

ORGANIZING WORKERS IN CENTRALIZED BARGAINING SYSTEMS

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Unions' decline is prevalent in most western democracies (Blanchflower 2007). Decline takes many features – decreasing bargaining power, reduced role in political negotiations, reduced coverage of collective agreements, shallow bargaining (in terms of topics covered and the extent of workers rights), and declining membership rates. In this article I would like to focus on the latter aspect. The article discusses the need for organizing members, and the different implications organizing may have in different industrial relations regime. I argue that organizing is a necessary component of trade union revitalization strategies in most countries. Only when the individual incentives to join a trade union are very high can trade unions forgo the task of organizing. In all other cases, recruiting new members is necessary for revitalization. However, even this wide-spread need is not a uniform strategy. The need to organize and recruit new members is dependent on the institutional design of the industrial relations system. Hence it is argued that there are *logics of organization*. The article focuses on systems that maintain a structure of centralized bargaining. It is argued that in such systems that need for recruiting new members is not always readily apparent. Moreover, in such systems the organizing of workers runs into an internal contradiction, whereby the reliance on the more developed strategies for organizing that were borrowed from the liberal systems, notably – the United States, may undermine the comprehensive coverage and centralized nature of the system. More specifically, it is argued that in the process of adaptation there are two basic tracks: (a) organizing within the centralized tradition, where the expected benefits and risks are high, and (b) organizing according to the decentralized systems' method at the enterprise level, where the benefits and stakes are high. The former will be demonstrated by a Dutch example and the latter by an Israeli example.

A. THE SIGNIFICANCE OF MEMBERSHIP

Although membership rates in trade unions are usually in decline, with only a few states demonstrating other trends, the significance of declining membership rates is not uniform across countries. That is, similar phenomena in diverse industrial relations systems cannot be easily commensurable and compared (Locke & Thelen 1995). The reason for the differences is rooted in the fact that although membership rate is the most common measure for union density, it is not identical with union strength. The most striking example to that extent is France, where the gap between membership and coverage rates is enormous, and over time – as membership declined, coverage increased. A similar gap can be seen in Austria, where almost all workers are covered by collective agreements due to the compulsory membership of employers in employers' associations. However, membership rates in Austria are dipping as well. In both France and Austria, coverage of agreements continues because it is not dependent on membership rates but on other legal arrangements and political circumstances that ensure comprehensive coverage.

At the opposite side, in countries in which bargaining is enterprise based, workers' membership is significant. A threshold of membership is usually necessary to allow collective bargaining rights. Once the threshold is achieved and collective bargaining

materializes, coverage may extend beyond membership, but the gap between the two measures is relatively slim.

The difference in the significance of membership rates to understanding union power is based first and foremost on the institutional and moral structure of collective bargaining. Crudely speaking, two competing perceptions of association are at stake. In liberal (plural) systems, freedom of association is conceived as a grassroots process in which individuals want to come together and delegate their individual power to the trade union that represents them. In the centralized systems of collective bargaining, the power of trade union is delegated, first of all, by the state. Associations of workers and employers are recognized and supported by the state, designated as social partners (to policy making) and the collective bargaining is considered to be a means of advancing a well-ordered system of interests representation. Unlike the grassroots image of associations, the centralized systems present a top-down version.

Workers' membership in trade unions has a different function in each of the two systems. Membership is more crucial to the pluralist systems, whose source of power is in the members themselves. The importance of membership in the systems that are based on centralized bargaining is more tenuous. Arguably, the systems can continue the centralized bargaining patterns despite shrinking membership rates. However, membership provides legitimacy to the system of collective bargaining. Moreover, membership is important for the financing of the trade unions.

The single most effective method of maintaining membership in centralized systems is the "Ghent system" (Western 1997). In the Ghent system the state delegates to the trade union an important social function as a way to ensure high rates of membership. The most typical variation of the Ghent system is when the state delegates the function of providing unemployment funds. Until the mid-1990s Israel had an even more ambitious Ghent system in which the state de-facto delegated health care provision to the trade unions. Where a Ghent system is in place, it is considered to be the predominant reason for individuals to join the trade union (Haberfeld 1995). This may seem somewhat paradoxical, because trade unions in states where the Ghent system is in place are not reliant on membership levels in order to participate in collective bargaining. Rules of trade union recognition in these countries are not particularly stringent, and they are clearly more loose compared to countries where trade unions struggle for membership such as the United States.

The liberal and the centralized systems with a Ghent system in place therefore present two dichotomous options regarding the importance of membership. In both membership is important. In the former, membership must be obtained by a grassroots building of commitment. In the latter, membership is secured by the incentives provided by the state. In the former, the burden on recruitment is on the trade unions, while in the latter, unions do not need to exert an effort to secure membership. Paradoxically, the weak trade unions movement in countries such as the US, must be the most creative in attracting new members, and must invest money and power to advance association. By contrast, strong trade unions in countries such as Sweden and Belgium, do not need to engage in organizing at all, and their membership is between 7 to 9 times as high as that of the trade unions in the US. Trade unions where the Ghent system is in place are rationally lazy.

In between these two options, there are systems where membership is not easily accounted for. There can be several situations that don't fall into the abovementioned categories, but here I will be particularly interested in systems with centralized bargaining (or ones that had centralized bargaining at the time when union membership was high) and in which no Ghent system is administered. These will be designated hereon as *hybrid regimes*. In these systems, the nature of membership recruitment raises a dilemma: on the one hand, centralized coverage is not the product of membership rates. On the other hand, the declining membership rate may risk a legitimacy gap. The term 'legitimacy gap' indicates the flip side of the more familiar 'representation gap'. A representation gap occurs when workers want to organize but for various cannot, and hence – the share of membership is smaller than the workers' preferences (Freeman and Rogers 1999). A legitimacy gap occurs when the union strength as measured by, for example – coverage, is greater than the membership rate and hence may seem to exceed the workers' preferences (Mundlak 2007).

B. IS INCREASING MEMBERSHIP NECESSARY?

The notion that trade unions must organize and recruit new workers is not altogether obvious. Arguably, unions can pursue other modes of activity for revitalization. Frege and Kelly (2003) list six potential strategies for union revitalization:

- Organizing – recruiting members
- organizational restructuring - mergers and internal re-organization
- coalition building with other social movements
- Partnerships with employers
- Political action
- Developing international links.

The authors further note that despite rather similar challenges unions face in industrialized countries, the trade union movements in different countries choose different strategies for revitalization. It seems that these are substitutes, a list of strategies from which the trade unions can select at will. However, institutional variations across countries determine the priority of some strategies over others. For example, political action is more likely in countries in which the trade unions have some political leverage, and not in the United States where they are legally removed from effective political lobbying. Developing international links is more likely in the European Union where regional networks are stronger, than in regions where inter-state coordination is weaker. Moreover, some strategies may undermine others. For example, partnerships with employers can also be alienating for the membership. Similarly, recognizing and cooperating with social movements can also undermine the privileged role of trade unions. While such cooperation can be viewed as a relationship among complementary associations, they are also rival organizations competing for the role of representation.

But can the strategy of organizing workers be avoided? In the pluralist regimes, the answer is clearly no. Much of the legal and industrial relations literature in the United States over the last decade has dealt with the process of organizing workers (Bronfenrenner et al 1998; also see Gall 2006 on the UK). Without a threshold of membership the unions don't have neither industrial (grassroots) or legal (top-down)

power to negotiate collective agreements. By contrast, in the systems supported by the Ghent system, recruitment is unnecessary. The state has created an institution that ensures ongoing broad membership.¹ In the exact opposite to the trade unions in liberal economies, the trade union doesn't need to organize because membership is secured and relatively less important for the trade unions' power. It is mostly a legitimating device for social partnership.

Hybrid regimes pose the more interesting challenge. In these states, centralized bargaining patterns resemble those of the Ghent states – relatively centralized and concentrated. Bargaining is at the industrial, occupational or state level. The legal power of the trade unions is not dependent on the majority of membership as is the case in the United States. It would therefore appear that like in the Ghent system countries, there is no real incentive to organize. At the same time, without the Ghent system in place, the legitimacy gap is more striking. Moreover, in some sectors the trade unions can't even reach the minimal threshold necessary (if at all) for recognition.

The various reasons for organizing membership in hybrid regimes can be classified into two groups. The first is that organizing is necessary as a threshold for complying with legal power vested by the state (the top-bottom source of unions' power). The second is that organizing is not formally necessary, but increasing membership rates is important to secure the legitimacy of the union. The two countries compared hereinafter designate these two variations. In Israel, declining membership results in the loss of legal power, particularly with the move from centralized to decentralized bargaining (see part 3, *infra*). In the Netherlands there are no legal thresholds of membership that are necessary as a condition for bargaining, nor is there a status of a representative union. The problem in the Netherlands, and to a lesser degree in Israel (although it is still part of the problem) is that the state's endorsement of collective bargaining as a mode of social governance is being challenged on the basis of the argument that even the workers don't want the union.

The legitimacy problem requires further clarification. All systems of industrial relations require a certain aspect of coercion (Offe 1985). Collectivities cannot be wholly open for exit-at-will or for market based transaction, because the mere notion of collective action assumes that the groups is somehow locked into a voice mechanism. Coercion can take the form of violent behavior towards non-members or strike-breakers. Other time coercion can be provided by the state. Extension of agreements (Netherlands), requirement to pay agency fees to the negotiating trade union and employers association (Israel), or compulsory membership of employers (Austria) are all varieties of institutionalized coercion. They clearly do not raise the same concerns as violent behavior. However, any form of coercion requires both legal and social forms of legitimacy. Extending an agreement signed by a union who no longer represents but a small fraction of the workforce is more difficult to legitimate than the extension of an agreement to a handful of employers who want to undercut the agreement of the majority of employers. Even if we forgo the democratic criterion

¹ The effectiveness of the Ghent system may change over time, as private insurance arrangements or comprehensive insurance plans may gradually substitute the unemployment funds the trade unions administer and provide. There are however reasons to doubt this process of substitution, particularly given the relatively comprehensive plans provided by the trade unions. I will therefore leave the future of the Ghent system aside.

of majority (51%) and adopt instead lower thresholds (more workers want than oppose; a threshold of a third of the workforce and the like) – the threshold must be chosen with the thought of legitimizing coercion.

The difference between the legal and the non-legal needs for membership is therefore not a moral difference. The need for membership in centralized industrial relations systems is based on the need for legitimacy. It is a substitute for the grassroots function of membership in liberal economies. There is a concern that the constitutional court, the legislature, or the public will question, and consequently act against the centralized system of bargaining.

In this sense, other than in the Ghent system states where organizing is not necessary, trade unions cannot really forgo the strategy of organizing workers as part of their attempt for revitalization. Alternative strategies will become less effective over time. Political action or agreements with employers under circumstances of declining membership risk the legitimacy problem. Other times, legislators and employers will argue that they no longer want to negotiate with the trade unions as social partners, given the sinking membership rates. Alternatively, if the legislator and executive branches, or even employers, want to continue with the trade unions despite the sinking membership, there is a substantive risk that such agreements and political pacts may not be in favor or to the interest of the workers or of the citizens.

I would argue that a focus on expanding membership is crucial as revitalization technique and cannot be really substituted by any other strategy. This is not to say that it is the only strategy or even the most important one, but I argue it is a necessary one. However trade unions, particularly in centralized systems do not always consider it to be as such. In fact there is little documentation or even indication of serious organizing attempts in centralized systems. This can be partially a result of past inexperience (whereby broad membership was assumed), or of the belief that the effects of low membership rates can be thwarted. Moreover, it can be a result of an unclear message organizers need to convey in hybrid systems.

C. THE DILEMMA OF ORGANIZING STRATEGIES IN CENTRALIZED SYSTEMS

What do unions have to offer workers when organizing? How can they recruit workers? Recruiting members requires to respond to individual needs or interests. Mobilization theory suggest that unionization responds to a sense of injustice (Kelly 1998). This may be a result of various problems in the workplace: inadequate compensation or economic rights, non-compliance with existing rights, the desire to be treated with a greater level of dignity, the desire to participate in decision-making, particularly with regard to matters that are important to the workers, or the desire to demonstrate an objection to policies that extend beyond the particular workplace. Recruiting members is more likely to succeed at times when workers have a sense of deprivation with regard to any of the above-listed items.

However, the list of items a union can pursue to encourage membership is not uniform. Pursuing macro-political issues (such as state-spending) is very different from promising workers to pursue their grievances or to increase wages. Mobilizing political change can be responded by other strategies, as is well demonstrated, for

example, in France. The flip side of the coin is that pursuing grievances can be addressed by organizations other than trade unions, such as human rights or community-based organizations. Hence, unions may opt for other strategies, and workers may prefer non-union options. Moreover, the institutional structure of collective bargaining matters. Promising wage raise in a system where enterprise bargaining prevails, such in the United States, is very different from making such a promise where collective bargaining exceeds the single workplace. Where enterprise bargaining prevails, particularly if there is a need for achieving the status of a representative union, each worker's vote counts. By contrast, when bargaining is conducted at a national level, the link between's any one individual's membership and the outcomes is more tenuous.

When attempting to organize workers the union must also make the workers be aware of the costs. One such cost of is the payment of membership dues (usually a monthly membership fee). However there also less explicit costs, but which may exceed by far the costs of union dues. First, there is cost of employers' objection to organizing. If unions organize workers to increase their wages or pursue their grievances, then employers have a greater incentive to intervene and impose a penalty on the workers. Such penalties may include termination of employment, compensating workers who do not join the union (a 'negative' cost), relocation of the undertaking and laying off the workers and the like. Some of the employers' strategies are universally unacceptable and considered to be in violation of human rights, rights of citizenship, or constitutional rights. Other strategies maybe legal, yet still impose a high risk on the workers' sense of security. A second type of latent costs may be some aversion to unions, collective forms of representation. These may evolve from distrust in trade unions and their past practice. For some, being part of a collective may seem, even if only at first, to be a vice and not a virtue.

Both gains and costs are not imminent. Wage gains cannot be promised to the members because the union's success in achieving such gains are dependent on numerous factors – some are related to the trade union's strategy and hence within its control, and some are related to the economic environment. In a relative competitive market where bargaining is at the enterprise level, the leverage for bargaining wage gains is smaller than in the public sector or in monopolist sectors (such as public utilities). Wage gains in sectors where there are centralized collective agreements are most difficult to achieve compared to sectors where no such agreements exist. In the latter case, there is an important role for public intervention and support to collective agreements. The costs are just as contingent. Employers' incentives for retribution against workers who seek to organize are contingent on the significance of sustaining a non-union establishment. Where collective agreements are centralized, and particularly where extension orders prevail, the significance of remaining non-union is very different from an establishment that is wholly outside the collective bargaining circuit.

In a pluralist system, the stakes in organizing drives are high. The alternative is a union-free environment, in a relatively slimly-regulated environment. The bargaining is usually enterprise-based, and some threshold of membership is necessary for trade union recognition (Gall 2006). From the employers' point of view, the cost of the marginal member to the union maybe very high, if that member can tilt towards recognition. From the workers' point of view, the stakes and the risks are high.

Without reaching a certification status at the workplace, the whole organizing drive is wasted. Trade union certification, based on membership levels, is a necessary threshold for making an individualized bargaining workplace into a collective one. The employer has a strong economic incentive to adopt union-busting techniques.

In a Ghent based system the opposite holds true. All employers are for the most part strongly affected by the collective system. Most workers are members to begin with. Ghent systems also maintain centralized bargaining patterns (although this is not a necessary relationship, but merely an empirical one), and therefore most employers are covered by agreements anyway. Workers don't need an organizing drive. The state has provided them with an incentive to join the union, and many may see membership to be a by-product of the incentive (rather than the other way around). For example, many workers in Israel – until 1995, viewed trade union membership to be a byproduct of membership in the union owned and operated health care provider. Employers have little incentive to object to workers' membership in unions. In fact, many individuals who compose the class of employers may have family members who are affiliated with the trade union as well.

The dual extremes are therefore:

Pluralism: strong incentives for unions to organize, high risk and high stakes for workers and employers alike. → organizing strategies (as well as employers' resistance strategies) are innovative.

Ghent system: very weak incentives for unions to organize, low risk and low stakes for workers and employers alike. → little need for developing organizing strategies (and for employers to resist membership drives).

In between the two extreme options – what do unions do to organize in the hybrid systems? Following are two examples – one from Israel and the other from the Netherlands. The two examples demonstrate the problematics of organizing in hybrid systems. In both, the Ghent system is not a political option for revitalization, and therefore in both systems there is an attempt to adopt American methods of organizing, the variations of adaptation and their limits.

D. TWO EXAMPLES OF ORGANIZING IN HYBRID SYSTEMS

The two examples of a hybrid system are demonstrative of an important feature which is pivotal to understanding the problem of organizing: in these systems there is a mismatch between membership and coverage levels (Cohen et al 2003). In both countries the gap between the two measures was lower in the past and is gradually expanding. The disparity is an outcome of the strong legal and industrial institutions that are in place to ensure a relatively broad application of the agreement, regardless of membership rates.

I. ISRAEL

Israel was characterized in the past by a highly centralized and concentrated system of industrial relations. Until the early 1980s, more than 80% of the workers were organized, and a similar rate of workers were covered by collective agreements. Agreements that were extended beyond the bargaining domains ensured an even

higher level of coverage. The high levels of membership and coverage alike were made possible, inter alia, by an improved version of the Ghent system, whereby the trade unions administered health care provision. Hence, most people who wanted to have health care were required to join one of the two unions that provided health care services.

Since the early 1980s there was erosion in the strength of the trade unions and of the corporatist systems of interests representation. In 1995 the Israeli version of the Ghent system was removed, with the nationalization of health care provision. Consequently, membership rates declined steeply- approximately 15 percentage points until the health care reform, 15 percentage points in the years following the reform (1995-2000) and approximately an additional 9 percentage points thereafter (2000-2006). By 2006, membership rates have declined to approx. 34% of the workforce².

The patterns of coverage were somewhat different. In the past, most workers were covered. This was due to the broad application of sector-wide agreements, some of which were extended. The decline in coverage was from approximately 80% (not counting those who are affected by extension decrees) to approximately 56% by 2000, stabilizing at that level (2006 rates have remained the same). That is – the decline in membership is greater than the decline in coverage, and the gap between the two is continuing to grow, as membership continues to decline and coverage remains constant.

While coverage rates remained the same, the importance of centralized bargaining has been in decline. The data demonstrate that already before the drop in membership began, the relative importance of centralized bargaining has given place to more company-level (in the private sector) and occupational agreements (in the public sector). While extension orders still exist, there is a growingly diminishing use of this procedure. This is a result of two reasons: the decline in the number of sector-wide agreements, and the diminishing percentage of such agreements that are being extended (Kristal and Cohen 2007).

The uneven decline in membership and coverage, as well as the decentralization of collective bargaining have resulted in the growing rate of inequality among workers, as well as the opening of a wage gap between workers who are employed in organized establishments (measured by both measures of membership and coverage), and those who work in unorganized establishments. While the ‘new economy’ is unorganized and outside of the coverage of collective agreements, yet still with high wages, other branches of the economy, experience a growing union wage premium. When looking at coverage rates, availability of pensions and other fringe benefits (such as deferred compensation funds), enforcement of statutory rights, there is a growing discrepancy between organized and non-organized establishments (Mundlak 2004; Kristal, Cohen and Mundlak 2007). Moreover, there is a growing disparity between core and peripheral workers, as ‘atypical’ arrangements are becoming typical, and sometimes even standard for some occupations. Security and cleaning services are commonly employed through subcontractors. Construction and agriculture commonly employ

² Current estimates are provided by Yinon Cohen, Itchak Haberfeld and Guy Mundlak on the basis of a survey conducted in November 2006, the outcomes of which are currently being analyzed.

migrant workers. The use of workers hired through temporary work agencies proliferated.

The growing disparity in wages and benefits, coupled with the decentralization of bargaining, have brought about an interest in organizing that started in the mid 1990s, just as the Israeli version of the Ghent system was removed. Most of the organizing attempts came from the bottom up, with workers who were dissatisfied with their work conditions. Organizing was more typical in establishments where no sector-wide agreement prevailed. Several attempts that reached a high visibility were in the transportation sector. From the outset, the employers' response has been determined to prevent the workers' organization drive. Adopting the American response to organization drives, employer dismissed the leaders of the organizing drive, and sometimes even the whole organizing group.³ Employers sought to deny entry of organizers into their property. When workers tried to reach the necessary level for achieving a representative status (a third of the workforce), employers sought to discourage workers from joining the union by means of threats or positive incentives (bonuses) for workers who opt out of the union.

One of the most visible cases was that of the organization drive in the Haifa Chemicals (Southern Plant).⁴ In 1996 Haifa chemical's northern plant tried to terminate all the pre-existing collective agreements. After several months of industrial action, an agreement of continuation was signed. At the time, the company opened another plant in the south which started at the outset as non-union. Workers wanted to address what they viewed to be a harsh behavior of management, and most notably – disrespect for workers' interests in assigning night shifts. In fact, they were not seeking (at least at first) to raise wages. They secretly started recruiting workers to join as members of the General Histadrut. Yet as the employer realized what was happening, a major objection for the drive led to a strike. During the strike, there was physical violence against the workers, trespass into the employer's site, objection to negotiations, even with the manager of the General Histadrut who came to join the workers on-site. When the organizing drive continued, the employer quickly established a company union and encouraged workers to join the company union instead. The workers turned to the Labor Court for help, and received a favorable decision. However, the decision was handed only several months after they petitioned the court. By then, the organizing drive was halted, and the employer's strategies of 'divide and conquer' irreversibly weakened the organizing drive.

The high risk equilibrium: The organizing attempt at the Haifa Chemicals southern plant is symptomatic of the few organizing attempts that have taken place since the Ghent system was removed (1995). These attempts are characterized by efforts to organize at the workplace level, with organizing serving as a pre-condition for enterprise-based collective bargaining (with an attempt to reach an agreement); high stakes for the employers (wage increase, better enforcement of statutory laws, grievance procedures); developed strategies of resistance, and consequently high stakes for the workers who seek to organize as well. This is a high risk equilibrium in which all the parties have much to lose (employer – if the drive succeeds, and the

³ Cite cases – Gat/Tapuz; Horn & Leibowitz;

⁴ This description is based on the documentary file "Strike", directed by Assaf Sudrey and Amir Tausinger; the court findings in ***; and interviews with the film directors' and the attorneys who represented the organizing workers.

workers – if the drive fails). Consequently, their strategies are devised for such an equilibrium and tend to be relatively volatile.

II. NETHERLANDS

The Netherlands, while generally a system that is based on concentrated bargaining structures, does not rely on the incentives of the Ghent system. Consequently, when compared to its neighbors – Belgium and Denmark, the Netherlands displays a growing disparity between high coverage levels (still ranking at the 80 per-cent level; 85 per-cent with extension decrees - AVV) and a relatively rapid sinking membership rate. Recent estimates for membership are at the range of 24 per-cent. Although there was a slight increase in the number of members throughout the 1990s, the growth in membership was still smaller than the growth of the workforce, and hence the share of members among the workforce is in decline.

The disparity between membership and coverage is a result of several inter-related features of the Dutch industrial relations system. On the one hand there is emphasis on sector-wide bargaining. Within the bargaining domain, under the 1972 Collective Agreement Act, employers must apply the agreement's conditions to all comparable employees, including those who are non-members or members of other unions. Outside the bargaining domain, there is a generous use of extension decrees (AVV) (Jacobs 2004). On the other hand there is no status of a 'representative' union and trade unions do not need a minimal threshold of membership to organize workers. Moreover, employers may need to negotiate with several trade unions, which is often the case. The incentive to organize with all the trade unions in the workplace, even if they only enjoy small membership rates, evolves from the employer's interest in securing the peace clause, and reaching a stable and lasting agreement to which all the unions will feel responsible (Visser & Hemerijk 1997). The practice of signing with several unions decreases the unions' need to recruit members. Hence, the system does not seem to rely on membership for its continuance. Membership rates may influence the employers' perception of the trade unions' strength. However, there are other factors taken into consideration when negotiating sector-wide agreements which can offset the decline in membership.

While the Dutch system maintained much of its centralized (even if not concentrated) nature, there is a growth in enterprise-based bargaining over the last decade. In the past, enterprise-based relations were channeled through the works councils, although these do not have the formal power to conduct collective agreements. More recently, there is a growing occurrence of enterprise-based collective agreements. Some of these agreements supplement sector-wide agreements, and others can be found in enterprises that are not otherwise covered. Approximately 14% of the workers are covered by company agreements, compared to 60% who are covered by sector wide agreements (68% including those covered by extension orders).⁵ Branch agreements also cover workers who are employed in 'atypical' contracts, such as workers who are hired through temporary work agencies.

⁵ EIRO TN0403105u; NL0209102s; NL0601103f

Despite the slacking rate of membership, the issue of organizing was not intensively pursued by the trade unions for many years. However, the decreasing membership rates did have a political effect. Most notably since the late 1990s there is a growing criticism of extension orders that make collective agreements binding. It is argued that trade unions are no longer representative and therefore their agreements should not be made binding on the many employers and workers who may not want them to begin with.⁶

One example of a recent organizing drive is of particular interest – the FNV Bondgenoten’s organizing of cleaning and security staff. The FNV Bondgenoten is one of the larger unions. Its leaders met American organizers who described to them the Justice for Janitors Campaign (hereon: *JJ strategy*). They decide to adopt and adapt this model to the Dutch reality. Hence they recruited a handful of organizers who started contacting workers one by one.⁷

The *JJ strategy* was used to promote the organizing of janitorial staff employed through manifold contractors, servicing large office buildings in the Los Angeles district. The fragmented mode of employment renders conventional organizing strategies ineffective. Enterprise-based bargaining, coupled with small bargaining units, and particularly – the splitting of bargaining units among branches of the same employer, prevent acts of solidarity among janitors. The strategy sought to promote some sense of sector (as well as region) by shaming the owners of large office buildings and pressuring them to ensure their contractors are upholding the janitors’ rights and negotiating with the union. This was one of the more innovative and successful organizing campaigns in the United States.

The adaptation of this strategy to the Netherlands emphasized the immediate and direct contact of the organizers with the workers. It is a one-on-one organizing effort, in which the organizers try to identify the key-workers in any given workplace, and through them to recruit other workers. Moreover, the organizers seek to enter the premises of the users of services in order to talk to the workers. While this is clearly considered to be a private property in the United States, the movie depicts that situation is more ambiguous in the Netherlands. Generally the users are reluctant to provide free access to the organizers, but their position is less vehement compared to the US (or Israeli) employers. The organizers further try to bring together leading workers from various enterprises, to hear from them on how to best organize their peers, and to foster a sense of solidarity among workers who are similarly situated.

The centralized nature of bargaining in the Netherlands somewhat muddles the organizers’ message. In fact - different types of messages are conveyed: first of all – dignity at work, second – someone to represent you against management, and thirdly – a vague promise for a wage raise. The latter promise is somewhat difficult to guarantee, because there are sector wide agreements for these workers, and it is unlikely that a company agreement can significantly change the wage level over and above the sector agreement. Nor is there a declared intention to develop company

⁶ EIRO NL0209102

⁷ The documentary film *‘We Fight for You’* describes this strategy. In addition to the movie and newspaper articles, I received much information from Mr. Eddy Stam of the FNV Bondgenoten, and some background help on organizing from Ms. Margriet Krumwinkel of the ***.

bargaining for these workers.⁸ In a personal interview it was emphasized that the main message conveyed to the workers is that membership is necessary to make the union stronger, politically as well as at the bargaining table. Hence, this is an appeal to dignity in one's workplace, as well as to the strength of the union in general. The FNV-bond.'s website emphasizes yet a different type of message – promising individual benefits (access to better health insurance, legal representation and similar types of benefits).

The outcomes of the organizing drive suggest that this is a labor-intensive project. Only a few workers seek to become members. The union reports that the number of workers who seek to become members at the time of negotiating the sector-wide agreements, are much higher than the number of workers who organize in between negotiation rounds. Hence, the appeal to workers is mostly that of strengthening the union in sector-wide bargaining. The marginal importance of each new member is miniscule. At the same time, the costs are not very high either. The workers report some resentment of employers for those who organize, and in some cases – undue hardship in the distribution of work tasks, assignments, geographical postings etc. The common, even if illegal, response of retaliatory dismissal, that takes place in the US (and Israel) is not reported.

The low-risk equilibrium: the organizing drive of the FNV Bondgenoten is significantly different than the JJ strategy or the Haifa Chemicals case in Israel. Workers have little to gain in terms of “hard cash”, and their gains are better understood as a matter of dignity, or a matter of class identity, that tends to spurt when negotiations take place. These are qualitative gains. The employer's losses are the flip side of the workers' gains. Employers may not necessarily lose much from the workers organizing, in the same way that the contractors in LA are likely to lose. The trade union premium in the US seems to remain much higher than that of the NL. Pecuniary loss may be mostly a result of illegality in terms of abusing rights. Unions secure a more lawful respect for rights. Moreover, the presence of a higher level of membership can affect the functioning of the works councils and of internal grievance procedures. While the stakes are not negligible, the equilibrium of the Dutch example is one of a low-stakes equilibrium. Low stakes for the employers and the workers (who are already covered), and hence relatively less hostile reactions from the employers side.

E. SUMMARY AND CONCLUSIONS

The Israeli and the Dutch cases presented here do not exhaust the repertoire of each country. Organizing is not a centrally managed activity, but a combination of grassroots initiatives and distinct strategies of trade unions. The two examples were chosen to depict two equilibria that may evolve within the hybrid systems, designated here as the high risk and the low risk. It should be remembered that the hybrid systems are situated between the liberal/pluralist model (which also marks the high-

⁸ Company bargaining is more typical for large establishments and not for service or ancillary occupations.

risk end) and the centralized systems that are supported by the Ghent system (which mark the low-risk end).

Situating the Dutch and the Israeli examples on this continuum, can serve as an indication of how far each system has moved on the continuum towards the pluralist end. The evolution of the high-risk equilibrium in Israel, suggests that the Israeli system has made more significant steps away from its corporatist past and into the pluralist model. However, the chosen equilibrium is not merely a matter that is dictated by institutional circumstances. There is a strategic component in which the choices trade unions make can also affect the institutional development of the systems in the future. For example, the Israeli union has neglected the low risk strategy of organizing workers who are already covered by agreements, despite the growing share of service workers who are formally covered by an agreement but not effectively protected.

Union strategies matter and they must mediate between various factors – what workers want, how employers respond, the state's role in en/discouraging organization and how the public views the chosen strategies.

The Dutch example, which looks rather benign and reserved in comparison to the Israeli example, has been criticized to be too foreign to the Dutch Polder's model institutional (as well as cultural) quest for promoting consensus. The more adversarial tactic, learned from the epitome of high-risk organizing – the United States, has also elicited a more adversarial response from the employers. At the same time, the FNV Bondgenoten claims that traditional strategies, such as demonstrating on the streets are not sufficiently effective in eliciting employers' attention or the public interest in changing the terms of employment service workers have.⁹ Unions are therefore walking a thin line of legitimacy. Without aggressive organizing strategies they risk stagnating membership rates, but with more eager strategies they risk a hostile response. The emphasis on organizing workers who are already covered by sector-wide collective agreements somewhat mediates this tension. However, there is a fundamental tension that cannot be removed. Even in countries that are relatively hospitable to trade unions and collective agreements unions are all too often expected to offer sweetheart arrangements and remain partially invisible. However, seeking public legitimacy can deter workers' legitimacy. This paradox is particularly relevant to the low-risk equilibrium. The more the union accommodates the workers' interest, the more it removes itself from the broad sphere of bargaining and consensus, and the more it risks falling into the high risk paradox, as explained in the following paragraph.

The Israeli example demonstrates yet another paradox. In the move to workplace-based organizing drives, the trade union can overcome the distance that has been crafted between workers and their unions in the past. Rather than vague presentation on the union's achievements at the macro-political level, the trade union makes a promise to fight for better working conditions for the workers in the enterprise. This however is also where the trade unions' strategy can shape the future of industrial relations. Such strategies continue to decentralize the collective regime. It is an acceptance of liberal/pluralist bargaining that resists sector-wide bargaining. It is an

⁹ Refer to articles on the demonstrations in the den Haag in Nov 2006.

acceptance of the argument that only if workers individually choose their union can unions legitimately act. The more the trade union's strategy seeks grassroots support, the more it can compromise labor's centralized structure.

Choosing a low-risk or a high-risk equilibrium is therefore a strategy that is shaped by institutional structures (and to some extent by cultural values). At the same time, the choice of strategy can also have a strong influence on the future of the system. In both strategies the trade union must confront what seems to be an intrinsically difficult choice: shifting between the need for public legitimacy and workers' legitimacy; shifting between persuading workers that their potential individual gains are tangible, while risking the efficacy of centralized bargaining structures.

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