INTERNATIONAL MIGRATION PAPERS
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The integration of migrant workers in the labour market: Policies and their impact

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Foreword

The following studies were elaborated by the ILO's Migration for Employment Programme at the request of the Spanish Ministry of Social Affairs. They were originally presented at the *Universidad Internacional Menéndez y Pelayo*, Santander, July 1995, on the occasion of the Seminar on "Immigration, employment and social integration", which was co-directed by the Ministry of Social Affairs and the ILO. The papers themselves were slightly revised in the light of the discussions there.

The underlying theme of the three papers is the integration of migrant workers into the society of the country in which they have settled. The focus is on integration in the labour market, which is at the core of the ILO's concern with integration questions. The common thread of the studies is whether the policies in force effectively contribute to the realization of the goal of integration in the labour market.

Equality of opportunity and treatment are of prime importance for migrants' integration in the societies of receiving countries. Integration policies have little chance of success if people are unable to obtain employment or to be promoted to positions corresponding to their abilities. It has been amply demonstrated that migrants face numerous problems on the labour market and are in many ways at a disadvantage compared with members of the host society. Some of these problems are connected with objective handicaps such as inadequate education and training, non-recognition of qualifications gained abroad or inadequate command of the immigration country's language. But, in addition, migrants experience discrimination on grounds of their nationality, colour, race or ethnic origin.

Discrimination occurs when migrants are accorded inferior treatment relative to nationals, in spite of comparable education, qualifications and/or experience. It is common in such fields as access to jobs and training opportunities, work allocation and promotion within enterprises, terms and conditions of employment. This discrimination not only impedes migrants' integration into the immigration countries' labour market and thus into society as a whole, it also results in economic loss because labour's potential is not being fully used. To combat this discrimination is therefore a key issue for countries where significant migrant populations exist.

My first paper finds that, in western and northern Europe, the incipient integration process that occured during the 1960s was reversed: the opposite occured in the 1980s - disintegration - and this despite an impressive array of measures that governments took to foster the integration of migrants in the labour market in the form of active labour market policies. Their impact was limited. Not only were very few measures explicitly or exclusively aimed at migrants, but the participation of foreigners in general measures was disproportionately low and their drop-out rate disproportionately high.

Roger Zegers de Beijl's contribution focuses on legislation that has the purpose of preventing or redressing discrimination against migrant workers who seek jobs or who are employed. He examines mainly western European countries' and Canada's array of legislative and institutional measures, to see what effects they have in practice. His concluding section sets out the elements

that, according to the experiences examined, would seem to be necessary to ensure effective anti-discrimination legislation in law and in practice.

My second paper typifies in figurative form the foreign labour intake patterns of the United States since 1820 and of Europe since 1960. A change in patterns from a pyramidal to a "bottom-end top-end dichotomy" expressed in skills is clearly visible. That "top-end bottom-end dichotomy" is then assessed as to its sustainability in terms of societies' underlying goal of integration. It is found that Europe's bottom-end intake of foreign labour leads to an ethnic colouring of the workforce at the bottom end of the labour market where non-OECD labour is concentrated. In the present historical circumstances of growing inequalities and exclusion, Europe's integration policies of non-OECD labour are deemed not to be sustainable.

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A. LABOUR MARKET INTEGRATION IN WESTERN AND NORTHERN EUROPE: WHICH WAY ARE WE HEADING?

by

W.R. Böhning

1. Introduction

Integration is a catch-all phrase that gains from being given clear contours at the outset and specification in relation to labour market issues. Integration is, firstly, a *process*. This process involves two actors: the individual who sets out to be integrated and the society attempting to help the achievement of that goal (because it is in its interest to do so). Integration is, secondly, the end result, which is a *state*, usually denoted as "successful" but it can be otherwise and, like all social processes, it is potentially reversible. Integration as a state of affairs is akin to a situation that never quite comes to a close. It is more of a range or shifting target than a unique change-over point measurable with identical yardsticks for all individuals involved. In relation to migrants, integration denotes actual enjoyment by foreigners of opportunities in law and practice that are comparable to those of nationals with similar characteristics in terms of age, sex, education, etc., i.e. their successful participation with the same outcomes in the life of the society of which both groups form part.

My notion of integration would include a dimension of cultural autonomy. If integration is anything other than assimilation, it has to allow for dissimilar cultural perceptions and practices of the family, society, etc.[1] But the cultural dimension impacts little on the labour market in direct terms (time off for prayers or meals without pork at the workplace, for instance). It impacts indirectly by triggering off discriminatory behaviour towards migrants.

Leaving aside the cultural dimension, I would encapsulate the preceding notion of integration in the labour market in the following short formula: *comparable groups of workers should enjoy comparable opportunities and outcomes in terms of employment, remuneration, socio-economic status and other labour-market relevant characteristics*.

Integration is, therefore, not a question of how an individual or a group advances. It is a matter of *comparison over time between two or more groups* and a question of whether relevant characteristics become more or less similar.

Placing the focus not only on starting points (equal opportunities) but also on end points (equal outcomes) permits one to define the opposite of integration - *disintegration*. That occurs when an integration process gets reversed or when a relatively advanced state of integration regresses in the course of time as characteristics become dissimilar.

This paper will explore selected aspects of integration in respect of western and northern Europe's traditional migrant-receiving countries, what governments have done about it, and what the outcomes of measures are whose purpose it was to foster integration.

Education, housing or political participation are part of the broader dimension of integration into society. Low educational attainment, housing in an area with few employment opportunities or a high density of disadvantaged groups living there, hinders successful integration in the labour market. But these are subjects beyond the scope of this paper.

[1] See my foreword to Werner (1994). On the underlying roots of different conceptions of (dis-)integration - the French political culture's concept of solidarity, the Anglo-American concept of individualliberalism and the European Left's perceptions of hierarchical power relation - see Silver (1994).

2. Is integration relevant to temporary migration ?

Integration, like assimilation, involves a certain length of time and is *a priori* inapplicable to certain types of contemporary labour migrants. Broadly speaking, integration is not relevant where non-nationals are admitted for the purpose of training; as professionals, traders or other highly qualified persons moving for business purposes inside or outside multinational enterprises; as project-tied workers[1]; as specified-employment workers[2]; or as seasonal workers. These are types of migrants whose authorized period of stay is envisaged by the host country to be brief and impermanent; and so are the migrants' intentions, with a few exceptions.

In the last 50 years or so, no western or northern European country has pursued a policy of admitting non-nationals for the purpose of settlement (if one disregards admissions on grounds of ethnic privilege, such as *Aussiedler* in Germany and Pontics in Greece, etc.) Foreign workers were granted leave to enter when there were vacancies that could not be filled by nationals. As a rule, the vacancies were in blue-collar employment, mainly in unskilled or semi-skilled workplaces into which foreigners could be inserted easily. The initial admission was limited in time and subject to renewal, if desired. This so-called "guest-worker" system was spelt out most clearly in Austria, Germany and Switzerland. France and, particularly, the French-speaking part of Belgium pursued a somewhat ambiguous policy at times that vacillated between temporary insertion and permanent settlement. The point is that, while permanent admission may well call for an integration policy from the start, the admission of foreign workers designed to fill local labour market gaps does not raise the question of integration because the migrants are only meant to be present temporarily. In the case of western and northern Europe, many of them actually never set out with the intention of staying abroad permanently.[3]

For decades, integration was, explicably, not an issue in western or northern Europe. While policy-makers and individual migrants throughout the 1950s and 1960s believed that their employment was a temporary phenomenon, migrant workers were in an empirical sense reasonably well integrated in the labour market. They were disproportionately active and worked above-average hours. They generally received the wages due under collective agreements to new labour market entrants. Governments also progressively opened up the whole range of labour market policies (employment services, training, counselling, etc.) to them, and they progressively incorporated foreigners into their social security systems.[4] Migrant workers were very heavily concentrated in the so-called secondary labour market, chiefly in unskilled or semi-skilled work. That was an empirical rather than a policy inspired regularity; and there were also numerous nationals in the secondary labour market, indeed they constituted the bulk of that workforce. Put

[1] As defined in Article 2 (2) (f) of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Family* (UN document A/RES/45/158 of 25 February 1991).

[2] Ibid., Article 2 (2) (g).

[3] For a range of historical data relating to Germany, see Böhning (1972a).

[4] This incorporation owed little to the inspiration of special integration policies but much to western and northern Europe's self-definition of societal obligations and entitlements.

differently, up to the beginning of the 1970s Europe's migrant workers were undergoing a successful process of spontaneous integration, albeit only in the secondary labour market.[1]

There had been analytical and empirical indications since before the 1973 oil price shock that migrants had for all practical purposes begun to settle (see for example Böhning, 1972b). Policy-makers were confronted with the integration question when they had to cope with quasi settlement after they had closed the borders to further primary labour immigration. Once the intended temporary migration took on permanent settlement features, they found themselves in *terra incognita* as far as the analysis of the causes, characteristics, ramifications as well as of appropriate solutions were concerned.

Integration into the labour market becomes relevant to temporary labour migration in a profound sense when the temporariness gives way to a lasting stay. At that point of time, governments have to foster integration by appropriate means and to prevent disintegration from occurring. Otherwise their societies accumulate inequalities and conflicts.

Under permanent immigration regimes, integration becomes an issue when cultural diversity assumes significant proportions (as has been the case in Australia and Canada)[2] or when the personal or cultural traits of immigrants raise doubts as to their suitability in performing well in today's labour markets (as leading immigration researchers allege to be the case in the United States of America).[3]

3. Labour market disintegration exemplified

Labour-market-based admission policies have been beneficial to western and northern European economies. Foreigners contributed disproportionately to private and public revenue. Most of them were personally much better off in economic terms than prior to emigration from their home countries.

In the 1970s the macro-economic parameters changed due to three factors that caused disintegration for workers generally and for migrants particularly. The first of these were the oil price rises of 1973/74 and 1979/80; the second was the "skill-biased" nature of recent technological change; and the third was the deepening involvement of Japan, Singapore and Hong Kong, later of the Republic

[1] I distinguish, in enterprise terms, the primary from the secondary and the informal labour market. In an enterprise's primary labour market one finds steady jobs with good promotion possibilities, high remuneration except at entry points, many fringe benefits and a below average danger of unemployment. The enterprise's secondary labour market is characterized by less stable, more precarious or marginal jobs, limited promotion possibilities, low remuneration, fewer fringe benefits and an above average exposure to unemployment. In enterprises' informal labour markets one aspect or other of the employers' or workers' economic activities contravene the legislation in force. For example, employers may not transfer social security deductions to the relevant social security body. Informality thus is not related to the regularity or otherwise of the migrants' authorization to *enter or stay* in the country. That is immaterial. What matters is that the migrants' employment status is not in conformity with the *labour or social laws* either as regards authorizations to which the workers may be subject or as regards the conditions under which the employers provide them with work.

[2] Both of which opted for a policy of multi-culturalism, see Hawkins (1989).

[3] Led by George Borjas, whose latest comprehensive article on this debate has just appeared in the *Journal of Economic Literature* (1994).

of Korea and Taiwan (China) and lately of China into the world economy ("globalization")[1].

The resulting intensified structural adjustment processes in western and northern Europe's economies caused some measure of *general* labour market disintegration and a considerable measure of disintegration as far as *non-nationals* are concerned. This manifested itself, *inter alia*, in the growth of the informal labour market, i.e. of irregular economic activities. Previously of marginal, even negligible importance, it grew strongly relative to primary and secondary labour market employment. Migrants, as will be seen later, dropped into it in great numbers.

Migrants absorbed a large portion of the disintegration through return to their home countries. The migrants who stayed on were increasingly afflicted by unemployment, low incomes and other problems that will now be exemplified. The policies that were put into effect to deal with these new problems in the 1980s will be looked at in the later section 4.

3.1. Unemployment

Open unemployment is the most visible form of labour market disintegration. Table 1 compares outcomes for nationals and foreigners in terms of average unemployment rates for nationals and average rates for non-nationals for four representative countries. It also compares young workers of both groups, which is an attempt to train the light on secondary migrants.

As this table documents, migrants of both the first and the second generation persistently score worse than nationals, often two or three times as badly, in terms of average unemployment rates. Among the contributing factors are their over-representation in the more vulnerable unskilled occupations, especially in manufacturing, as well as the host societies' knowing or unknowing discrimination against non-nationals. But whatever the reasons, the facts are clear: disintegration existed in the form of unemployment at the beginning of the 1980s, and the gap between foreigners and nationals tended to widen.

3.2. Low income levels

Although unemployment can partly be compensated for through social security benefits, it is one of the factors that depresses foreigners' average incomes. Others are their engagement in low-wage jobs and the constraints they encounter in moving to high-paying workplaces. Whatever the cause, if migrants' incomes are not similar to those of groups of nationals with whom they can legitimately be compared, disintegration *exists*. And if the income gap widens in the course of time, disintegration *worsens*.

The data base to evaluate these phenomena is thin. To stay within the bounds of comparability, we will have to make do with representative surveys carried out in the former

[1] The 1995 ILO *World Employment* report suggests that "it is new technology that is the basic cause of the problems faced by unskilled workers in industrialized countries" but that "it is not, however, unreasonable to conclude that trade with the South has been at least partly responsible for the loss of unskilled jobs and the widening wage differentials in the North" (ILO 1995, pp.52 and 53).

Table 1. Unemployment rates for nationals and foreigners by age in France, Germany, the Netherlands and Sweden 1983-1991

	France				Fed. Rep. of Germany[1]				Netherlands				Sweden			
	Nationals		Foreigners		Nationals		Foreigners		Nationals		Foreigners		Nationals		Foreigners	
	Total	<25	Total	<25	Total	<25	Total	<25	Total	<25	Total	<25	Total	<25	Total	<25
1983	7.4	19.1	14.5	30.0	6.0	10.1	11.3	18.2	11.3	20.5	23.7	33.7	-	-	-	-
1984	9.0	23.8	16.6	34.3	6.3	9.8	11.3	17.1	-	-	-	-	-	-	-	-
1985	9.6	24.8	18.5	39.1	6.4	9.3	12.0	17.4	9.9	16.9	25.6	33.7	-	-	-	-
1986	9.7	23.2	18.6	36.8	6.1	7.3	12.0	14.8	-	-	-	-	-	-	-	-
1987	10.2	22.8	19.0	34.0	6.3	6.9	12.5	15.4	9.4	16.4	23.5	32.5	1.8	4.0	4.4	8.1
1988	9.6	21.7	18.5	30.0	5.9	6.4	10.9	12.7	8.8	13.7	24.9	27.3	1.5	3.2	3.8	6.0
1989	9.0	19.0	17.8	27.9	5.4	5.2	9.3	9.9	8.1	12.5	25.8	32.7	1.2	2.8	3.4	5.2
1990	8.8	19.2	17.0	29.0	4.5	4.3	8.6	7.0	7.1	10.5	23.9	28.1	1.4	3.2	4.0	7.3
1991	8.7	19.4	16.7	25.8	3.7	3.2	8.0	7.1	6.6	10.4	24.0	31.7	2.4	5.7	6.6	11.5
1992	9.7	21.2	18.8	28.8	3.6	3.4	8.9	10.1	5.1	7.7	16.4	16.3	4.3	10.4	12.8	17.8
1993	10.8	25.2	20.6	32.3	4.9	4.8	12.7	14.1	5.7	9.8	19.6	25.0	7.8	18.0	20.8	27.8
1994													7.6	16.2	21.0	30.6

[1] Figures refer to the old "Länder" only, i. e. excluding the former German Democratic Republic.

Sources: EUROSTAT: Community labour force survey (for France, Germany and the Netherlands); for Sweden: Labour force sample survey, annual averages, Central Statistical Office; and own calculations. EUROSTAT's methodology was modified slightly after 1991, which affected the rates for the Netherlands more than for other EU countries.

Federal Republic of Germany. Time-series data for five years are summarized here for the two end-years, 1984 and 1989. They provide information on about 3,000 representative Greeks, Italians, Spaniards, Turks and what were then still Yugoslavs (the so-called *Sozio- Ökonomisches Panel*). These are not strictly longitudinal data in that they do not follow the same individuals over a period of year. But they approximate longitudinal information because they originate from representative samples of various groups at different points of time.

Table 2 throws light on per capita household incomes. In this table, too, the outcome comparison relates average German to average foreign households.

In contrast to raw data on wages or salaries, household incomes include social transfer payments and net out tax and social security deductions, i.e. they define disposable income and the scope for consumption. To adjust for the many old-age pensioners among the German population, the figures are restricted to economically active persons. To calculate per capita household incomes, differential weights were used for adults, younger and older children to take account of (i) the higher number of children in foreigners' households, (ii) the fact that a small child has lower consumption needs than an adult, and (iii) economies of scale for rent, heating, etc. (For details of the weighting, see Seifert, 1994, pp. 39-40).[1] It is worth adding that the overall labour force participation rates of Germans and foreigners became more similar in the course of the 1980s than they had been in the 1960s; therefore, the comparison is not invalidated by this factor.[2]

What does table 2 tell us? Table 2 starkly reveals that foreign households receive considerably less income than German households. If the incomes are weighted by the differential composition of households to arrive at a yardstick that enables the most valid comparison to be made, called "equivalent income" in that table, the difference to German incomes becomes marked, 31 per cent for all non-nationals and 50 per cent for Turks. Worse, the rate of growth of non-nationals' household incomes from 1984 to 1989 was only half the Germans' rate of growth. In other words, the disintegration that already existed in the first half of the 1980s had worsened at the end of the decade. This happened during a period of considerable economic growth and despite a range of integration measures that were in force by then. Incidentally, the five-year comparison is most unlikely to be invalidated by changes in the age composition or educational attainments. The period is simply too short for differences to make themselves felt significantly.

Although data are not available to the author, the migrants in Europe's other traditional receiving countries must be expected to have fared similarly to those in Germany, given the Europe-wide changes in macro-economic parameters referred to earlier.

One can take the sophistication of the comparison of equivalent incomes further by constructing quintiles of income distribution. In the case of Germans, the five quintiles are

[1] The per capita incomes are not calculated through the division of total incomes by household size. Instead, each household's average is computed and the total is calculated for each group shown in table 2.

[2] The economic activity rates in 1980 came to 44 per cent for Germans (men 62 per cent, women 39 per cent) and to 51 per cent for foreigners (men 69 per cent and women 31 per cent). Ten years later they stood at 49 per cent for Germans (men 59 per cent and women 42 per cent) and at 50 per cent for foreigners (men 66 per cent, women 34 per cent).

Table 2. Household incomes of Germans and foreigners, in DM.

	Germans			Foreigners					
	Total		% growth	All		% growth	Turks		% growth
	1984	1989	84/89	1984	1989	84/89	1984	1989	84/89
Household size	2.8	2.5		3.3	3.3		4.1	4.3	
Household income									
- total	2,812	3,235	15.0	2,526	2,977	17.9	2,417	2,921	20.9
- per capita	1,170	1,489	27.3	998	1,110	11.2	738	843	14.2
Equivalent income	1,313	1,656	26.1	1,131	1,264	11.8	970	1,097	13.1

Source: Seifert (1994), p. 41.

quite equal and close to 20 per cent. In the case of foreigners, well over 30 per cent were in the low-income quintile but only 15 per cent in the highest quintile in 1984. Five years later the latter proportion had dropped to 10 per cent. The dynamics of the changes in the five-year period point to an increasing impoverisation of foreigners relative to Germans. While three out of five Germans who in 1984 belonged to the highest quintile still did so in 1989, the same holds true for less than two out of five foreigners. Conversely, almost 70 per cent of foreigners who in 1984 belonged to the lowest quintile still did so in 1989, compared with less than half of the Germans who were in that category five years earlier (see Seifert, 1994, for details). Disintegration demonstrably worsened.

One should emphasize that these German data comprise both nationals of the then European Economic Community (Greeks, Italians, Spaniards) and non-EEC nationals (Turks, Yugoslavs). The statutory favours bestowed on EEC nationals by virtue of the freedom of movement provisions may account for the slight differential between Turks and other foreigners shown in table 2 (and which later tables could also have shown but the data were not included for lack of space). However, putting EEC nationals on exactly the same level in formal terms as Germans, did not make a very strong difference to their income levels compared with the less favourably treated Turks or Yugoslavs. Other determinants of labour market outcomes would appear to be more important. This also means that the greater cultural distance that one might be tempted to attribute to Turks compared with, for example, Spaniards relative to Germans, plays a relatively minor role. The contrast between foreigners and Germans appears to be starker than the contrasts among different nationalities of foreigners.

3.3. Socio-economic mobility

If successful integration can be characterized as equal opportunities and equal outcomes for comparable groups, mobility patterns should reveal whether integration or disintegration prevails. Upward social mobility is one of the most striking manifestations of modernity and economic development. Many primary migrants experienced some form of upward mobility upon leaving agriculture or urban areas in their home countries. What is of interest here is their socio-economic mobility years after entry and especially subsequent to their explicit or implicit decision to

continue residing in the migrant-receiving country. If the first generation's access to active labour market schemes, buttressed by an increasing command of the local language and familiarity with the host society and its institutions, has not resulted in mobility patterns similar to those of comparable groups of nationals in France, Germany etc., then integration policies have not proven successful. By the same token, if the second generation of migrants, i.e. persons who entered the host country as children or were born there but whose nationality remained that of their parents, do not exhibit mobility patterns similar to those of young local workers, they are affected by disintegration as well.

Lack of data forces us to confine the empirical exemplification once more to Germany, summarized in table 3. This table enables one to leave behind the comparison of averages and to exaine disaggregated groups, for example blue collar workers if one looks at skilled manual workers. Most of the unskilled and semi-skilled foreigners will also be blue collar workers.

The time-series data suggest considerable upward mobility of unskilled or semi-skilled workers among foreigners if one merely looks at their status in 1984 and 1989. But improvements in status are not what matters from the point of view of integration which, it bears repeating, is a comparative concept that has to judge the time path of one group relative to the time path of another group.

Relative to Germans, foreigners lost ground. German nationals left semi-skilled and skilled manual positions in droves to occupy white-collar jobs. Foreign workers also experienced mobility but almost exclusively within blue-collar jobs and a great deal of it was downwards. For example, of the foreigners who occupied skilled manual workers' posts in 1984, 65 per cent still occupied such posts in 1989 but 27 per cent had dropped into un- or semi-skilled jobs and only 5 per cent had moved to white-collar jobs. The figures for second generation migrants are very similar. In the case of German skilled manual workers, 72 per cent were still at that level in 1989, only 12 per cent had dropped into unskilled or semi-skilled posts and 13 per cent had attained white collar positions. Therefore, while both first and second generation migrants experienced *net downward* mobility, the German working population's overall mobility was close to zero. German youngsters, it must be pointed out, clearly enjoyed a net upward mobility. Table 3 thus suggests that, in a period when economic fortunes improved, young Germans benefited from developments during that period but both young and older foreigners suffered downward social mobility. It is worth repeating that the foreigners covered by the data include three EEC and two non-EEC nationalities. It is also worth adding that table 3 only includes persons who were economically active at the two end years. Unemployment, which hit foreigners disproportionately, is left out of consideration in this table.

A quantitative segmented labour market analysis that Wolfgang Seifert performed on the basis of the *Sozio-Ökonomisches Panel* also points to increasing disintegration. While the German labour market may be less segmented than the U.S. labour market is, and whereas the relatively limited number of Germans in the secondary labour market has reasonable chances of upward mobility (about half of the Germans who were active in it in 1984 had moved up

Table 3. Socio-economic status and mobility of Germans and foreigners, 1984 to 1989 (in per cent)

	Status[1]		Mobility[2]			
	1984	1989	Un+semi-skilled	skilled manual	white collar	self-employed
GERMAN						
Wage and salary earners	(89)	(90)				
- unskilled	5	4	85	5	11	-
- semi-skilled	12	12	64	21	12	3
- skilled manual	17	16	12	72	13	3
- white collar	43	46	5	2	89	4
- self-employed	12	12	3	2	19	76
16 to 25-year old	(91)	(95)				
- unskilled	9	3	80	6	14	-
- semi-skilled	12	14	54	27	15	4
- skilled manual	21	24	6	76	14	3
- white collar	46	48	14	2	82	2
- self-employed	3	6	-	-	-	-
Women	(94)	(95)				
- unskilled	6	7	84	3	12	1
- semi-skilled	12	14	78	8	13	3
- skilled manual	3	4	16	67	15	1
- white collar	60	61	6	1	91	1
- self-employed	13	9	3	0	34	63
FOREIGN						
Wage and salary earners	(101)	(100)				
- unskilled	25	21	81	17	1	1
- semi-skilled	45	43	81	15	1	1
- skilled manual	20	23	27	65	5	3
- white collar	7	9	23	1	75	2
- self-employed	4	4	16	1	15	68
Second generation (16 to 25)	(100)	(101)				
- unskilled	31	15	82	17	1	4
- semi-skilled	24	37	62	36	2	-
- skilled manual	25	26	28	61	7	5
- white collar	18	21	39	2	59	-
- self employed	2	2	-	-	-	-
Women	(101)	(101)				
- unskilled	35	33	72	27	1	-
- semi-skilled	48	44	84	15	2	-
- skilled manual	3	5	32	57	5	6
- white collar	11	15	30	2	68	-
- self-employed	4	4	-	-	-	-

1. The 1984 and 1989 columns defining the status do not add up to 100 per cent for the German population because self-employed farmers and civil servants (*Beamte*, an occupation closed to foreigners by law) were excluded from the calculation so as to render them comparable between Germans and foreigners.
2. The rows of figures under "Mobility" do not exactly represent the same population as the one shown under "Status", because only persons who were economically active in 1984 and who continued to be active five years later were included in the calculation to ensure strict comparability. Under the "Mobility" column, the horizontal figures add up to 100 per cent.

Source: Seifert (1994, pp. 20 and 22).

by 1989), foreigners more frequently get stuck in it (only about one third who were active in it in 1984 had moved up) or slide down into it from better positions (for details, see Seifert, 1994, pp. 47-59).

Advanced economies require mobility to flourish, individuals need it to improve their status. The preceding data testify to the existence of a substantial degree of mobility in the German society (and the people who enter or leave economic activity, who are not included in these data, represent another mobility factor). One impression that one gains from the tables on per capita household incomes and mobility patterns is that *the adjustment processes since the 1970s have driven a wedge between the German population, on the one hand, and all generations of foreigners, on the other*. While there are plenty of Germans in the secondary labour market and with low incomes, a significant portion of them manages to move out of that segment and up in socio-economic terms; a rather smaller proportion drops into the secondary market and down the income scale. By contrast, foreigners' mobility exhibits a trend which, if one takes into account all four socio-economic statuses in table 3, is marginally downwards in overall net terms.

Table 4 captures another dimension of the broad disintegration phenomenon on the basis of job change data. If one were to construct a cumulative index using the variables shown (and others not represented here), one would find that Germans, on average, fared about the same after changing jobs, whereas foreigners fared worse.

3.4. Women's inactivity

Being in the labour force is an advantage. Not being able to enter it is a handicap in our modern societies. Western and northern Europe's erstwhile primary migrants were proportionately much more active than nationals and most of them were men. But many of their spouses were inactive, especially Muslim women. A decade or so of accustomization to their host societies with extensive labour force participation on the part of native women, supported by the whole range of active labour market policies, would be expected to have led to much higher labour force participation by Muslim women than in earlier years.

Strictly comparable data are not known to the author. What table 5 below shows for four of Europe's traditional migrant-receiving countries is that, in the most relevant cohort of 25 to to 49 year-old women, the percentage *difference* between nationals and non-EC nationals has *widened* in France by 15 points, in Germany by 15 points, in the Netherlands by 19 points, and in Sweden by seven points between Swedes and non-Swedes in the course of eight years. Put differently, not only was integration not successful, disintegration occurred. No doubt, there are some exogenous factors such as family reunification and unequal changes in age cohorts that influence the data. But they cannot be parcelled out and, in any case, the trend is so drastic and similar in different countries that the percentage differences can hardly have been invalidated by such interferences.

Table 4. Extent of improvements deriving from the last change of job in the period 1985-89 (in per cent)

	Ameliorated the kind of activity performed	Increased remuner-ation	Rendered upward mobility more likely	More job security
GERMANS				
- all	60	59	45	34
- women	61	58	42	35
FOREIGNERS				
- all	50	43	18	32
- women	50	40	19	23
- Turks	53	46	18	25

Source: Seifert (1994, p. 76).

3.5. Some tentative suggestions

The facts and figures put together in this section overwhelmingly point to disintegration having set in after the macro-economic parameters changed in the 1970s, and continuing to render ever more distinct the group characteristics of foreigners and nationals throughout the

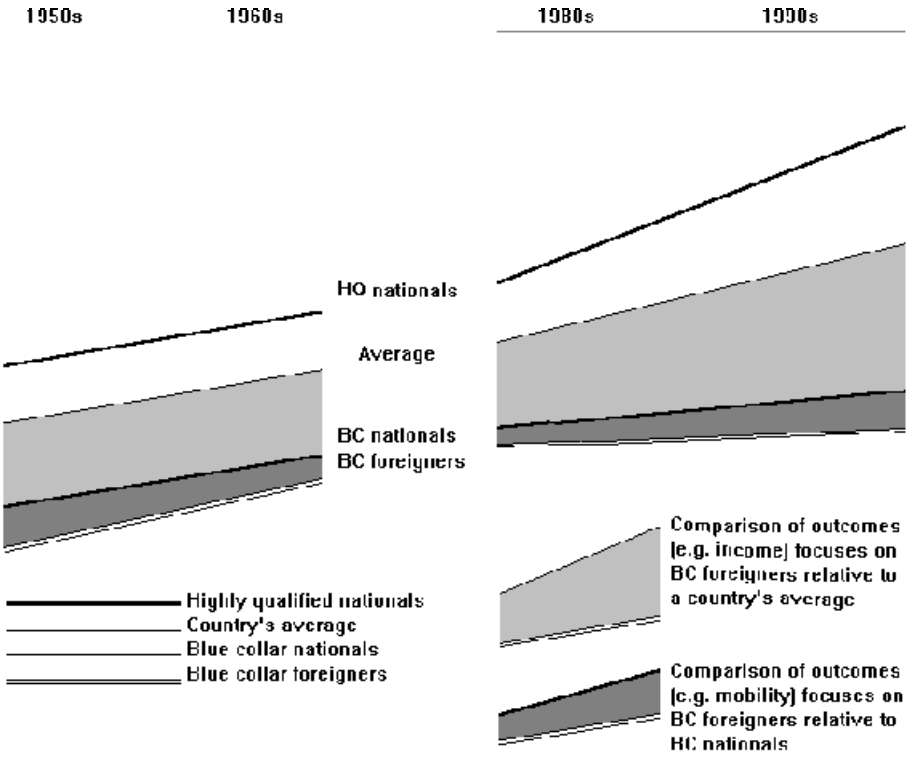
1980s and into the 1990s. While several of the dimensions of this disintegration could only be exemplified with German data, there is little doubt that Europe's other traditional migrant-receiving countries share the same features. The schematic time-path comparison on the next page represents the results of our investigation in figurative form.

Table 5. Activity rates of national and foreign women, by age groups, 1983/1991 (in per cent)

	Age group	Nationals	Foreigners		
			Total	EC-nationals	Non-EC nationals
France	14-24	46/36	34/29	33/39	34/23
	25-49	70/79	46/51	50/69	46/40
	50-64	39/38	33/32	30/39	34/21
Germany	14-24	48/52	37/36	46/43	34/34
	25-49	58/70	57/55	62/63	55/52
	50-64	33/40	50/40	50/47	49/43
Netherlands	14-24	45/56	30/37	36/57	27/33
	25-49	46/65	39/42	52/63	34/34
	50-64	18/25	-	-	-
Sweden	16-24	64/65	52/56	-	-
	25-49	89/92	77/73	-	-
	50-64	63/68	45/46	-	-

Source: Werner (1994, table 9).

Scheme: The time path of integration experienced by non-OECD migrants and Turks in western and northern Europe, 1950s till today



The question that springs to mind immediately is: what are the underlying reasons for this phenomenon of structural disintegration? Three key reasons may be responsible, unilaterally or jointly, for disintegration. The *first* is the assumed lesser adaptability of migrants from southern Europe or northern Africa than of French, Germans etc. to successful economic activity in advanced societies. That argument, difficult as it is to measure objectively, could conceivably hold true for a portion of the first generation. It is fundamentally flawed as regards the second generation of migrants, particularly so in the case of the survey results shown in table 3 on Germany where foreign youngsters who had not attended German schools were *a priori* excluded from the calculations. The acculturation and education achieved through French, German etc. schools should have put foreigners on a par with their peers. Even if that did not happen fully, it would not explain why the second generation of migrants is systematically closer to the group characteristics of the first generation than to those of comparable groups of the host society's nationals.

The *second* reason that may be responsible for a part of the gap, notably between second generation migrants and their local peers or the host country population in general, is discrimination in access to employment. There is a great deal of circumstantial evidence (see Zegers de Beijl,1990; 1991), as well as some hard evidence in the case of, for example, Germany and the Netherlands (Goldberg, Mourinho and Kulke, 1995; Bovenkerk et al., 1995), that discrimination is widespread in Europe's traditional receiving countries. It could account for a significant proportion of the disintegration suffered by migrants.

The *third* and final explanation are the parameter changes singled out earlier, i.e. the oil price rises, technological developments that reduced the need for unskilled labour, and globalization. They arrested, supported by more conservative politicians, the post Second World War trend of growing income equality in the 1970s and reversed it in the 1980s. In turn, this gave rise to the fairly recent phenomenon of the widening gap between the well-off
and the poor sections of advanced western societies. This trend of growing dichotomy, the discrimination against foreigners and to some extent their cultural handicaps simultaneously cause more and more foreigners to slide to the rock bottom of our societies' labour market and income scales, many of them ending up in the informal sector.[1]

4. Special Integration measures

It behoves us now to examine, not so much the implicit integration policies of inclusion into social welfare systems and active labour market policies pursued since the 1960s, but the special measures that were first conceived in the 1970s and intensively developed in the 1980s under an explicit integration perspective.

Special measures could be distinguished according to their target populations and the direct or indirect employment effect they may have. As regards targeting, one could aim integration measures *primarily or exclusively* at needy foreigners, for example language courses. Alternatively, one could facilitate their participation in *general support measures* open to all residents, which can be expected to foster the integration of foreigners and of nationals alike. Active labour market policies constitute the bulk of these measures. As regards substance, one could conceive *direct employment-creation measures* designed to help foreigners find or keep employment. These differ from active labour market policies because the latter serve to reduce inefficiencies in the labour market but do not *per se* create employment.

The following description seeks to systematize and greatly summarize the enormous variety and spread of explicit integration policies pursued recently in the four traditional receiving countries from which data have been drawn in this study.[2]

[1] I refer here to ordinary migrants, because modern societies make simultaneously use of enormous numbers of highly qualified businessmen, technicians, professionals, etc., who form part of the well-off section of society and whose foreign nationality poses few problems. Integration is not an issue for this group.

[2] On the basis of information provided in the ILO working paper of Werner (1994) that covers the late 1980s and early 1990s. France, Italy, Spain and other Mediterranean countries' employment policies were also covered in Charmes (1992), and in the ILO synthesis report by Charmes, Daboussi and Lebon (1993).

4.1. Language training

Language courses were an ubiquitous necessity in Europe's migrant-receiving countries. From the beginning, many employers felt the need to teach their migrants the local language. Governments came forward with financial support once the inflows from abroad became massive and exceeded micro needs. With the first generation of migrants, few public education facilities were involved or needed either additional staff or special curricula. Most of the teaching was carried out by non-governmental organizations with the financial support of the national, regional or municipal authorities.

Sweden went furthest on this score. After 1973 an immigrant who needed tuition had the right to 240 hours off from work and to the wages he or she would have earned in this period during normal working hours. Teaching was normally to take place during ordinary working hours. It was entrusted to state-approved adult educational associations, not to employers, and financed by public grants (see Boye-Moller, 1973). In France, those of its migrants who needed tuition in French were helped by the *Fonds d'Actions Sociales pour les Travailleurs Immigrés et leur Familles* (FAS).

When foreign youngsters joined the migrant breadwinners or were born in host societies, many governments had to take account of their language needs in kindergartens, schools and training establishments. The needs were greatest for those who at the age of 5, 9 or 13 suddenly had to cope with an alien environment and language. Teachers and teaching material proliferated both in governmental and non-governmental facilities from the mid-70s onwards.

In the 1980s some of the language courses became broader by extending to cultural or social aspects, others became more targeted on entry requirements for training or the labour market. In the Netherlands, for instance, the *Centra voor Beroepsorientatie en Beroepsoefening* (CBB) tailored its teaching to the needs of socio-culturally disadvantaged groups among the unemployed. Ethnic minorities were foreseen to make up 50 per cent of the course participants, but this target has not quite been attained. Half of the participants drop out before the course ends; and only a few foreigners find jobs after completing it. In Germany in 1974, the Ministry of Labour called into existence an association to teach German to foreign workers and provided the funds for courses ranging from literacy training for women to occupationally-orientated teaching for youngsters. In 1991, approximately 90,000 foreigners took part in these courses, nearly two thirds were Turks.[1]

4.2. General labour market measures and special incentive schemes

[1] There was, in the 1970s and 80s, an intensive discussion on whether teaching in their mother language, voluntarily taken up or obligatorily foreseen at school, should be provided and whether it would help or hinder the second generation's integration into local societies. Sweden made mother tongue teaching widely available, in the belief - born out by much of the research - that foreign children would gain in personal assurance and self-esteem which, in turn, would ease their social integration into the local society. Some of the German *Länder* opted at one time for compulsory teaching in, for example, Turkish in the expectation that this would keep alive the parents' return motivation and facilitate re-integration. Most Turks, however, decided to stay; and the relatively limited number of their children who had to go through these courses are not known to be either more or less integrated into German society than other Turkish youngsters.

As already alluded to, since the 1960s Europe's traditional migrant-receiving countries gradually opened up their active labour market policies to foreigners, with a very few exceptions regarding first-time entrants. When integration became an issue, measures were taken that went further in the sense that some governments stipulated targets to be reached in terms of numbers of foreigners to be included, while others provided special incentives or designed special courses to cope with the labour market insertion problems of the migrant population, particularly of its second generation. Most governments simply expanded existing courses and funded the expansion.

Quantitative targeting is an unpopular approach in western and northern Europe and quite exceptional. One example of where it was used is the *Jeugdwerkgarantiewet* (JWG) in the Netherlands, which offers a combination of training and vocational practice to unemployed youngsters, with the government assuming the costs of the minimum wage and of handling charges. Seventy per cent of the beneficiaries are meant to be women, 12 per cent from ethnic minorities.

Qualitative targeting is more common. A Dutch example is the *Bijdrageregeling Vakopleiding Leerlingwezen* (BVL) which runs subsidized vocational training and apprenticeship schemes in favour of unemployed youngsters. The public subsidies increase if ethnic minority members enter the schemes. Their participation is low, however, and drop-out is high. Similar incentive schemes have been tried in other contexts in the Netherlands. For instance:

- if an employer hires a long-term unemployed person for a regular job he is exempt for up to four years from the obligation to pay social security contributions. A one-time subsidy of up to DFL 6,000 is paid. Long-term unemployment within the scope of this programme means at least two years of unemployment. For ethnic minorities unemployment of one year is considered to be equivalent;

- in the case of the recruitment of an unemployed person who is difficult to place (long-term unemployed person, partly incapacitated unemployed person) an exemption from the employer's social security contribution of up to one year is granted, and a one-time subsidy of maximum DFL 15,000 (public sector) or DFL 22,000 (private sector) is paid. For ethnic minorities, a shorter duration of unemployment applies, two years instead of three. In 1990, 12 per cent of the unemployed persons covered by these two schemes were from ethnic minorities.

Sweden has also implemented incentive schemes of this kind. For instance, labour costs are subsidized if unemployed persons are hired. The subsidies increase where the unemployed are migrants (in 1991-92 a mere 2.7 per cent of the participants were migrants from outside the Nordic region). France equally opted for this approach (the numerous French schemes are summarized in table 6, in French to ease identification).[1] Germany did not and, instead, elaborated a range of labour market insertion measures that foreigners can benefit from.

[1] On France, see Charmes (1992, pp. 11-13) and Charmes, Daboussi and Lebon (1993, pp. 20 and 63-64).

Table 6. French employment promotion measures that migrant workers can benefit from by target group

Measures		Target group				
Since 1990 (=x)	Before 1990 (=(x))	Long-term unemployed	Beneficiaries of solidarity funds or minimum support	Youngsters	White-collar workers	Women living on their own
Contrats de retour à l'emploi			x	x		
	Contrat de réinsertion en alternance	(x)				
	Contrat de retour à l'emploi		(x)			
Actions d'insertion et de formation		x				
	Stages de réinsertion en alternance	(x)				
	Stages modulaires (ANPE)	(x)				
	Stages du Fonds national pour l'emploi	(x)				
	Contrat d'adaptation			x		
	Contrat de qualification			x		
	Contrat d'apprentissage			x		
	Stages d'initiation à la vie professionnelle		x			
	Crédit formation				x	
Contrats locaux emploi-solidarité		x	x	x		
	Travaux d'utilité collective (TUC)			(x)		
	Programme d'insertion locale	(x)				
	Activités d'intérêt général		(x)			
Stages femmes isolées						x
	Stages du Fonds national pour l'emploi					(x)
	Programme local d'insertion des femmes					(x)

Source: Charmes (1992, French original)

One problem with generalized active labour market policies is that, whereas foreigners are over-represented among the persons objectively in need of them, they tend to be under-represented among actual participants. In Germany, for example, foreigners make up 10 per cent of that country's economically active persons. Yet as table 7 documents, their rate of participation was much below that level. Furthermore, foreigners' drop out rates tend to be above average. One consolation that table 7 provides is the upward trend in participation by foreigners.

A special course that catered to the needs of second generation migrants in Germany, particularly those who had entered at an advanced age and had not gone through the whole of the obligatory German school system, sought to bring up foreign youngsters to the level of their local peers in terms of both language skills and familiarity with vocational training, to enable them to take up normal apprenticeships and conclude them successfully or simply to pick up jobs. Several schemes were in operation in the 1980s under the generic designation of *Massnahmen zur beruflichen und sozialen Eingliederung junger Ausländer* (MBSE). Up to a third of Turkish youngsters participated in these courses that lasted 10 months or longer. Relatively few managed to gain access to full-blown apprenticeships; relatively many benefited from these measures in terms of finding a job and progressing at work.[1]

4.3. Direct employment-creation measures

Western and northern European governments have been rather reluctant to adopt public work or infrastructure development schemes to combat unemployment, even during recessions. The demise of Keynesian demand management and the rise of Thatcherism is partly to blame. Furthermore, governments are loathe to consider schemes designed to benefit foreigners primarily or exclusively, for fear of fuelling local xenophobia and incurring electoral sanctions.

There are very few examples, therefore, that can be pointed to under this heading. One of them is in Sweden, where the long-term unemployed are accorded subsidies for public sector employment for up to six months. In 1991-92, 15 per cent of the beneficiaries were non-Nordic foreigners. France once operated public-interest-work schemes (*travaux d'utilité collective* [TUC]), in which migrants could partake. Take-up by them was low: in 1986 migrants accounted for less than 4 per cent (mostly of Maghreb origin). Later on, the French government subsidized the employment of certain disadvantaged groups by a flat rate bonus of FF10,000 with exoneration from social security payments during nine months or, in exceptional cases, 18 months or even indefinitely in the case of long-term unemployed who are over 50 years of age. Exact figures on first and second generation migrants' take-up are unavailable, but circumstantial evidence points to their disproportionately low involvement.

In the Netherlands in 1990 the employers' and workers' organizations concluded a voluntary covenant aimed at creating over a period of five years 60,000 additional jobs for migrant

[1] See the detailed empirical analysis by Schultze (1991), which is only one of the many surveys on this and related subjects carried out in Germany and which is also a splendid source of information on social and occupational mobility of first and second generation Turks.

Table 7. Number and proportion of entrants into German retraining, further training or labour market insertion measures, 1990-1992

	Men			Women			Total	
	Germans + foreigners	Foreigners	% foreign	Germans + foreigners	Foreigners	% foreign	No. of foreigners	% foreign
1990	342,630	19,010	5.6	231,401	6,558	2.8	25,568	4.5
1991	350,466	21,509	6.1	250,869	8,098	3.2	29,607	4.9
1992	333,147	24,756	7.4	248,497	9,813	3.9	34,569	5.9

Source: Bundesanstalt für Arbeit

workers. A mid-term evaluation carried out two years later revealed that the targets set had not been reached. In many companies the migrants' share in the workforce had actually decreased (Zegers de Beijl and Berghuys, 1993, p. 73).

4.4. Effects

It is certain that the aforementioned language, active labour market and subsidized employment schemes have helped the individuals who participated in them. Outside language courses, however, the enormous funds, spread and depth of measures primarily benefited nationals rather than foreigners, with the exception of the very few schemes - such as the German MBSE - that were aimed exclusively at foreigners. Werner's detailed investigation, hampered as it was by the lack of evaluation data, concluded that, while foreigners were greatly over-represented among the needy groups, they were "represented to a *disproportionately low* extent among the actual participants" (1994, p. 46).

Below-par involvement was not the intention of the policy-makers who designed the measures. Even the discriminatory behaviour that one may attribute to some of societies' gate keepers in respect of access to employment, work allocation within enterprises or termination of the employment relationship can scarcely have impacted directly on the active labour market or public employment schemes, which were deliberately made available to foreigners and frequently administered in practice by highly motivated persons or enthusiastic non-governmental organizations that went out of their way to help foreigners. Discrimination undoubtedly played a role afterwards, i.e. once foreigners had passed through various schemes and sought jobs from public or private employers.

Be that as it may, western and northern Europe's active labour market and public employment schemes have failed to produce comparable outcomes for comparable groups. In benefiting nationals to a disproportionately large extent, they could not stem disintegration.

5. Conclusions

Labour market disintegration set in for migrants in western and northern Europe in the 1970s. From then on a vast array of special measures was designed to counter this development. They benefited either migrants primarily or both nationals and migrants simultaneously, in the case of migrants under an explicit integration perspective. Taken together, these measures did not stem disintegration. The lack of success of the language tuition, labour market and employment-promotion measures in achieving integration was starkly revealed by the unemployment, income and other data in section 3. Language teaching is just about the only measure that primarily and lastingly benefited millions of foreigners. It is a *necessary but totally insufficient* measure to bring about integration.

Special active labour market schemes and subsidized public or private employment measures also benefited innumerable migrants. The outcome of the operation of these schemes and measures was comparatively more helpful to nationals than to migrants. That does not call them into question. For, *without such schemes and measures foreigners would have been even worse off, i.e. disintegration would have proceeded still further.*

The disintegration trend will not somehow reverse itself. It is bad enough that labour market disintegration has occurred and continues to develop in western and northern Europe's traditional migrant-receiving countries in respect of foreigners who themselves were carefully selected or whose children now regularly attend host society schools, and who were engaged in those countries' formal sectors, often in the biggest and most productive enterprises. Demand-driven and formal-sector-oriented as the migration flows were in the 1960s and 1970s, today's flows are a great deal more driven by push factors situated outside OECD member States (and in Turkey). Ordinary migrant workers today move into relatively marginal employment - such as domestic service or cleaning of offices - or informal sector employment, i.e. activities that employers shield from the full glare of the law. Informal sector activities are becoming increasingly important in traditional receiving countries, possibly due to intensifying globalization. The problem of integration into the labour market is, therefore, likely to get worse rather than better given the structural changes experienced by European economies.

Research is needed to determine with greater policy relevance why first and second generation migrants do not take part to a much greater degree in active labour market schemes and subsidized employment, how they could be motivated to do so or whatever else might be necessary to increase participation.

On the **political** side, the determination to pursue active labour market and employment promotion policies must not only be kept up but strengthened. Better ways and means must be explored to counter the factors that cause the disintegration suffered by foreigners.

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B. LABOUR MARKET INTEGRATION AND LEGISLATIVE MEASURES TO COMBAT DISCRIMINATION AGAINST MIGRANT WORKERS

by

R. Zegers de Beijl

1. Introduction

It has been amply demonstrated that migrants face numerous problems on the labour market and that they are in many ways at a disadvantage compared with members of the host society. Some of these problems are connected with objective, factual handicaps such as inadequate education and training, non-recognition of qualifications gained abroad or inadequate command of the host country's language. But, in addition, migrants experience discrimination on grounds of their nationality, colour, religion, race or ethnic origin.

Discrimination occurs when migrants are accorded inferior treatment relative to nationals, in spite of comparable education, qualifications and/or experience. Research carried out under the auspices of the ILO found that discrimination against migrant workers is widespread and pervasive. It is common in such fields as access to jobs and training opportunities, work allocation and promotion within enterprises, terms and conditions of employment (see Foster, Marshal and Williams, 1991; Raskin, 1993; Torrealba, 1993; Zegers de Beijl, 1990).

The material collected on the occurrence of discrimination at the level of individual enterprises provides concrete information on the scope of day-to-day discrimination. It was found that discrimination at the level of the work-floor is mostly of an informal nature, in the sense that no formal distinction is made between migrants and national workers. Nevertheless, migrants tend to be treated as inferior by both their national colleagues and their superiors. Job allocation procedures often result in migrants performing - where they hold the same jobs as nationals - the most unrewarding tasks. They end up working with the oldest machinery and materials. The resulting problems, such as falling short of production targets and being more often affected by industrial injuries and thus taking up more sick leave, all serve to reinforce existing prejudices concerning the migrants' work performance. Working in a hostile environment also means being excluded from social contacts, being the object of derogatory jokes and having to face graffiti on lavatory walls - day in, day out. To keep their jobs, migrants have to perform better than average under working conditions which are worse than average.

As far as access to the labour market is concerned, evidence suggests that migrants have less chances when applying for a job than equally qualified host country workers. Notwithstanding individual employers' efforts to promote personnel policies that are free from discrimination, the overall picture is not reassuring. Employers' preference for national applicants is reasonably well documented, as are the related practices of private employment agencies and public labour exchanges (see Bovenkerk, Gras and Ramsoedh, 1995; Colectivo IOE, forthcoming; Goldberg, Mourinho and Kulke, 1995). This discrimination not only impedes the migrants' integration into the immigration countries' labour market and thus into society as a whole, it also results in economic losses because labour's potential is not being fully used (Dex, 1992). To combat this discrimination is therefore a key issue for all countries where significant migrant populations exist.

This paper starts from the assumption that discrimination not only constitutes a violation of migrants' human rights as laid down in international treaties. Discrimination also hampers the migrants' integration in the receiving societies, resulting in processes of social disintegration and exclusion. It is thus not only a problem for the individual victims but it is also a predicament for the societies concerned. Modern-day democratic societies cannot afford to have parts of their resident population structurally excluded from mainstream society. Discrimination therefore needs

to be fought, and not only because of considerations concerning human rights. Considerations pertaining to the social and economic costs for the receiving society are equally valid. This paper aims to help in the elaboration of measures designed to reduce discrimination against migrant workers by providing an assessment of different approaches to combating unequal treatment by legal means.

2. Anti-discrimination legislation: the international framework

At the level of international legislation the principle of non-discrimination, or equality of opportunity and treatment, has been one of the founding principles of the ILO. The Treaty of Versailles (1919), which gave rise to the ILO, provided that "the standard set by law in each country with respect to the conditions of labour should have due regards to the equitable economic treatment of all workers lawfully resident therein". The protection of the interests of migrant workers was included among the priority aims of the organization as listed in the preamble to its Constitution.

This principle has been put into effect through a number of Conventions and Recommendations. The four main standards designed to protect migrant workers are the Migration for Employment Convention (Revised), 1949 (No. 97); the Equality of Treatment (Social Security) Convention, 1962 (No. 118); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and the Maintenance of Social Security Rights Convention, 1982 (No. 157). The key provisions of these Conventions and their related Recommendations aim at ensuring non-discrimination or equality of opportunity and treatment between national and non-national workers. Whereas Convention No. 97 essentially imposes constraints on countries in terms of statutory discrimination on grounds of *nationality, race, religion or sex* (art. 6), Convention No. 143 (part II) encourages them to pursue national policies to promote equality of opportunity and treatment (see Böhning, 1988).

The United Nations' International Convention on the Protection of the Rights of All Migrant Workers (1990) stipulates that all migrant workers are entitled to treatment no less favourable than national workers in respect of conditions of work and terms of employment (art. 25).

Ethnic minorities are by definition nationals of the country in which they reside. Ethnic minority groups include former migrant workers and their offspring who have obtained the nationality of their country of residence. Their right to equal treatment is stipulated in the ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111) which aims at combating discrimination. In article 1.1(a) of this Convention discrimination is defined as "any distinction, exclusion or preference made on the basis of *race, colour, sex, religion, political opinion, national extraction or social origin* which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation". National passport holders are also covered by the United Nations' Convention on the Elimination of all Forms of Racial Discrimination (1965), which defines racial discrimination as "any distinction, exclusion, restriction or preference based on *race, colour, descent, or national or ethnic origin* which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life" (art. 1.1).

These Conventions and other international instruments concerning non-discrimination or equality of opportunity and treatment
[1] have played an important part in encouraging States to institute and/or to strengthen national legislation against discrimination. Although international instruments differ with respect to the grounds of discrimination covered, i.e. whether or not they include *nationality*, it will be obvious that instruments which explicitly include nationality among the grounds on which discrimination is not permitted offer more incentives for protecting the rights of non-national migrant workers vis-a-vis national workers without interfering in states' prerogative to make a distinction between its citizens and others.

3. Overview of national anti-discrimination legislation

As most of the migrant-receiving countries in Europe and North America have ratified one or more of the international instruments aimed at combating discrimination, their national legislation contains as a minimum references to the principle of equality of treatment or non-discrimination, starting with the Constitution. In this respect one should pay attention to the grounds on which discrimination is considered to be unlawful. In addition, most of these countries have elaborated on the principle of non-discrimination in employment either in the penal code or in civil law, whereas others have also put in place special measures to actively promote equal opportunities.[2] Other countries still have felt the need to not only put comprehensive anti-discrimination legislation and provisions to promote equal opportunities in their law books, but also to institute specific redress mechanisms so as to allow victims of unlawful discrimination to claim their rights through specialized institutions. In the following sections these different approaches to legal protection against discrimination will be exemplified by way of concrete examples drawn from the experience of countries in Europe and North-America.

3.1. Legislative provisions against discrimination in the penal code or civil law: The case of France and Germany

In this section France will be presented as an example of a country which has relied mostly on the penal code to outlaw discrimination, whereas Germany will be used to exemplify a country relying mainly on civil law provisions.

The **French** Constitution is characterized by three elements: the principle of equality, the refusal to recognize minorities, and the tendency to erase the criterion of nationality in respect to the exercise of human rights and freedoms. Article 2 provides that France "is an indivisible, secular, democratic and social republic. It assures equality before the law to all *citizens* without distinction as to race or religion". The Constitutional Court judged that the fundamental constitutional rights and liberties are recognized for all who reside on the territory of the republic.[3] This decision, for the first time, declared the principle of equality of rights to be applicable to foreigners and affirmed

[1] Such as for example the International Covenant on Civil and Political Rights (1966); the European Convention on Human Rights (1950); the European Social Charter (1961) and the European Convention on the Legal Status of Migrant Workers (1977).

[2] Special integration measures aimed at increasing migrants' labour market participation are discussed by W.R. Böhning in the previous section of this paper.

[3] Constitutional Court, decision of 22 January 1990, C.C. 89.269 D.C., 22 January 1990.

that discrimination based on nationality is unconstitutional if this discrimination does not follow from requirements in the public interest. Based on the Declaration of the Rights of Men and of the Citizen of 1789 and the Preamble of the Constitution of 1946, it was concluded that the constitutional principle of equality is based primarily on human rights and not on the rights of citizens. Yet, the constitutional right not to be the subject of discrimination applies only to actions - including employment practices in the public sector - by the state (Commission of the European Communities, 1992).

Since 1972, France has included legislative provisions in the penal code that forbid discrimination in housing, employment and the furnishing of goods and services. It also prohibits racist defamation and insults as well as incitement to racial hatred. A separate provision prohibits storage in computer files of individual data concerning racial, ethnic or religious origins. As regards employment, article 225 of the penal code - which covers both public and private sector employers - renders it a criminal offense i) to discriminate in the offering of goods and services; ii) to hamper the exercise of any economic activity whatsoever; iii) to refuse to hire, or to dismiss, a person on discriminatory grounds; and iv) to make an offer of employment subject to discriminatory conditions on the grounds of, inter alia, *national origin, membership of an ethnic group, race or religion*. Article 432-7 specifically renders discrimination by civil servants a criminal offense. It should be noted that all legislative provisions cover only direct discrimination, i.e. acts with a discriminatory intent (Costa-Lascoux, 1989; Rodier, 1994).

The principle of equal treatment during employment is only partially covered by the Labour Code. Article L122-45 states "no worker can be punished or dismissed because of (inter alia) *his/her origin ... nor because he/she belongs to an ethnic group, nation or race ... or religious convictions*". Obviously, this article only covers protection against sanctions by the employer made on discriminatory grounds. It does not state the right to equal treatment and opportunity during employment, nor does it cover the pre-employment or application phase.

Legally condoned discrimination by governmental bodies and institutions on the basis of nationality concerns exclusion of access to certain jobs and professions. For example, non-European Union foreigners are excluded from higher level posts in public companies and the liberal professions. Forms of discrimination relating to the allocation of a job or the refusal to accept a job application are difficult to bring to court, because of the high standards of proof required in criminal proceedings. Moreover, since the decision which would be contested before a court would rarely be founded *explicitly* on one of the outlawed grounds, it is very difficult for a plaintiff - the individual victim or an association acting on his/her behalf - to bring proof of the real motive for the contested decision. Moreover, the fact that the penal code does not foresee any remedies such as reinstatement or financial compensation for the victim, results in a considerable disincentive for victims of unlawful discrimination to bring suit (Gittner, 1994). Although the National Consultative Commission on Human Rights has reported on the high incidence of discriminatory acts by employers, juridical precedents in this area are rare and bear no relation to the actual occurrence of such acts. In 1986, only two out of a total of 82 convictions related to racism concerned discrimination in employment, in 1987 the proportion was two out of 63. It would thus seem that the fact that employment-related discrimination is outlawed predominantly in criminal law seriously hampers the accessibility of court proceedings for victims of unlawful discrimination, as well as organizations representing them (see Zegers de Beijl, 1990).

A different approach was taken in **Germany** where prohibitions of employment-related discrimination are provided for in civil law. A blanket provision in the Constitution prohibits discrimination based on *origin, race, language, faith, religion or political belief*, as well as

preferential treatment on these grounds (art. 3.3). It is generally held that this provision does allow for special measures to be taken in the realm of positive action with the aim of providing special encouragement and training to groups and/or individuals that are disadvantaged in employment (Coussey and Hammelburg, 1994). In interpreting article 3, the Federal Constitutional Court has held that distinctions between Germans and foreigners are allowed if the distinction is not arbitrary, i.e. follows from other legal provisions that limit specific rights to German citizens only. The penal code makes it an offense to incite racial hatred and xenophobia.

In terms of discrimination in employment, the Constitution places direct obligations only on public employers. As regards employment in the private sector, article 75 of the Works' Constitution Act obliges employers and Works' Councils to ensure that there is no discrimination in individual companies against employees on the grounds of, inter alia, *race, creed, origin or nationality*. Article 84 of the Works' Constitution Act contains provisions dealing with the course of action that an individual claiming to be discriminated against can follow, specially attributing a role to the Works' Council in providing assistance or mediation. Article 85 stipulates that, in the case an employee's grievances appear to be justified, the Works' Council should induce the employer to remedy these grievances. Furthermore, reparation and indemnification for damages suffered through an act of unlawful discrimination may be claimed under section 823 of the civil code.

It should be noted that the constitutional provisions as well as the Works Constitution Act only cover direct, i.e. intentional discrimination. Moreover, discrimination in *access* to employment is not explicitly outlawed by the Works' Council Act. Although no examples exist of the use of the recourse procedure as outlined in article 85 by victims of racial discrimination, trade unions claim that they act on migrants behalf, in an informal manner, whenever problems arise. Research among migrant workers, however, found that the majority among them did not feel that their interests were adequately represented by Works' Councils or trade unions. Recourse to civil remedies is hampered by the difficulty to prove discrimination (i.e. discriminatory intent) and the financial risk involved in the legal procedure. Access to legal aid is severely limited for foreigners. In certain cases, when the plaintiff is a foreigner, he or she may be required to deposit a certain amount of money before the case is heard before a court (Commission of the European Communities, 1992; Hammelburg, 1994).

The Office of the Federal Commissioner for Foreigners was instituted in 1978. Its mandate is limited: it is to advice on governmental policies regarding foreigners lawfully residing in the country. It has no law enforcement function whatsoever. As such, it does not qualify as a special measure to promote equality of opportunity as discussed in the next section.

Although direct discrimination in both access to jobs and during employment is considered to be a criminal offense in France and discrimination during employment is outlawed in Germany, the *de facto* protection against employment related discrimination appears to be rather weak in both countries. Judging by the very limited number of complaints brought forward, the utility of the legal protection offered by legislative provisions *per se* seems to be very limited, irrespective of whether this protection is based on penal or civil law provisions.

3.2. Legislative provisions and special measures to promote equality of opportunity: The case of Belgium

The most clear-cut example of a country in which existing legislative provisions against discrimination have been combined with special measures to promote migrants' equality of opportunity is provided by **Belgium**.

The Belgian Constitution provides in article 6 that everyone is equal before the law. It also states explicitly that the rights and liberties afforded in Belgium are guaranteed without discrimination. It would thus seem that the Constitution affords protection against all types of discrimination, i.e. on whatever ground. However, the non-discrimination provisions do not apply to distinctions based on nationality as such: according to article 128 all foreigners enjoy the guaranteed rights "*except as provided by law*".

In 1981, an Act to Suppress Racism and Xenophobia was adopted, in pursuance of Belgium's ratification of the Convention on the Elimination of all Forms of Racial Discrimination. This law makes both incitement to discrimination and discriminatory acts punishable offenses if such behaviour is inspired by motives covering *race, colour, descent, national or ethnic origin* (art. 1). Discrimination on these grounds in the offering of goods and services (art. 2) as well as in the exercise of public authority (art. 4) is equally outlawed. However, discrimination in employment was, until recently, not covered (Costa-Lascoux, 1989).

Faced with the inadequacy of the 1981 legislation, and following lengthy debates, amendments to the original text were introduced in 1994. These explicitly cover all forms of racial discrimination (operationalized as discrimination on the grounds of *race, colour, descent, national or ethnic origin, and nationality*) in access to jobs and during employment. It brings actions of employers, both in the public and in the private sector, under its jurisdiction. Subsequently, restrictions on foreigners' access to jobs in the public sector have been eased. Trade unions or employers' organizations are allowed to assist plaintiffs or defendants in legal proceedings. Moreover, the amendments provide for stiffer penalties. As these amendments have only come into force recently, it is not yet possible to ascertain their efficacy (Nayer, 1994).

This is not to say that prior to 1994 there was no civil legislation whatsoever covering discrimination in employment. The National Labour Agreement No. 38 of 1983[1], as agreed upon by the National Labour Council, laid down provisions concerning the recruitment and selection of workers. Article 10 declares that "the recruiting employer may not treat the applicant in a discriminatory manner". The comments on this article defined discrimination as differentiation on the basis of personal factors such as age, sex, trade union membership, etc. Factors relating to race, colour or ethnic origin were not included in the definition. Consequently, no cases could be brought before the Belgian courts alleging discrimination on any of these grounds. Inspired by the debate on the inefficacy of the 1981 legislation, the National Labour Council agreed in 1991 to an amendment to article 10. As a result, *race, colour, descent, national or ethnic origin and nationality* have been included among the grounds on which private sector employers should not discriminate against job applicants (Forbes and Mead, 1992).

In order to assist the Government in revising the 1981 legislation and to advise on integration policies, the Royal Commission on Immigration Policies was created in 1988. As the Commission commissioned research, notably with respect to the occurrence of discrimination in employment, it has been quite conducive in preparing the grounds for the subsequent enlargement of the scope of the 1981 Act to Suppress Racism and Xenophobia.

[1] Entered into the Labour Code by Royal Decree of 11 July 1984.

After five years of existence, the Royal Commission was officially replaced, through the Law of 15 February 1993, by the Centre for Equal Opportunities and for Combating Racism. The Centre's mandate covers the promotion of equal opportunities and combating any form of distinction, exclusion, restriction or preference based on *race, colour, descent, origin or nationality* (art. 2). It carries out research, formulates recommendations to the Government on the improvement of anti-discrimination legislation, formulates recommendations to public authorities, private persons and organizations on how to remedy existing discriminatory practices, assists victims of discrimination by providing them with information about their rights and, when deemed necessary, lodges juridical procedures on their behalf (art. 3). The Centre has played an important role in providing Belgian society with information on the scope of the 1994 amendments to the Act to Suppress Racism and Xenophobia. It has also opened a Complaints Bureau, with the aim of analysing the occurrence of discrimination in Belgian society. Preliminary findings suggest that employment related discrimination is by far the most important type of complaint. The Centre engaged thus far only in mediation between victims and alleged offenders, yet does not exclude that it will, in the future, engage in legal proceedings representing individual victims.

3.3. Comprehensive legislative provisions, special measures and redress mechanisms: The United Kingdom, Canada and the Netherlands

In this section three countries will be presented which not only have enacted comprehensive anti-discrimination legislation including special measures to actively promote equality, but which also have developed special redress mechanisms with a view to assisting victims of discrimination in claiming their rights.[1]

The United Kingdom[2] has no written Constitution[3]. The single legal source as to racial discrimination is the Race Relations Act of 1976. The Act prohibits discrimination in employment, training and education, housing and the provision of goods, facilities, services and planning functions; it also applies to discriminatory advertising in these areas. The Act further renders unlawful pressure to discriminate, aiding another person to discriminate and it makes incitement to racial hated a criminal offense. The Act forms part of the civil code, apart from the provisions dealing with incitement to racial hatred. Individual victims can access directly civil courts and Industrial Tribunals in order to seek legal remedies against unlawful discrimination.

The Act defines both direct and indirect racial discrimination. Direct discrimination arises where a person treats another person less favourably on racial grounds than he/she treats, or would treat,

[1] Throughout the remainder of this paper reference will be made to the concepts of contract compliance, positive action and positive discrimination. Following Bovenkerk (1986) *contract compliance* is understood as referring to policies by public authorities aimed at influencing personnel policies and practices of companies and other organizations by means of making the granting of subsidies and assignments conditional on the implemention of specific requirements with respect to promoting employment of designated group members. *Positive action* refers to all measures promoting the access to, *casu quo* the vertical mobility in, the labour market of designated groups. These measures include, for example, preferential treatment in cases of equal qualifications or in case of sufficient qualification and reserving or targeting a certain number of available vacancies for designated group members only - all without lowering the level of qualifications required for any given job. Other measures include publicly advertising vacancies, refraining from exclusively recruiting inside any given company,
organizing targeted recruitment and promotion campaigns, and the screening and adjusting all procedures of appointment, promotion and dismissal for discriminatory effects. Positive action is thus distinct from *positive discrimination*, which comprises all measures that explicitly include the lowering of qualification requirements for designated group members, for instance within the framework of quotas (see also Faundez, 1994).

[2] The sections on the United Kingdom and the Netherlands are, unless explicitly indicated otherwise, based on Zegers de Beijl,1991.

[3] While there are several enactments of historical importance, such as the Magna Carta, the Bill of Rights of 1688 and the Acts of the Union, Parliamentary Supremacy is the primary constitutional doctrine.

someone else (s. 1.1.a). "Racial grounds" covers any of the following grounds: *colour, race, nationality, ethnic or national origin* (s. 3.1). Indirect racial discrimination consists of treatment which may be described as equal in a formal sense as between different racial groups, but which is discriminatory in its effects on one particular group (s. 1.1.b). Section 3.1.2 defines "racial group" by the same characteristics as used for defining "racial grounds". The Act also defines as unlawful discrimination the victimization of a person who asserted his/her rights under the Act or helped another to do so (s. 2.1).

A number of exceptions to the non-discrimination principle are laid down in the Act as well. Requirements of nationality, place of birth or residence related to participation in sports and games; acts done in pursuance of existing legislation (for example immigration acts) and acts done to safeguard national security are all exempted from the non-discrimination principle. Also covered by the exemptions are provisions to meet special needs of particular racial groups in education, training and welfare. Apart from these codified exceptions, the statutory protection against discrimination extends to discrimination on the ground of nationality, i.e. unequal treatment of non-national migrants is explicitly prohibited in all spheres of public life covered by the Act.

Section 4 specifies the prohibitions which apply to the employment context. This article prohibits employers to discriminate directly or indirectly on any of the grounds enumerated in section 3 in the recruitment of new employees, including the terms offered. Equally prohibited is unequal treatment of existing employees with respect to promotion, transfer or training or any other benefits, facilities or services, or with respect to dismissal. The Act lists a limited set of exceptions to the requirement that employers must not discriminate against their employees or potential employees. The most important exceptions relate to employment in a private household (s. 4.3) and employment where being of a particular racial group is a genuine occupational qualification for a particular job (s. 5).

Employers are not permitted to engage in "reverse discrimination", i.e. to favour a person from a disadvantaged group in recruitment or promotion. The Act does, however, permit limited forms of positive action so as to enable members of disadvantaged groups to compete on equal terms with others. Section 38 allows employers to encourage members of a particular racial group to be trained for a particular type of work - provided members of the group concerned are under-represented in the type of jobs for which they will be trained. Similar exceptions apply to providers of vocational training. These are allowed, but by no means under any obligation, to train or encourage especially persons of a particular racial group for particular work - provided they are under-represented in the overall composition of persons engaged in the type of work concerned (s. 37). An additional set of exceptions allow trade unions and employers' and professional organizations to take positive action measures aimed at ensuring that members of all racial groups are fully represented at all levels of the organization.

Individual victims of employment-related discrimination may lodge a complaint before an Industrial Tribunal. Industrial Tribunals - the court of the first instance for all employment-related conflicts - are composed of a legally qualified chairperson and two lay members recruited from workers' and employers' organizations. Individuals lodging a complaint with an Industrial Tribunal may get preliminary legal assistance at little or no cost under the legal aid scheme, where their income falls below certain limits. The legal aid scheme, however, does not extend to the Tribunal proceedings itself. Complainants with insufficient financial means to pay for a solicitor, should therefore either bring their case themselves or have their trade union represent them. It is clear that this hampers the possibility for individuals to claim their rights as laid down in the Race Relations Act.

When a Tribunal decides in favour of a complainant it may order the employer i) to take action to remedy the adverse effect of the discriminatory act subject of the complaint and ii) to pay the complainant monetary compensation. It is alleged that not many victims of employment-related discrimination bother to lodge a complaint before a Tribunal. Given that the legal aid system does not extend to cases before a Tribunal, and that less than twenty per cent of the cases that reach a Tribunal hearing are successful, it is understandable that the majority of victims do not even try to seek redress through this avenue (see Banton, 1990).

Another route for trying to obtain redress is offered by the Commission for Racial Equality, CRE. The Commission is an independent body set up under the Race Relations Act, whose members are appointed by and which is funded by the Government. Its statutory duties are:

(a) to work towards the elimination of racial discrimination;
(b) to promote equality of opportunity and good relations between persons of different racial backgrounds;
(c) to keep the operation of the Act under review and to make recommendations for amending it, as may be appropriate, to the secretary of State (s. 43).

The Commission has a major law enforcement function. Under section 66 of the Act it is under the obligation to consider all applications for assistance from individuals complaining of discrimination. If the complaint raises a question of principle or if the complainant is unable to bring his/her case unaided, the Commission may assist complainants in bringing their case before a court or Industrial Tribunal, if it concerns an employment-related complaint. Furthermore, the Commission may give advice and refer complainants to specialized lawyers. In a limited number of cases, which comprise persistent discrimination, discriminatory practices and advertisements, instructions and pressure to discriminate (s. 29-31; 63), the Commission is empowered to start legal proceedings under its own name.

Of all applications for assistance received by the Commission, complaints about employment-related discrimination are by far the most important. Complainants assisted by the Commission stand a higher chance of obtaining redress before an Industrial Tribunal than complainants which are not assisted by the Commission. In either case, the most important problem is to provide irrefutable evidence of discrimination by the employer concerned. If the Tribunal can be convinced that a discriminatory act was likely to have been committed, it may shift the burden of proof onto the employer. He or she is then required to provide an explanation displacing the inference of unlawful discrimination.

The Commission may also launch investigations into organizations where it has reason to believe that racial discrimination may be occurring. Under this procedure the Commission has wide-ranging powers to call witnesses and to require employers to produce documents so as to investigate the occurrence of unlawful discrimination. It is therefore in a favourable position to negotiate a change of certain practices which it considers to be discriminatory. Where such a settlement fails, the Commission may serve a non-discrimination notice requiring the organization to take prescribed steps to end the discrimination. Eventually, it may seek a Tribunal order compelling the organization to comply with its recommendations. Given the fact that the majority of non-discrimination notices which have been served have been contested successfully, mainly on procedural grounds, before the courts, the Commission has become very reluctant to serve non-discrimination notices.

Under section 47 of the Act the Commission is empowered to issue codes of practice in, inter alia, the field of employment. The Commission's *Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equal Opportunity in Employment* aims at giving practical

guidance in implementing statutory provisions. It provides recommendations on policies which can be implemented to help eliminate racial discrimination on the workfloor. Employers are advised, among other things, to examine existing procedures and criteria relating to personnel management and to change them where they are found to be actually or potentially discriminating. Also, employers are enjoined to monitor the ethnic composition of their workforce and job applicants in order to ascertain the effects of the equal opportunity policies they might put in place. The Code does not extend to law and its provisions thus do not have the status of statutory obligations. A nation-wide survey into the effectiveness of the Code found that in the mid 1980s only a minority of all employers were fully implementing the recommendations contained in it. The proportion was significantly higher among large employers, public sector employers and employers with a substantial ethnic minority workforce.

In the policy field, section 71 of the Race Relations Act enables local authorities to ensure that companies to which contracts are awarded for the supply of goods or services pursue equal opportunity policies. In other words, the Act does not require, but makes it possible, for local authorities to pursue a policy of contract compliance. Although there is no statutory obligation for the national government to do the same, there is a standard clause in all government contracts requiring contractors to conform to the employment-related provisions of the Act. However, no attempts have been made to monitor individual contractors' compliance with this clause.

On a number of occasions the Commission has proposed amendments to the Race Relations Act with a view to enhancing its efficacy. Among others, it has proposed that the legal aid system be extended to applicants before Industrial Tribunals. In the Commission's view, legal proceedings should not only be made more accessible, the remedies available should be strengthened as well. At present, a Tribunal can order an employer to re-engage an employee only when he or she has been dismissed unfairly. The Commission would like to see an extension of this power to cover all employees who have left their job as a consequence of proven discrimination or who were not appointed or promoted because of it. Also, it has been proposed to shift the burden of proof more definitely to the person or organization against whom discrimination is alleged. The Commission has asked that the ceiling on monetary compensations awarded by Tribunals and courts be raised. Also, it has recommended to review the cumbersome procedures for investigations into discriminatory practices of organizations and, finally, it is of the opinion that it should be given the right to join in proceedings whenever people other than the individual complainant might be affected by the alleged discrimination.

This diluted version of the type of collective litigation known in the United States as "class action" (see Rutherglen, 1993) would be a promising extension of the legal remedies available to victims of discrimination. Discrimination, rooted as it is in fears and prejudices, will rarely be an isolated act by a single individual. When people, organizations or institutions discriminate, they will do so on more than one occasion. Unfortunately, neither this, nor most of the other proposals - in 1994 the then existing ceiling on monetary compensation of UK£ 12,000,- was lifted - brought forward by the Commission for Racial Equality have been adopted by the Government so far. Therefore, one has to conclude that much remains to be done in order to put the extensively codified norm of non-discrimination into practice.

In **Canada**[1], the Charter of Rights and Freedoms is part of the Constitution Act 1982. It contains a general equality of rights provision which proclaims that everyone is equal before the law and

[1] The section on Canada is based on Raskin, 1993, and Ventura, 1995.

has a right to equal protection and equal benefit of the law "without discrimination and, in particular, without discrimination based on *race, national or ethnic origin, colour, religion, sex, age or mental or physical disability*"(s. 15.1). Section 15.2 explicitly allows for positive action and reverse discrimination by stating that section 15.1 does not preclude "any law, program or activity that has as its object the *amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability*". Furthermore, the Charter contains a declaratory section that provides for Canada's multicultural heritage (s. 27) as well as a declaratory section that deals with equality based on sex (s. 28).

The majority of migrants coming to Canada enter the country as permanent immigrants who become eligible for Canadian citizenship after a period of permanent residence of three years. During this period they officially continue to be foreigners, and the Supreme Court has recognized them to constitute a powerless and non-protected group. According to the Court "discrimination on the basis of *nationality* has from early times been an inseparable companion of discrimination on the basis of race and national and ethnic origin".[1] Thus, it would appear that the Supreme Court has interpreted section 15 of the Charter of Rights and Freedoms to include protection against discrimination on the basis of nationality.

The Charter, as the whole of the Constitution, applies to federal government or state action, including the state as an employer, but not to private action. Discrimination by private action, including employers, is dealt with by federal and a variety of provincial human rights statutes. Before looking into this civil legislation, mention should be made of the criminal code. Section 319 makes it a criminal offense to incite hatred against any identifiable group where such incitement is likely to lead to a breach of the peace. An identifiable group is defined as any section of the public distinguished by *colour, race, religion or ethnic origin*.

Protection against discrimination in employment is primarily offered through various human rights acts. Canada is a federal state with ten provinces, two federal territories and a central federal government. Matters of a national concern such as defence, banking etc. come under the jurisdiction of the federal government. On the other hand, issues such as education or local commerce are the responsibility of the provinces or territories. There are thirteen human rights acts in Canada; one federal act in force across the country, as well as acts in force in each of the provinces and territories. Non-national immigrant workers or national ethnic minorities believing themselves to be victims of discrimination in, *inter alia*, employment can avail themselves of either the federal act or the act in force in their province, depending on whether the employer concerned comes under federal or provincial jurisdiction. In the following reference will be made to the provincial human rights acts only if they differ considerably from the provisions laid down in the federal Human Rights Act.

Section 3.1 of the federal Canadian Human Rights Act sets out the proscribed grounds of discrimination under federal law. These grounds cover *race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability and conviction for which a pardon has been granted*. Provincial legislation basically, as a minimum, covers the same grounds. The Ontario Human Rights Code adds *citizenship* and *place of origin* (s. 4.1), whereas the Quebec Charter of Human Rights and Freedoms includes *pregnancy, language* and *sexual orientation*.

[1] In the Constitutional Court ruling in *Andrews v. Law Society of British Columbia*, (1989) 10 C.H.R.R. D/5719.

The federal Act enumerates specific discriminatory practices that are prohibited in the provision of goods and services, facilities, housing and employment. Section 7 refers to employment in general. It reads:

> It is a discriminatory practice, directly or indirectly, (a) to refuse to employ or continue to employ any individual, or (b) in the course of employment, to differentiate adversely in relation to an employee, on a prohibited ground of discrimination.

The use of discriminatory application procedures or advertisements is also prohibited (s. 8). Harassment or victimization of complainants who allege that they were discriminated against constitutes another form of unlawful discrimination (s. 14.1). Indirect discrimination is prohibited by what is referred to as the systemic discrimination provision. Systemic discrimination is unintentional discrimination which results from the imposition of a seemingly neutral requirement that disproportionately affects a particular group:

> It is a discriminatory practice for an employer, employee organization or organization of employers (a) to establish or pursue a policy or practice, or (b) to enter into an agreement affecting recruitment, referral, hiring, promotion, training, apprenticeship, transfer or any other matter relating to employment or prospective employment, that deprives or tends to deprive an individual or class of individuals of any employment opportunities on a prohibited ground of discrimination (s. 10).

As a complement to provisions aimed at combating systemic discrimination, all human rights legislation contain provisions for positive action programmes, commonly referred to as special programmes, intended to redress the effect of any systemic employment barriers. These barriers take the form of policies or practices that are seemingly neutral but deprive individuals of certain groups from employment opportunities. The Canadian Human Rights Act special programme provision states:

> It is not a discriminatory practice for a person to adopt or carry out a program, plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be, or are based on or related to the race, national or ethnic origin, colour, age, sex, marital status, family status or disability of members of that group, by improving opportunities respecting goods, services, facilities, accommodation or employment in relation to that group (s. 16.1)

Human rights legislation includes provisions which provide exceptions to the general rule of non-discrimination. The main exceptions deal with bona fide occupational requirements, i.e. requirements objectively necessary for the carrying out of a particular job, live-in domestic employment and citizenship. As regards the latter, most provincial statutes state that Canadian citizenship is a lawful requirement, qualification or consideration, if it is imposed or authorized by law, related to cultural or athletic activities or if it is a requirement for senior executive positions.

The federal Human Rights Commission and its provincial counterparts are responsible, in addition to promoting and informing the general public about the provisions of the Human Rights Act, for the enforcement of the principles of non-discrimination, including in employment. Complaints alleging contravention of human rights legislation should be lodged with the federal of provincial Human Rights Commission by the victim and/or, in some provinces, organizations representing the victim. The commissions themselves can also initiate complaints. While no provision is made for class actions as such, complaints filed jointly or separately by more than one individual or group of individuals may be dealt with together if they involve the same issues of fact and law (s. 32.4). The federal Act empowers the Human Rights Commission to investigate, mediate and determine all complaints of discrimination (s. 43-44). Under this procedure the Commission has wide-ranging powers to call witnesses and to require employers to produce documents so as to investigate the

occurrence of unlawful discrimination. Out of all complaints received by the Commission, the majority concern employment-related discrimination. "Race" together with "sex" and "disability" are the grounds most commonly relied on to lodge complaints. Yet, "race"-based complaints have a slightly higher-than-average chance of being dismissed (see also ILO, 1988).

Under section 44.2 the Commission is empowered to bring a complaint for adjudication to the Human Rights Tribunal. The role of the Tribunal is to "inquire into the complaint" (s. 49.1). The Tribunal may summon witnesses and compel them to give evidence. As regards the burden of proof, it suffices to show that the balance of probability is either in favour of the complainant or the respondent. In practical terms this means that if the respondent is unable to provide a satisfactory answer or explanation to the complaint, unlawful discrimination is assumed to have taken place. Section 53 of the Act lists the remedies available to the Tribunal. It may order the respondent to cease the discrimination; to make available to the victim all rights denied; and to compensate the victim for wages lost or any other costs incurred. Any order of the Human Rights Tribunal has the status of an order of the Federal Court (s. 57).

Although, in theory, the complaints procedure outlined above is open to anyone who feels discriminated against on one or more of the grounds specified in the human rights legislation, in practice the accessibility of the federal and provincial human rights commissions is hampered. The commissions are understaffed and under-resourced and face a considerable backlog, resulting in victims being reluctant to lodge complaints which do not offer the prospect of a swift adjudication. Financial constraints thus hamper the commissions' efficacy as recourse mechanism.

When it comes to advising on policies and legislation with respect to equality of treatment and opportunity, the Human Rights Commission is considered to be quite effective. In stressing that the legal ban on discrimination is not enough to eliminate it in actual practice, and that hence affirmative action is called for to correct *de facto* inequalities in employment, the Commission played a major role in the enactment of the Employment Equity Act of 1986. The purpose of this Act is:

> To correct the conditions of disadvantage in employment experienced by women, aboriginal peoples, persons with disabilities and persons who are, because of their race or colour, in a visible minority in Canada by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences (s. 2).

The Act requires employers to identify and eliminate work place barriers that hamper the employment of persons belonging to one of the four groups designated in section 2. Employers must take proactive measures to ensure that the particular circumstances of designated group members are reasonably accommodated in the work place. Also, employers must develop a plan setting out the goals to be achieved during current and subsequent years and a time frame for their implementation.

The Employment Equity Act requires employers to report yearly to the Government and the federal Human Rights Commission on the representation of the four designated groups in their workforces. Representation is then compared to the availability data on the designated groups as compiled by the federal bureau of statistics. An employer who fails to comply with his/her reporting requirements is guilty of an offense and liable on summary conviction to a fine not exceeding Can$ 50,000 (s. 7). The Act applies to federally regulated private sector employers - notably in the banking, transportation and communication industries - with 100 or more employees. This results in the Act covering approximately five per cent of the Canadian workforce. The Federal Public

Service is not subject to the Act, but is covered by the Treasury Board Affirmative Action Policy, which, *grosso modo*, has the same objectives as the Employment Equity Act.

A contract compliance programme is operated under the Employment Equity Act. Under this programme, companies employing 100 persons or more who wish to bid on government contracts to supply goods or services are required to sign a certificate stating a commitment to implement employment equity and to certify this commitment in their bid. The terms and conditions of this commitment include several criteria such as the establishment of the goals for the hiring and promotion of designated group members, the elimination of policies and practices that hinder designated group members, and the adoption of special measures to ensure that goals are achieved. Such enterprises may be subject to on-site compliance reviews; and if failures to implement employment equity are observed the employer may be excluded from future government business.

The Employment Equity Act does not clearly indicate the agency responsible for its implementation, monitoring and enforcement. The federal Human Rights Commission has attempted to enforce the principles of employment equity by using reports on the composition of employers' work force in its investigations. Also, the Commission has invited employers with poor representation figures to undertake joint reviews of their employment systems. However, the Commission's authority to monitor and enforce compliance with the Employment Equity Act has been subject to a number of legal challenges. An evaluation of the Act carried out in 1993 found that the representation of designated group members increased considerably in all companies covered by the Act. As such, the Act can considered to have reached one of its goals, i.e. to increase access to jobs. However, representation of, notably, visible minority groups *within* companies remained problematic. Visible minorities continue to be over-represented in blue-collar and clerical jobs and remain under-represented in high-skilled and managerial jobs.

The Netherlands has recently established the most extensive and wide ranging protection against discrimination. The principle of non-discrimination is laid down in the first article of the Constitution which states that "All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on grounds of *religion, belief, political opinion, race, sex or any other ground whatsoever* shall not be permitted". Although this provision does not bind individuals, it does provide an ultimate source of protection against discrimination by an organ of the state.

The principle of non-discrimination is elaborated in numerous provisions in the criminal as well as in the civil law. As far as the penal code is concerned, article 90quater provides the following definition of discrimination:

> ...any form of distinction, any exclusion, restriction or preference, the purpose or effect of which is to nullify and impair the recognition, enjoyment or exercise on an equal footing of human rights and the fundamental freedoms in the political, economic, social or cultural or any other field of public life.

Under case law it has been established that both direct (individual actions with a discriminatory intent) as well as indirect (actions, rules and regulations which are not in themselves discriminatory but which in their effects disadvantage specific groups of persons such as job requirements which cannot be justified by the type of work to be performed) discrimination is covered by this wide ranging definition.

Article 137 of the penal code sentences racial insult, incitement to hatred, discrimination and violence on the grounds of *race*, as well as publicizing or disseminating these notions. Article

429quater penalizes racial discrimination in the exercise of a profession or business, and in offering goods or services. A recently introduced amendment to article 137 renders racial discrimination in the exercise of a profession, business or public office a criminal felony - as opposed to the wider description offered in article 429quater which constitutes a criminal offense. In short, all public forms of racial discrimination by private persons are prohibited, both on the goods and services market and on the labour market.

Individuals who believe themselves to be discriminated against on any of the grounds mentioned in the penal code may lodge a complaint with the police, who are under a duty to investigate the complaint before sending it eventually on the Public Prosecutor's Department. However, due to the difficulties involved in proving discrimination, the majority of complaints never reach the stage of actual criminal court proceedings. Worse, aggrieved individuals approaching the police have in turn found cause to complain about their treatment at the hands of the police, usually on the basis that the complaint is not taken seriously, or that they are subject to harassment (Forbes and Mead, 1992).

Another possibility to obtain redress is offered by civil law. Article 6:162 of the civil code deals with unlawful behaviour and societal negligence. Under this article, anyone who has been found to have engaged in such behaviour may be obliged to restore the resulting damage. Whether or not behaviour is unlawful or negligent is assessed by a District Judge. The relatively open norm for this type of behaviour has proved to be effective in obtaining financial remedies in discrimination cases.

As in penal cases the accused, and in civil cases the plaintiff and defendant are entitled to receive free legal aid, when their income is below certain limits, there are no financial restrictions on access to court proceedings. The onus of proof lies, in principle, always with the part alleging that an unlawful act took place, i.e. the plaintiff in civil cases and the Public Prosecutor in criminal cases. However, when the Court has been convinced that a discriminatory act is very likely to have been committed, it may order a reversal of the burden of proof.

In the sphere of labour law there are laws governing the permissable content of collective agreements. The Labour (Collective Agreement) Act of 1927 was amended in 1971 in such a way that provisions obliging an employer not to employ, or to employ exclusively, workers of a certain *race* were declared null and void. The Act on Economic Competition 1971 stipulates as not binding provisions in collective agreements which have a discriminatory impact on certain *racial groups*. Finally, article 28 of the Act on Works' Councils enjoins these Councils to act against discrimination in the company.

The Dutch Supreme Court has pronounced itself on the meaning of the word "race" in these various sources of law. It has been interpreted in a wide sense to cover *colour, descent, and national and ethnic origin,* which is the terminology used in the Convention on the Elimination of all Forms of Racial Discrimination.[1] Although this does not cover explicitly discrimination on the ground of nationality, the courts have considered in a number of cases that making a distinction between foreigners and nationals constitutes a form of unlawful discrimination.

[1] Supreme Court ruling of 15 June 1976 (Trb. 1976, No. 257).

In employment, any form of discrimination by private employers on grounds of, amongst others, *nationality* is expressly prohibited. Article 1637ij.a of the labour laws section of the civil code states that:

> The terms for entering into, continuing, or terminating a labour contract with an employee who is of another nationality than the Dutch nationality, and who resides in the Netherlands, may not be less favourable than the terms that apply to an employee with the Dutch nationality.

As far as access of foreigners to employment in the public service is concerned, there are a limited number of posts for which the Dutch nationality is explicitly required and to which foreigners cannot be appointed. These are higher ranking posts in the judiciary, the military forces, the police, the diplomatic service and positions involving state security. Thus only public sector employers are allowed to discriminate against non-nationals in a limited number of cases. Discrimination on the ground of race is never permitted.

Under article 429quater of the penal code, employers as well as training institutions and labour exchanges are allowed to take positive measures to enhance migrants' and ethnic minority groups' chances for finding employment. Also, the use of specific targets, with the aim of increasing the number of employees from these groups, is considered to be lawful practice. Positive action programmes to encourage the recruitment of persons from specific disadvantaged groups have been implemented especially by public sector employers.

Enforcement of anti-discrimination provisions is not sought exclusively through the courts. The Minister of Social Affairs and Employment and the Minister of Justice have over the past few years repeatedly sent instructions to the Labour Exchanges and the Public Prosecutors' Office, respectively, ordering them vigorously to enforce and implement existing legislation, rules and regulations.

The National Bureau for Combating Racism (*Landelijk Bureau Racismebestrijding*, LBR) was established in 1985. The Bureau is a non-governmental organization, although wholly financed by the Government. The LBR aims to prevent and combat all forms of racial discrimination, including discrimination on the ground of nationality, especially by juridical means. Fighting discrimination on the labour market is among the Bureau's priorities, as employment-related discrimination is biggest single source of complaints received by the Bureau. Victims of alleged discrimination are assisted in seeking redress by means of advice and referral to specialized lawyers. Only in exceptional cases does the Bureau itself institute proceedings. Compilations of case law are published on a regular basis, as well as other information on the scope and extent of statutory provisions against racial discrimination in the Netherlands. Training on these issues is provided to, amongst others, the judiciary. Research is being undertaken to detect discriminatory practices, notably in the labour and housing market. The research findings are being fed into information and promotional activities. The Bureau has its headquarters in Utrecht, which is centrally located in the country, and is affiliated to over twenty local organizations. Through these local organizations it is extremely well known among migrants and ethnic minority groups and highly accessible for potential victims of unlawful discrimination.

As neither juridical competence, nor any other law enforcement function has been entrusted to the Bureau, it can only carry out investigations into organizations where unlawful discriminatory behaviour is suspected with the consent of these organizations. Obviously, this limits the Bureau's efficacy in combating discrimination. Nevertheless, after the findings of a study into discriminatory practices of commercial employment agencies had been published, it was possible to draw up a

Code of Practice for employment agencies. This Code contains directives for the staff of such agencies on equal treatment of all job seekers. Racial characteristics of job seekers are not to be registered and intermediary services are to be withdrawn when discriminatory, i.e. not job-related, requirements are put forward by an employer.

Another recourse mechanism is the National Ombudsman, established by law in 1981. Anyone who feels incorrectly treated by the State, i.e. civil servants or police officers, may lodge a complaint. The Ombudsman has statutory powers to investigate complaints, hear witnesses and summon evidence, after which the findings are made public in a report. On the basis of these findings, the Ombudsman formulates a judgement - not enforceable in law - and may make recommendations. Although not specifically directed towards combating racial discrimination, the Ombudsman has handled a few of such complaints. In employment matters, issues of language requirements for certain functions in the army were found to be justified, while a person's place of residence did not constitute a justified criterion for dismissal. Also, positive action programmes offering vacancies only to applicants from disadvantaged groups were found not to violate the Constitutional principle of non-discrimination.

Recently, statutory provisions and the possibilities to obtain redress improved considerably. Faced with a low number of cases brought before the courts bearing no relation to the actual incidence of unlawful discrimination and continued problems in proving discrimination before the courts, the Parliament accepted early in 1994 a draft for an Act on Equal Treatment. The Act came into force in the beginning of 1995. It is a comprehensive law, in that it prohibits direct and indirect discrimination on a wide ranging number of grounds, such as *religion, political conviction, race, sex, nationality, sexual preference and marital (civil) status* (art. 1.a). Article 2 lists the exceptions to the law, including discrimination on the ground of race when race is considered to be "a determining factor" (art. 2.4) and discrimination on the ground of nationality when such distinctions follow from rules and regulations of international law and cases where nationality is considered to be a "determining factor" (art. 2.5). In a blanket provision distinctions made in existing legislation (art. 4.c) are also excluded from the scope of the law.

The fields covered by the Act on Equal Treatment are employment, education, housing, public welfare, public health and culture. As far as employment is concerned, it covers both recruitment procedures as well as the employment relationship itself, the terms and conditions of employment, and access to training and promotion (art. 5). Positive action for women, migrants and ethnic minorities is explicitly allowed (art. 3). Complaints about unlawful distinction - both by individual victims as well as organization representing them (art. 10) -are to be submitted to the Commission on Equal Treatment. The Act prohibits victimization of individual complainants. As the Commission is composed of specialists and as it can play a more active role than the judge in finding out facts - according to articles 12 and 19 it has statutory powers to investigate complaints, hear witnesses and summon evidence - it is expected that the establishment of the Commission will result in an increase of the number of complaints and, eventually, court cases. Both the Commission and the victim of discrimination deemed unlawful by the Commission, as well as organizations representing the victim, can bring legal action with a view to obtaining a court ruling that the discriminatory conduct be prohibited and that the consequences of the conduct be rectified (art. 15).

An Act on the Improvement of Equal Participation of Ethnic Minorities[1] in Labour Organizations came into force early in 1995. Although inspired by the Canadian Employment Equity Act it is

[1] In Dutch parlance "ethnic minorities" covers both non-national migrants and national ethnic minority groups.

much broader in terms of the number of employers covered. The Act obliges *all* employers with 35 or more employees to strive towards an equal representation of ethnic minority groups in their respective workforces (art.2) and to examine to what extent their policies on recruitment, promotion and dismissal as well as terms of employment and working conditions hamper equal participation of persons from ethnic minority groups within their workforce (art. 3a). The employers should take measures to remove these obstacles and to stimulate the participation of ethnic minority groups in their workforce (art. 3b). These obligations are to be fulfilled through the drawing up, in consultation with the Works' Council, of a plan containing specific goals and targets (art. 9). Individual employers are to report on a yearly basis on their efforts - including on the ethnic composition of their workforce (art. 4-5). Failing to do so is considered to be a criminal offense (art. 10)(Pattipawae, 1994).

Until the adoption of the Act on Equal Treatment, anti-discrimination provisions were patchy and scattered over the statute books, rendering them highly inaccessible to victims as well as the judiciary. The 1994 Act provides a clearly codified norm of equal treatment in most areas of public life, as well as a redress mechanism with wide ranging investigative powers. As such, it elaborates in a straightforward way the constitutional norm of non-discrimination. In combination with the Act on the Improvement of Equal Participation of Ethnic Minorities in Labour Organizations the legal, policy and redress mechanisms aimed at combating employment-related discrimination have improved considerably (see Pattipawae, Possel, Stomp and Yenal, 1995).

4. Lessons learned: Essential components of a legislative cadre which outlaws discrimination effectively

What conclusions can be drawn from the overview, as presented in this paper, of different ways to secure legal protection against employment-related discrimination aimed at non-national migrant workers? What are the lessons learned and what advice could be formulated to new migrant receiving countries, such as Spain, with respect to effective anti-discrimination statutes, policies and redress mechanisms?

As regards the actual legislation in the countries covered in this paper it seems that **Constitutional provisions** referring to the principle of equality of treatment and non-discrimination are mostly inspired by the wording of the Convention on the Elimination of All Forms of Racial Discrimination. They do not include nationality among the grounds on which discrimination is prohibited. Specific provisions, either in the **penal or the civil code** or in both, that outlaw discrimination in employment on the grounds of, amongst others, *nationality* provide some form of *de jure* protection (see table 1). Yet, as notably the Dutch experience has shown, provisions scattered throughout the statute books tend to render protection *de facto* inaccessible, both for individual victims and the judiciary who are supposed to enforce these anti-discrimination provisions. Moreover, given the problems related to proving discrimination, penal legislation alone offers no remedy as the standard of proof can rarely be met.

A **comprehensive civil legislation** offers more possibilities for victims of discrimination to claim their legal right to equality of treatment. To facilitate application, such a legislation should not only clearly outlaw both *direct* and *indirect discrimination*, it should also contain

Table 1. Specific provisions with respect to employment related discrimination covering unequal treatment on the ground of *nationality*

Country	Penal Code	Civil Code	
		Specific	Comprehensive
France	D, (n)		
Germany		D, N	
Belgium	D, (i?), N	D, (i?), N	
The United Kingdom			D, I, N
Canada			D, I, (n)
The Netherlands	D, (i), (n)	D, I, N	D, I, N

Key: D = Direct discrimination explicitly outlawed
I = Indirect discrimination explicitly outlawed
i = Indirect discrimination outlawed as a result of case law
i? = No case law available
N = Nationality explicitly among grounds covered
n = Nationality among grounds covered as a result of case law

definitions of both types of discriminatory acts. *To be of relevance for the types of discrimination encountered by migrant workers,* **nationality, colour, religion, race and ethnic origin** *should be among the grounds of discrimination covered in such a comprehensive statute*. Other grounds to be included are sex, marital status, sexual preference, political conviction and disability. *Comprehensive civil legislation should cover* ***all*** *spheres of public life, explicitly including employment and access to employment in both the public and private sectors. Employers should be required to monitor, and report on, the composition of their workforce according to* **nationality, ethnic group** *and any other ground of discrimination and/or minority group status as specified in the law*. The question of the *burden of proof* should be treated flexibly. When a complainant has provided evidence of a discriminatory act likely to have been committed, the defendant should be requested to provide satisfactory evidence that the act under consideration was not committed or was not unlawful.[1]

Experience, notably in Canada and the Netherlands, has shown that outlawing discrimination is not enough to remedy all the handicaps in the socio-economic participation of disadvantaged groups. A legislative provision to enable **contract compliance** in the awarding of governmental contracts for the provision of goods and services as well as a requirement to adopt **positive action** programmes so as actively to promote equal participation in all spheres of public life, are equally indispensable.

A **specialized institution** in the field of equality of treatment and non-discrimination appears to be the most effective way of guaranteeing effective enforcement of anti-discrimination legislation. Ideally, such an institution would handle all individual allegations of discriminatory treatment and try to arrive at a mediated solution. To be truly effective, the institution should have wide *investigative powers*. Should mediation fail, the agency should be empowered to bring cases to court. As discrimination is rarely a one-off act, provisions to allow for group complaints are called for.

[1] Similar recommendations were recently formulated by the European Union's Consultative Committee on Racism and Xenophobia (1995).

Apart from law enforcement, this specialized institution should also be mandated to promote equality of treatment and non-discrimination in the widest sense, including training and other promotional efforts aimed at the societal majority. Finally, it should be responsible for undertaking a systematic analysis of government policies regarding the question of equality of treatment and integration of minority groups. In this respect, it should carry out research on the efficacy of anti-discrimination legislation and integration policies in general and should be authorized to formulate proposals with a view to enhancing their efficacy.

In short, a comprehensive anti-discrimination statute in civil law, backed up with measures to promote equal opportunity and a specialized redress mechanism, appears to be the most effective way to tackle discrimination by legal means.

With regard to the countries studied here, it seems as though the nature of legislation and policy development is closely dependent on the attitudes prevailing in each country with respect to assimilation, integration and multi-culturalism.[1] *Assimilationist* attitudes appear to be the least conducive to effective anti-discrimination law and policy, since they are based on the premise that the differences between people will disappear. They deny that these differences will be associated lastingly with disadvantage and that they attract discriminatory practices. *Integration* does not imply the destruction of ethnic identity in the way that assimilation does, but it still assumes that the dominant culture need not do more than to make room for other cultures. *Multi-culturalism* actively values the existence of a range of cultures in society. It is this approach that recognizes the importance of difference and sets out to protect the integrity and identity of different ethnic groups. As a consequence, anti-discrimination legislation and related policies focus on protecting minorities as well as on bringing about changes of attitude and behaviour among the societal majority. Instead of solely concentrating on legal protection for individual victims of discriminatory acts, this approach tends to target institutions, organizations, policies and persons responsible for discriminatory practices.

5. Epilogue

The comparison of different legal approaches to combat discrimination has made it clear that a comprehensive anti-discrimination legislation as outlined above is an absolute as well as a minimum requirement to outlaw effectively unequal treatment of disadvantaged groups in society. Migrant workers are such a disadvantaged group. They are disadvantaged on the labour market compared with host country workers. The ILO has provided evidence that this disadvantage is caused to a considerable extent by discrimination. Discrimination in the world of work was found to be widespread and pervasive. This discrimination entails not only social injustice and but also economic losses. Experience from countries which have enacted comprehensive anti-discrimination legislation has demonstrated that such legislation is a powerful tool in the fight against discrimination, but that it does not suffice. Discrimination cannot be eliminated through government action - legislation and enforcement mechanisms -alone. Yet, legislation is extremely important in that it sets the societal norm and provides victims of unlawful behaviour with remedies and redress mechanisms. But it is by no means a panacea. Measures that reach further and actions on access to jobs, promotion and training, as well as training and education in anti-discrimination behaviour or equal treatment - aimed at the "gate keepers" of both the labour market

[1] For a clarifying discussion of these notions, see Rex, 1985.

and society at large - are an unequivocal necessity. Such a combined, multi-pronged strategy, encompassing both governments and the social partners, is not only in the interest of all parties directly concerned, but, through them, it will also serve the interests of increasingly multi-cultural societies at large.

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C. TOP END AND BOTTOM END LABOUR IMPORT IN THE UNITED STATES AND EUROPE: HISTORICAL EVOLUTION AND SUSTAINABILITY

by

W.R. Böhning

1. Introduction

The aim of this paper is to synthesize the evolution of policies concerning non-national labour in high-income countries. As these countries today favour the admission of foreigners either with high qualifications or in unskilled jobs, the focus will be on the "top end" and the "bottom end" of the skill range. The concern will be less to document or explain the top end - bottom end dichotomy than to relate this distinctive pattern to broader societal goals such as assimilating foreigners or integrating them, i.e. to policies of a more fundamental nature that aim to ensure stable societies and development with a minimum of friction. This concern raises the question of the sustainability of current intake patterns of foreign labour.

The mode of presentation will make use of simplified figurative representations of stylized intake patterns. This forces one to look for the essentials that determine policies and to abstract from the many deviations that are woven into underlying patterns during the political or legislative process of formulating actual policies.

2. Evolution of labour intake patterns

2.1. United States of America

For heuristic reasons, it is instructive to start with the United States and to go far back in its history. The 100 years or so of immigration up to the first World War were dominated by European farmers, artisans, more or less skilled industrial labourers and politically threatened elites moving to a country whose doors were wide open to them. The cross-Atlantic moves were essentially supply-determined as regards their skill characteristics. Figuratively speaking, the labour supply pattern could be represented by a pyramid with many unskilled people at the *bottom end*, a small number of skilled artisans and industrial workers in the middle, and a very small number of people the closer one comes to the *top end* of the skill range. The pyramidal labour supply pattern of the migrants was practically identical to that of their European countries of origin and of the American workers they joined (see **figure 1**).

Between the 1921 Quota Act and the termination of the Bracero Programme in 1964, a nationality preference system was in force that favoured Europe's more developed countries. It was supplemented by the intake of Mexican labourers for U.S. farming. Illegal immigration also assumed importance for the first time, chiefly of unskilled Mexicans. The inflow of legal labour continued in the main to be supply driven within the constraints of the nationality quota system. The disproportionate intake of *top-end* migrants was fed largely by refugees fleeing from Europe between 1933 and the beginning of the 1950s; thereafter the Immigration and Nationality Act of 1952 reserved 50 per cent of the first preference for foreigners possessing special skills or abilities in demand in the United States. The *bottom end* supply was ensured through the inflow of Mexicans. **Figure 2** depicts the changed forms of the U.S. and foreign labour supply patterns.

Figure 1. Pattern of skills supplied by nationals in, and of foreigners moving to, the United States, 1820-1920

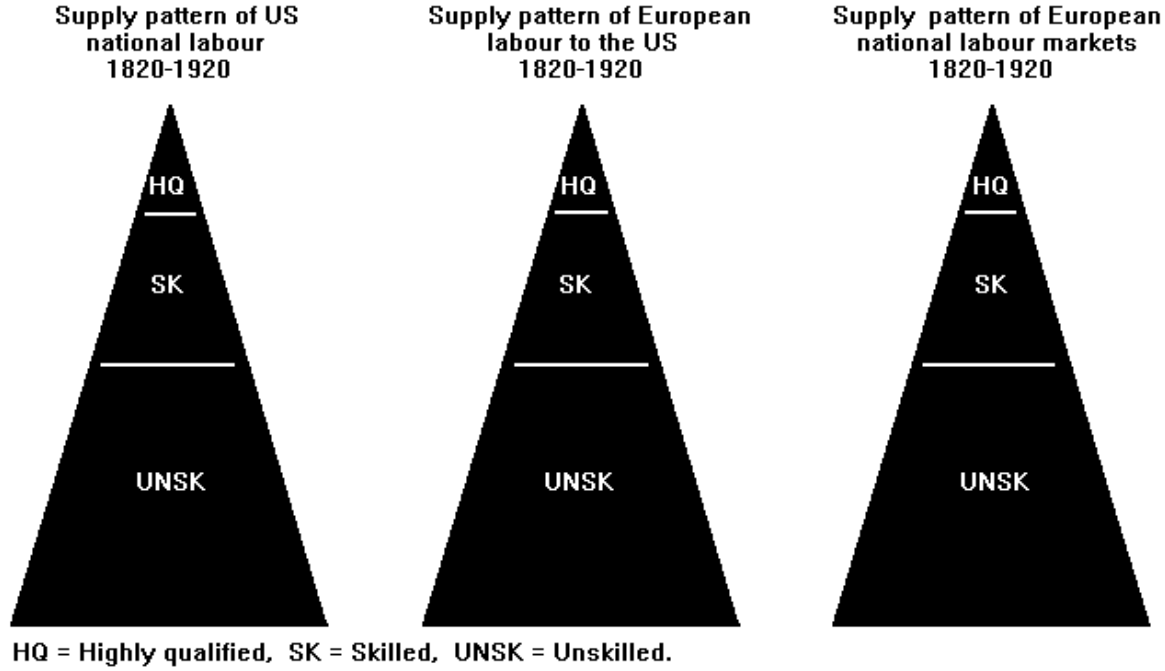
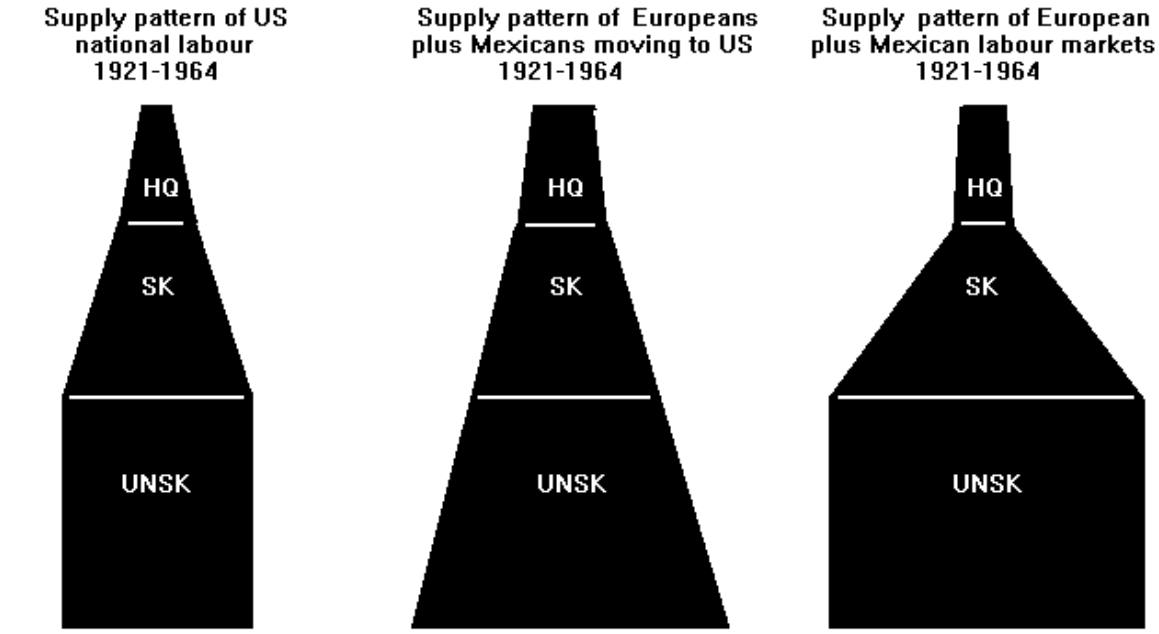


Figure 2. Pattern of skills supplied by nationals in, and Europeans plus Mexicans moving to, the United States, 1921-1964



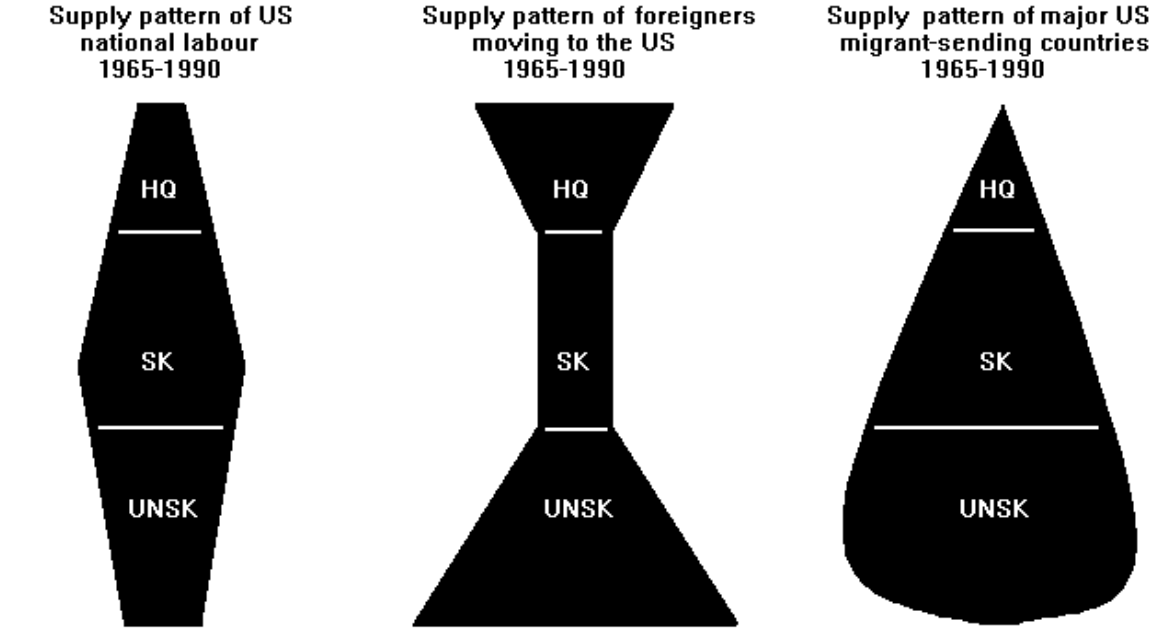
HQ = Highly qualified, SK = Skilled, UNSK = Unskilled.

With the termination of the Bracero Programme in 1964 and the adoption of the Immigration and Nationality Act amendments of 1965, a *top end - bottom end dichotomy* becomes clearly visible for the first time (see **figure 3**). While the 1965 Act replaced nationality as the dominant selection criterion by family connections with persons already present in the U.S., it also boosted - albeit only slightly - the economic component by reserving 10 per cent of the third preference for members of the professions or persons of exceptional ability in the sciences and arts, as well as 10 per cent of the sixth preference for skilled and unskilled workers in short supply. The "brain drain" reared its head, with the UK being the first country to complain and developing countries losing tens of thousands of students with temporary entry visas more or less permanently to the U.S. And while the Bracero programme no longer ensured a supply of needed unskilled workers, the expansion of illegal inflows from Mexico and many other countries around the world did. Migration of economically active persons to the U.S. became simultaneously demand and supply determined. It was demand determined insofar as for legal inflows a certification system was put in place that tested whether U.S. workers were available, willing and able to fill jobs for which private or public employers sought to engage foreign professionals, skilled or unskilled workers. As far as illegal inflows were concerned, the actual demand for unskilled Mexicans was transmitted through private recruitment agents and personal networks. Inflows were still largely supply determined because the bulk of the legal immigrants who were economically active after admission entered the U.S. under family-based or humanitarian preferences; these persons can only be described as self selected in economic terms.

The adoption of the Immigration Act of 1990 greatly strengthened the economic component and the economy-based determination of U.S. immigration. At the very *top end* of the skill spectrum, 40,000 priority immigrants of "extra-ordinary ability" can be admitted annually for settlement without the need for a pre-arranged employment contract or nomination by a U.S. employer. A further 40,000 immigrants of "exceptional ability" can be admitted whose services are required by U.S. businesses. These are essentially professionals holding advanced degrees or who possess comparable experience. Yet another 40,000 professionals, skilled workers and others can be admitted. Legislative changes were also introduced to spell out clearly the categories of foreigners who can be admitted temporarily for employment purposes. These include so-called treaty traders, i.e. persons who engage in trade in technology or trade in services; speciality occupations, which involve the application of highly specialized knowledge presupposing a degree, license or equivalent experience; transferees within multinational companies, where blanket petitions are now to be authorized within 30 days and where accounting service firms are newly covered by the law; as well as foreigners of extra-ordinary ability in the arts, business, education or sciences. Having been broadly population driven for a century and a half, and then family driven between the mid-1960s and the end of the 1980s, since the 1990s it is not only the ups and downs of the economy or the booming sectors that pull foreigners into the U.S. To a much greater extent than hitherto it is the verifiable need to fill an identified workplace, or the general need for the most highly qualified foreigners, that drives the U.S. immigration system and which accounts for the funnel shape at the *top end* of the central shape of **figure 4**.

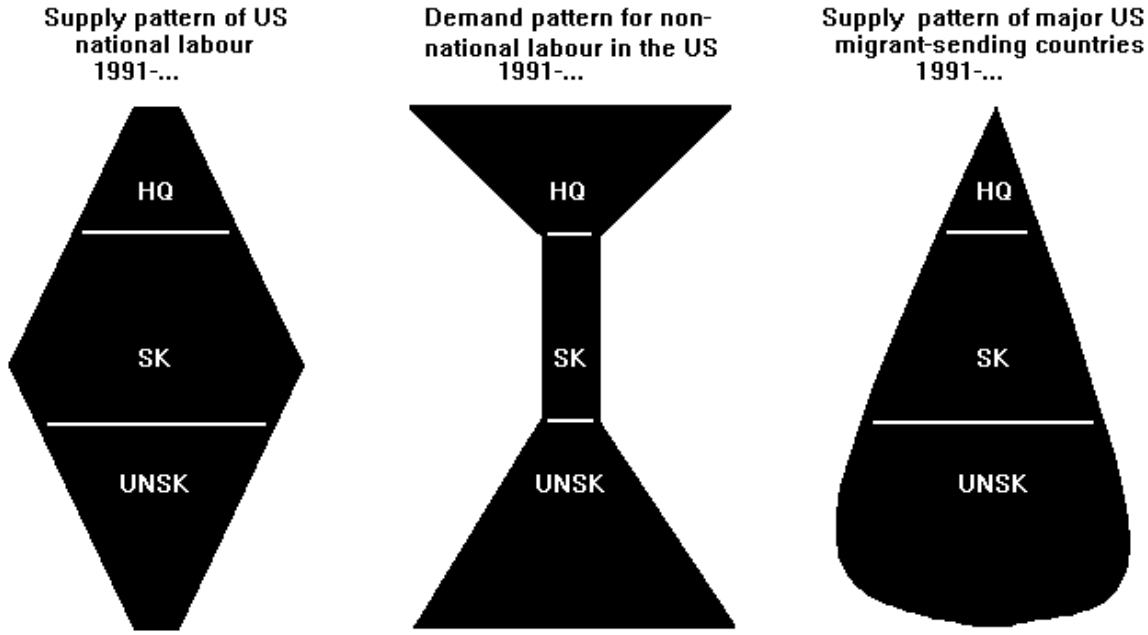
But that is not the whole story. First of all, both the Immigration Act of 1990 and the preceding year's Immigrant Nurses Relief Act ensure that U.S. employers who cannot find nurses or a few other categories of *skilled workers* at the needed time and place, can employ skilled foreigners temporarily. This is portrayed in **figure 4** by the not inconsiderable middle section. But the skilled middle of **figure 4** is thinner than in the previous figures because

Figure 3. Pattern of skills supplied by nationals in, and foreigners moving to, the United States, 1965-1990



HQ = Highly qualified, SK = Skilled, UNSK = Unskilled.

Figure 4. Pattern of skills supplied by nationals, and pattern of demand for foreigners, in the United States, since 1991



HQ = Highly qualified, SK = Skilled, UNSK = Unskilled.

it was the intention of both the 1990 Act and the Immigrant Nurses Relief Act to control the previously liberal inflows more tightly.

Secondly, the 1986 Immigration Reform and Control Act, which essentially aimed at the elimination of illegal immigration, set up a Replenishment Agricultural Worker programme that provided U.S. farmers, horticulturalists etc. with an assured supply of Mexican labour at the *bottom end* of the skill range. And thirdly, not only agriculture but also services such as hotel and catering, cleaning etc. were able to call on the hundreds of thousands of illegals who continued to find ways onto the U.S. labour market, partly because illegal migration is inherently difficult to prevent and partly because the sanctions component of the 1986 Act did not have the effects desired by the government. Today it is estimated that as many irregular foreigner workers are present in the U.S. as were regularized by the 1986 Act, i.e. about 4 million. This leads me to portray the *bottom end* of the labour intake pattern as a funnel put upside down.

From the top to the bottom, the shape is akin to an hour glass. That hour glass form contrasts sharply with the U.S. domestic supply pattern, which comes close to a diamond shape. It contrasts equally sharply with the combined stylized labour force pattern of the major supplier countries of labour to the U.S., which resembles a pear or a turnip.

What is the explanation for the funnel shape at the *top end* of the U.S. labour intake pattern? Globalization is the key factor. It is perhaps not the only explanation because one could point to sluggish U.S. policies in the fields of education and sciences, but it is the decisive factor. The productivity-driven competition-based intensifying links to the economies of Asia, Europe and elsewhere require ever growing inputs of highly qualified labour.[1]

What is the explanation for the up-side down funnel at the *bottom end* of the labour intake pattern? It is the refusal by U.S. citizens to fill all of the vacancies for unattractive jobs in agriculture, hotel or catering, cleaning services, construction, small-scale industry etc.

2.2. Europe

Being unencumbered by population concerns, Europe's labour intake patterns are easy to characterize if one disregards the inflow of asylum seekers or refugees and of "privileged ethnics", such as "Aussiedler" or Pontics. Starting with western and northern Europe, and going back in history just a little bit to the 1960s, the intake of foreigners at that time was determined by the economies' demand for labour. It had the asymmetrical hour glass shape shown in **figure 5**. Countries were already quite liberal in admitting highly qualified foreigners at the *top end*; and they actively and massively sought to fill vacancies with foreigners at the *bottom end* of the skill range, i.e. in jobs shunned by nationals.

[1] Japan has modified its labour intake policy almost at the same time as the US and for the same reason, i.e. the requirements of globalization. Japan traditionally pursued a two-track policy: keeping out unskilled foreigners and admitting such workers temporarily as were judged to make a positive contribution to the country's economic vitality and society. Up until 1990, 18 categories of desirable migrants existed, including persons engaging in trade, business or investment activities; persons invited by public or private organizations to provide high or special industrial expertise; and academics. Japan's deepening involvement in the world economy led to the addition of 10 categories in 1990. These include persons moving within a multi-national enterprise, lawyers, accountants and researchers. Furthermore, it was decided to simplify the formalities and to speed up the procedures regarding the admission, stay and economic activity of desirable migrants.

Figure 5. Pattern of skills supplied by nationals, and pattern of demand for foreigners, in western and northern Europe, 1960s

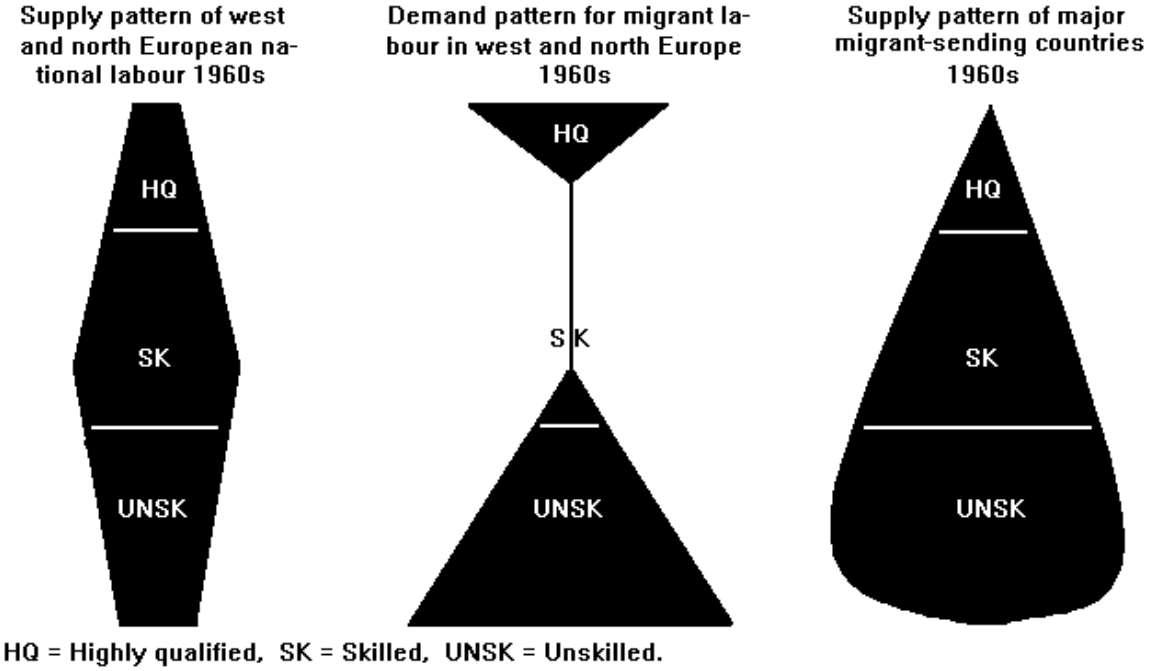
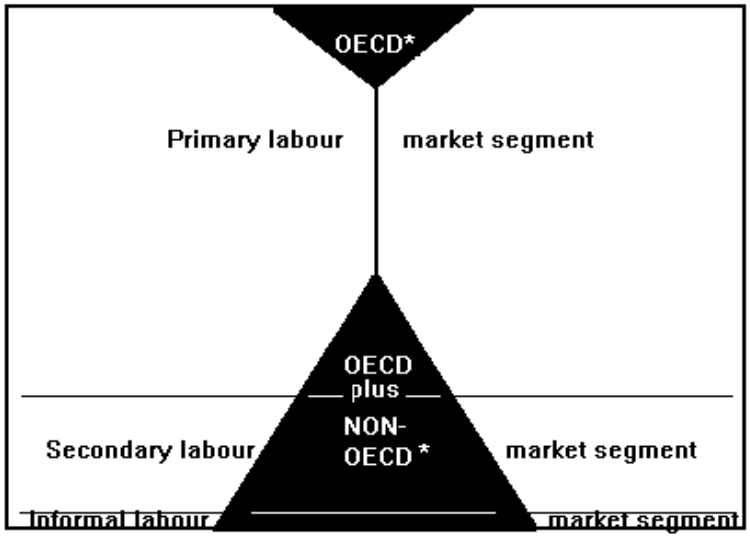


Figure 6. National, OECD and non-OECD labour supplied in different segments of western and northern Europe's labour markets, 1960s



* OECD excluding Turkey, non-OECD including Turkey

It is helpful to introduce two sets of distinctions in respect of Europe. The first typifies *labour market segments*. Segmentation theories have a definite explanatory power at the level of individual enterprises in terms of primary, secondary or informal employment relationships between workers and employers. Primary relationships obtain where there are durable jobs with good promotion possibilities, high remuneration except at entry points, many fringe benefits and a below average danger of unemployment. Secondary employment relationships involve much less stable, more precarious or marginal jobs, with limited promotion possibilities, low remuneration, fewer fringe benefits and an above average exposure to unemployment. As regards informal relationships, one or another aspect of the employers' or workers' economic activities contravenes the legislation in force; for example, employers may not transfer social security deductions to the relevant social security body. Informality thus is not related to the regularity or otherwise of the migrants' authorization to enter or stay in the country; that is immaterial; what matters is that the migrants' employment status is not in conformity with the labour or social laws either as regards authorizations to which the workers may be subject or as regards the conditions under which the employers provide them with work. If one adds together all enterprises' primary, secondary and informal employment relationships one can call the resulting macro-economic aggregates primary, secondary or informal labour markets.

The other distinction simplifyingly puts migrant labour either into the category of *OECD* or *non-OECD* labour. Allowance has to be made for the fact that Turks are an OECD nationality who, irrespective of the skills they had prior to leaving their home country, were recruited to fill unskilled jobs in western and northern Europe.[1]

Figure 6 incorporates the two sets of additional determinants and represents a country's (or rather all of the countries') total labour market in rectangular form. The primary, secondary and informal labour market segments are distinguished as horizontal layers. The asymetrical hour glass now specifies where economically active OECD or non-OECD persons are located. Nationals fill up the white space inside the rectangle. The relative sizes of the labour market segments, on the one hand, and of the OECD, non-OECD or national labour supply, on the other, are meant to suggest orders of magnitude.

In the 1990s, the same countries' demand pattern for migrant labour has developed into the shape at the centre of **figure 7**. It resembles a cocktail glass rather more than an hour glass. It differs slightly from the contemporaneous U.S. form (in **figure 4**) in that the western and northern European demand for migrants in unskilled jobs - demand that is expressed through the legal as well as the illegal employment of foreigners - is less pronounced than in the U.S. A considerable portion of the illegal employment is, at origin, supply driven. At any rate, it is not a reaction to unfilled vacancies that are notified to public or private employment agents. Economically speaking, this unauthorized addition to the labour supply induces some demand for its services. Small-scale employers, farmers, agents looking for temporary workers etc. do occasionally or regularly pick up unauthorized workers - more often than they would if that supply were not locally available.

The rectangular representation of the mid-90s' situation in western and northern Europe is given in **figure 8**. What is striking about **figure 8** is that *non-OECD* labour is to a consider-

[1] One could also introduce the OECD vs. non-OECD distinction for the US but would have to exempt Mexicans since Mexico recently became an OECD member State.

Figure 7. Pattern of skills supplied by nationals, and pattern of demand for foreigners, in western and northern Europe, 1990s

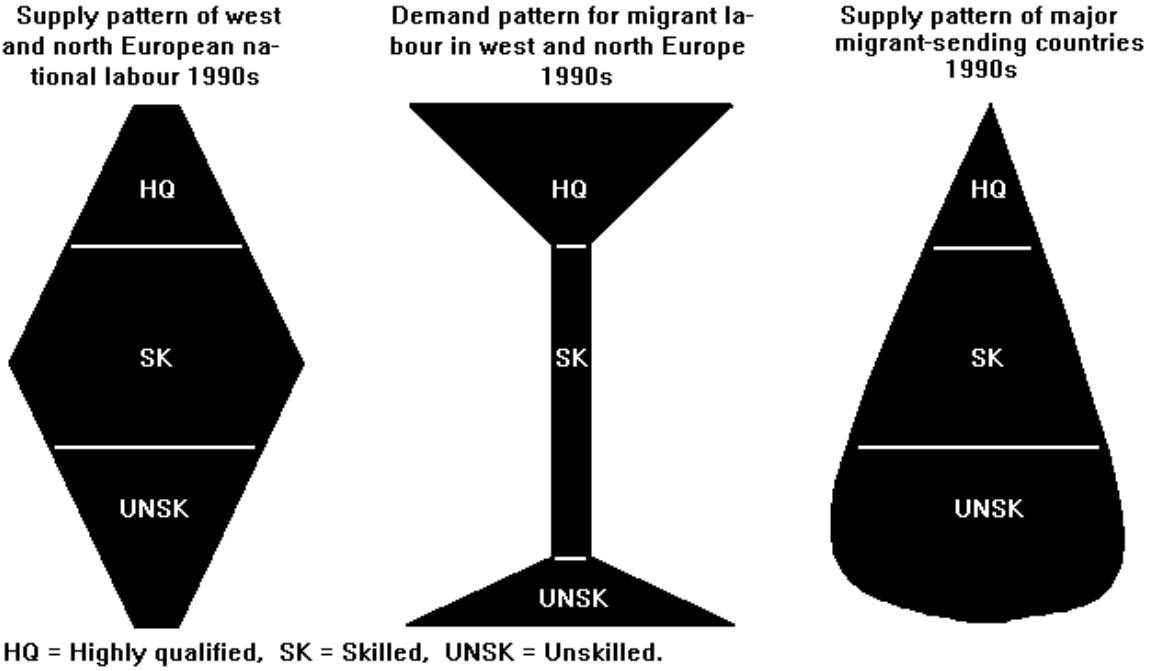
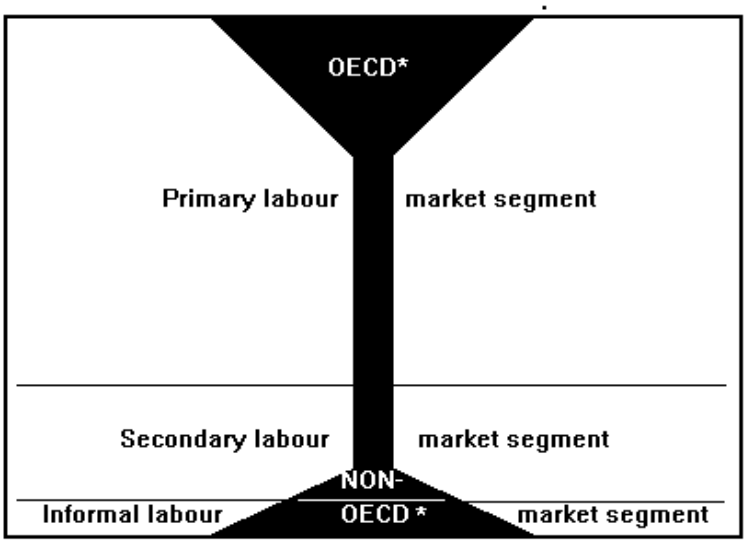


Figure 8. National, OECD and non-OECD labour supplied in different segments of western and northern Europe's labour markets, 1990s



OECD excluding Turkey, non-OECD including Turkey

able extent located in the informal labour market, where its relative weight is disproportionately large.

A comparison of **figures 6** and **8** suggests that the informal labour market has grown relative to the two other segments, mainly at the expense of the primary labour market. Many of the *non-OECD* labourers who were previously employed in the secondary labour market have dropped into that informal sector.

Training the light on southern Europe in the mid-1990s, **figure 9** shows a typical *top end-bottom end dichotomy* in the demand pattern for foreign labour. It is evident that both ends of the (combined Greek, Italian, Portuguese and Spanish) migrant labour pattern are quantitatively much less important at present than is the case either in western and northern Europe or in the U.S.

The corresponding rectangular representation that picks up the segmentation of the region's labour markets and the OECD vs. non-OECD distinction can be seen in **figure 10**. A notable feature of that figure is the importance of the informal sector and the fact that it absorbs the bulk of the *non-OECD* labour.

The explanation of the funnel shapes at the *top end* of the migrant labour patterns at the centre of **figure 7** for western or northern Europe and of **figure 9** for southern Europe is the same as in the case of the U.S.: the quest for economic growth in a global and competitive environment.

The reason for the existence of the upside down funnel shapes at the *bottom end* of the migrant labour patterns of **figures 7** and **9** is also the same as in the U.S.: the refusal by nationals to fill unappealing jobs to the extent they are available.

3. Policy problems

The visualization that started with the U.S. in the last century and went on to southern Europe in the 1990s traces a distinct change from a pyramidal form towards a top end - bottom end dichotomy of highly qualified vs. unskilled labour. It also locates today's *bottom end* intake of foreign labour increasingly in the informal sector.

The informal or illegal employment of foreigners is not confined to bottom rung jobs, but it is a structural feature of those jobs. It is visible as much in the unauthorized employment of Mexicans in south-western U.S. agriculture, for example, as it is in the hundreds of thousands of eastern Europeans and others on German construction sites and of the tens of thousands of Africans, Asians and Latin Americans in Spanish services. The actual jobs involved may vary in the course of time; the structural determinants may not be immutable; yet whether these determinants are strong or weak, direct or indirect, they are invariably operative in well-off societies.

The **United States** seeks to cope with the influx of foreigners into *unskilled jobs* by a policy of *settlement* that aims at assimilation based on rapid access to citizenship. Its settlement orientation for legal foreign labour is based on the assumption that the persons who migrate,

Figure 9. Pattern of skills supplied by nationals, and pattern of demand for foreigners, in southern Europe, 1990s

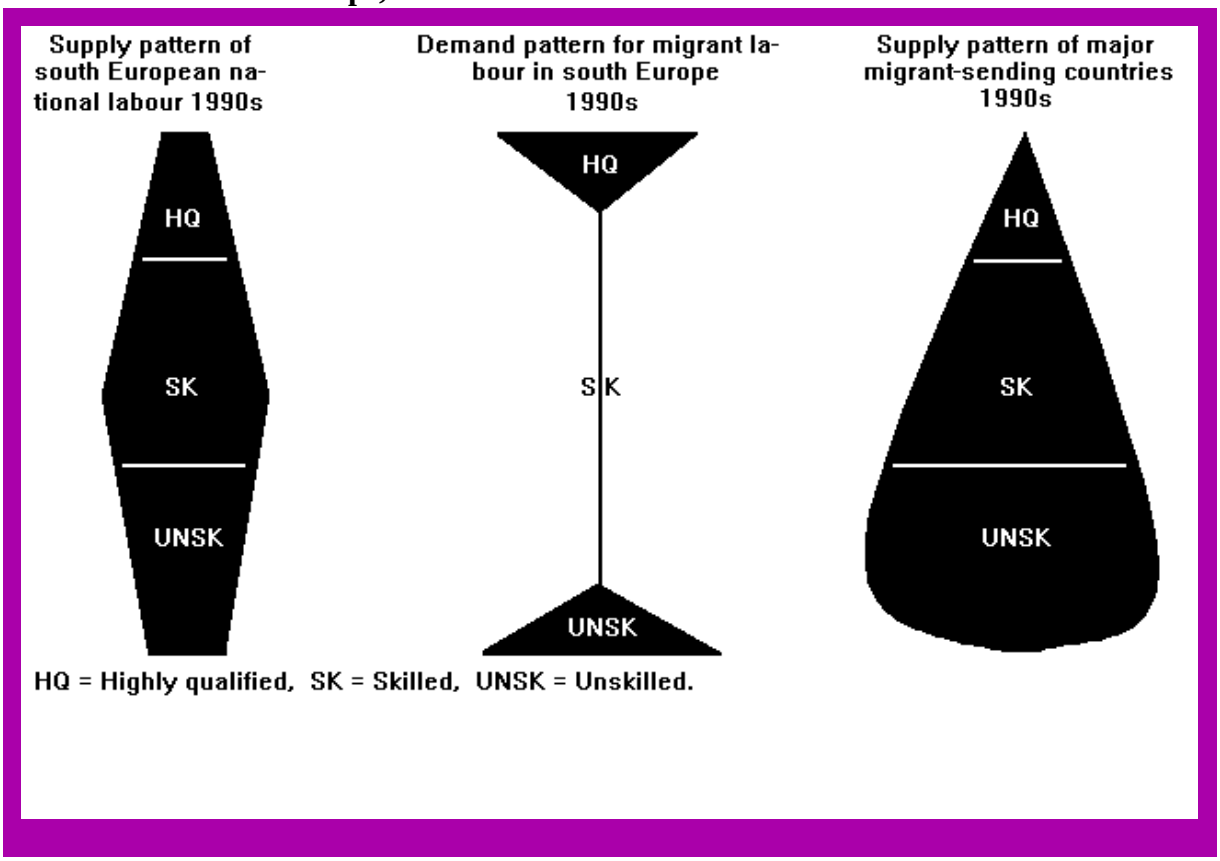
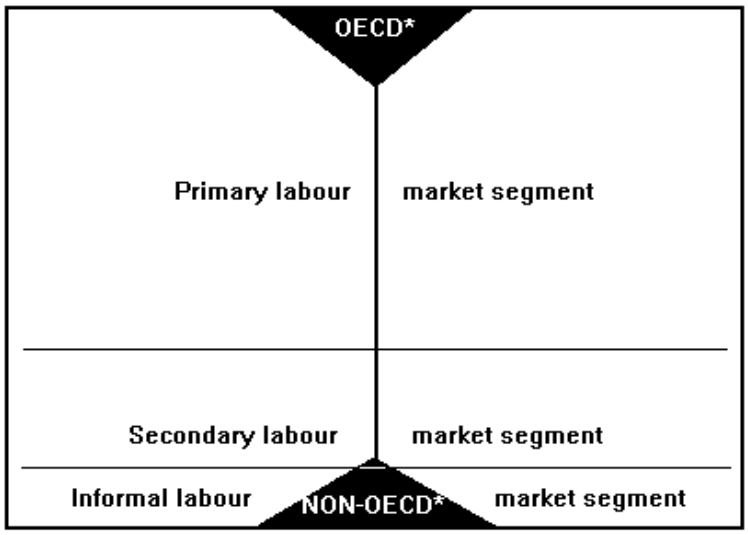


Figure 10. National, OECD and non-OECD labour supplied in different segments of southern Europe's labour markets, 1990s



OECD excluding Turkey, non-OECD including Turkey

or their descendants, will sooner or later enjoy upward social mobility, i.e. that they will leave the bottom rungs of society. The U.S. population judges this to be legitimate and likely. The way in which one generation of newcomers is believed to move up and to be replaced by a new generation at the bottom of society (even though this may be only a half truth and quite untrue for the descendants of black slaves), permits society to defuse tensions that could build up between its bottom layers, on the one hand, and its established middle classes or rich groups, on the other. Such an immigration policy is, in principle, *sustainable*.

Two further factors reinforce the sustainability. First, the U.S.'s intake of *legal* foreign labour into bottom end jobs is quite marginal. Second, many of the problems that one might expect to be associated with low level labour import policies are prevented from occurring because the bulk of unskilled foreigners are kept out of society through their *illegal* status.[1]

Europe's situation has similitudes as well as differences. The differences render European policies unsustainable in the long term.

What is similar in the U.S. and in Europe is the large-scale informal employment of foreigners in *bottom end* jobs. Europe admits more foreigners into unskilled workplaces under legal auspices than the U.S. does, but that is not where the significant differences lie. Europe's problems derive from its basic policy concepts, its accumulated historical legacy and the current trend towards a split in European societies.

Europe's policy concepts were decidedly not settlement oriented 30 years or so ago, nor are they settlement oriented today. Temporariness was the guiding principle of the 1960s. Most **western and northern European countries** declared that principle to be no longer valid sometime during the 1970s. They replaced it by unclear *integration* policies: policies whose aims were unclear or even contradictory and whose means never measured up to the challenge they were supposed to address. Furthermore, the host populations in their great majority did not really want the foreigners and their descendants to stay; and they did not judge the migrants' upward mobility to be normal or desirable as a societal goal. The result was that, in western and northern Europe, the 1960's bottom rung placement of millions of migrants remained bottom rung employment throughout the 1970s and thereafter.

When the **southern European countries** started to have significant numbers of *non-OECD* citizens on their territory in the 1980s, they effectively replicated the western and northern European policies: in the beginning by professing that the *non-OECD* labour was only a temporary phenomenon and was merely stopping on its way North; later on by taking the first steps towards integration policies through regularization measures (at least in Italy and Spain and, more recently, in Portugal). They did not, however, follow the U.S. amnesty philosophy which enables regularized foreigners to settle. All the time the influx continued quite unchecked into the informal sector, as it did in western and northern Europe.

Unfortunately, the whole of Europe was beginning to be strongly affected by the cold winds of globalization, the rapid shift of labour-intensive manufacturing to East Asia and the concomitant disproportionate unemployment among unskilled workers or in traditional industries. The combination of these factors, underpinned as it was by a political climate that favoured de-regulation of the labour market and which tolerated unequal income distribution to a greater extent

[1] This matter-of-fact statement is not meant to condone that practice. The US government, indeed, does not condone it either.

than previously, has led to a situation where the cleavage in our societies between the poor and the others becomes wider and where the poor are increasingly composed of foreigners and their descendants.

4. Conclusions

The upward mobility that settlement orientation promises in the U.S. will in European societies remain an exception rather than the rule because of both the underlying policy *concepts* and the impact these concepts have on the *willingness of society* to accept foreigners' upward mobility as desirable and worthy of public support, including in the form of strong measures against discriminatory behaviour.

If a change in policies is not forthcoming, the rich - poor cleavage in European societies will increasingly take on an *ethnic* dimension, which will reinforce that cleavage and cause heightened *tensions* between the poor and the others as well as between the *national* poor and the *foreign* poor. The current basic policy is illogical and, in essence, *unsustainable*. One cannot feed people into the bottom rungs of society and then somehow expect them to move up if the policies, institutions and measures disable them from moving in the upward direction! The scheme below summarizes the policy options.

In my view, there are essentially two ways in which to defuse this potentially explosive situation in Europe. One is to **change towards a U.S. like settlement orientation**, starting with a fundamental recasting of European policy *concepts* and follwing it up with a decisive *educational effort* led by governments and the school system to win over the great majority of the population to that policy.

The other is to **satisfy the *bottom end* labour requirements with a *truly temporary* labour import policy**, where staying on happens only on a negligible scale or where it is ensured that neither employers nor migrants can abuse that policy.

Scheme. Intra-societal tensions associated with basic policies and the sustainability of these policies

Top end - bottom end dichotomy	Type of labour import policy		
	Settlement orientation	Unclear integration	Strictly temporary
Highly qualified OECD labour	Practically no tensions, sustainable.	Practically no tensions, sustainable.	No tensions, sustainable.
Unskilled non-OECD labour	Potential tensions, but sustainable.	Potential tensions, not sustainable.	No tensions, sustainable.

List of International Migration Papers

1. Abella, M.I.; Park, Y.-b.; Böhning, W.R.: *Adjustments to labour shortages and foreign workers in the Republic of Korea* (Geneva: ILO, 1995).

2. Brown, R.: *Consumption and investments from migrants' remittances in the South Pacific* (Geneva: ILO, 1995).

3. Kuptsch, C.; Oishi, N.: *Training abroad: German and Japanese schemes for workers from transition economies or developing countries* (Geneva: ILO, 1995).

4. Bovenkerk, F.; Gras, M.J.I.; Ramsoedh, D., with the assistance of Dankoor, M.; Havelaar, A.: *Discrimination against migrant workers and ethnic minorities in access to employment in the Netherlands* (Geneva: ILO, 1995).

5. Abella, M.I.; Lönnroth, K.J.: *Orderly international migration of workers and incentives to stay - options for emigration countries* (Geneva: ILO, 1995).

6. Ventura, C.: *From outlawing discrimination to promoting equality: Canada's experience with anti-discrimination legislation* (Geneva: ILO, 1995).

7. Goldberg, A.; Mourinho, D.; Kulke, U.: *Diskriminierung ausländischer Arbeitnehmer auf dem deutschen Arbeitsmarkt* (Geneva: ILO, 1995).

8. Böhning, W.R.; Zegers de Beijl, R.: *The integration of migrant workers in the labour market: Policies and their impact* (Geneva: ILO, 1995).