review of Labour and Research 16 (3): 369–82.

Voss, Kim, and Rachel Sherman. 2000. "Breaking the Iron Law of Oligarchy: Union

    Revitalization in the American Labor Movement." *American Journal of Sociology* 106

    (2): 303–49.

Wacquant, Loïc. 2006. *Body & Soul: Notebooks of an Apprentice Boxer*. Oxford: Oxford

    University Press.

Wagner, Mathias, Kamila Fialkowska, Maria Piechowska, and Wojciech Lukowski. 2013.

    Deutsches Waschpulver und polnische Wirtschaft: Die Lebenswelt polnischer

    Saisonarbeiter. Ethnographische Beobachtungen. Bielefeld: transcript.

Wahl, Asbjørn. 2011. *The Rise and Fall of the Welfare State*. London: Pluto Press.

Waldinger, Roger D., Chris Erickson, Ruth Milkman, Daniel Mitchell, Abel Valenzuela, Kent

    Wong, and Maurice Zeitlan. 1996. "Helots No More: A Case Study of the Justice for

    Janitors Campaign in Los Angeles." *The Ralph and Goldy Lewis Center for Regional*

    Policy Studies, Working Paper No. 15, April. Accessed December 13, 2015.

    http://escholarship.org/uc/item/15z8f64h.

Warner, Michael. 2002. "Publics and Counterpublics (abbreviated Version)." *Quarterly Journal of Speech* 88 (4): 413–25.

Waterman, Peter. 2001. *Globalization, Social Movements, and the New Internationalism*. London: Bloomsbury.

Waterman, Peter, and Jane Wills, eds. 2002. *Place, Space and the New Labour Internationalisms*. Oxford, UK; Malden, MA: Wiley-Blackwell.

Watts, Julie. 2000. "The Unconventional Immigration Policy Preferences of Labor Unions in Spain, Italy, and France." *Center for Comparative Immigration Studies*, Working Paper No. 5. Accessed December 13, 2015. http://escholarship.org/uc/item/7hv1r1nm.pdf.

Weber, Max. 1946. "Science as a Vocation." In *From Max Weber: Essays in Sociology*, edited by Hans Heinrich Gerth and C. Wright Mills, 134–56. New York: Oxford University Press.

———. 1981. "On Some Categories of Interpretive Sociology." Translated by Edith Graber. *The Sociological Quarterly*, 22: 151–180.

———. 2009. *The Protestant Ethic and the Spirit of Capitalism: With Other Writings on the Rise of the West*. Translated by Stephen Kalberg. New York: Oxford University Press.

Webster, Edward. 2008. "Recasting Labor Studies in the Twenty-First Century." *Labor Studies Journal*. 33 (3): 249–254.

Webster, Edward, Rob Lambert, and Andries Beziudenhout. 2011. *Grounding Globalization: Labour in the Age of Insecurity*. Oxford, UK; Malden, MA: Wiley-Blackwell.

Wells, Don. 1995. "The Impact of the Postwar Compromise on Canadian Unionism: The Formation of an Auto Worker Local in the 1950s." *Labour/Le Travail* 36 (Fall): 147–73.

Welzel, Petra. 2007. "Kollege oder Konkurrent." *ver.di Publik*, November. Accessed December

    13, 2015. http://publik.verdi.de/2007/ausgabe_11/gewerkschaft/international/seite_8/A0.

Wießner, Julia, Anna Grieben, and Franziska Felner. 2014. "Flüchtlingsprotest in Berlin: Polizei

    hat das DGB-Haus geräumt." *tagesspiegel* October 2, 2014. Accessed December 13,

    2015. http://www.tagesspiegel.de/berlin/polizei-justiz/fluechtlingsprotest-in-berlin-

    polizei-hat-das-dgb-gebaeude-geraeumt/10781164.html.

Wilde, Lawrence. 2013. *Global Solidarity*. Edinburgh: Edinburgh University Press.

Will, Annegret. 2008. *Ausländer ohne Aufenthaltsrecht: Aufenthaltsrechtliche*

    Rahmenbedingungen - Arbeitsrecht - soziale Rechte. Baden-Baden: Nomos.

Willenbücher, Michael. 2007. *Das Scharnier der Macht: Der Illegalisierte als homo sacer des*

    Postfordismus. Berlin: b_books.

Wiman, Johan. 2010. "Fack Varnar För Lönedumpning." *Proletären*. October 24. Accessed

    December 13, 2015. http://www.proletaren.se/inrikes/arbetsmarknad/fack-varnar-

    lonedumpning.

Wollenschläger, Michael. 1994. "Die Gast- und Wanderarbeiter in deutschen Arbeitsrecht."

    Recht der Arbeit 47: 193-209.

Wompel, Mag. 2005. "Rassismusfreie Zone? Gewerkschaften zwischen

    Antirassismuskampagnen und Standortsicherung." In *WiderstandsBewegungen:*

    Antirassismus Zwischen Alltag & Aktion, edited by Interface, 64–72. Berlin: Assoziation

    A.

WSI. 2015. "Tarifbindung." *Wirtschafts- und Sozialwissenschaftliches Institut*. Accessed

    December 13, 2015. http://www.boeckler.de/wsi-tarifarchiv_2257.htm.

Yin, Robert K. 2013. *Case Study Research: Design and Methods*. Fifth Edition. Los Angeles:

    Sage.

Zeuner, Bodo, Jochen Gester, Michael Fichter, Joachim Kreis, and Richard Stöss. 2007.

    Gewerkschaften und Rechtsextremismus: Anregungen für die Bildungsarbeit und die

    politische Selbstverstaendigung der deutschen Gewerkschaften. Münster: Westfälisches

    Dampfboot.

Zoll, Rainer. 1976. *Der Doppelcharakter der Gewerkschaften: Zur Aktualität der Marxschen*

    Gewerkschaftstheorie. Frankfurt: Suhrkamp.

———. 1991. "Gewerkschaften als Diskurs-Organisationen." *Gewerkschaftliche Monatshefte* 6

    (1991): 390–99.

———. 2000. *Was ist Solidarität heute?* Frankfurt: Suhrkamp.

Zülch, Tim, and Titus Engelschall. 2005. "»Die Initiative übernehmen«Ein Interview mit

    Aktivistinnen von Respect." *jungle world*, June 22, sec. Dossier. Accessed December 13,

    2015. http://jungle-world.com/artikel/2005/25/15495.html.

Interviews

Interview with Mihai Balan, European Migrant Workers Union. Frankfurt, April 28, 2011.

Interview with Jürgen Bothner, district leader of ver.di Hesse. Frankfurt, October 18, 2010.

Interview with Harald Fiedler, director of the DGB region Frankfurt-Rhine-Main. Frankfurt,
    August 17, 2010.

Interview with Kirsten Huckenbeck, editor at express labour journal. Frankfurt, July 6, 2010.

Interview with Hagen Kopp, no one is illegal, Hanau. Frankfurt, October 29, 2010.

Interview with Frank Schmidt-Hullmann, IG BAU Head of department for European Relations,
    Frankfurt, August 20, 2010.

Interivew with "Carola", member of the Working Group on Undocumented Labour in Berlin
    from 2009-2014. Berlin, July 2, 2015

Focus Group Interview with members of he Working Group on Undocumented Labour in Berlin
    "Louise", "Lukas", "Maria", and "Sebi". Berlin, February 28, 2015.

Focus Group Interview with members of the Working Group on Undocumented Labour in Berlin
    "Louise", "Lukas", "Maria", and "Sebi". Berlin, June 24, 2015.