

Organizing Workers in “Hybrid Systems”: Comparing Trade Union Strategies in Four Countries — Austria, Germany, Israel and the Netherlands

Guy Mundlak*

The freedom and right to associate carries distinct meanings in different systems of industrial relations, giving rise to distinct institutions. Where bargaining is based on grassroots association, rates of membership in trade unions and coverage of collective agreements are low. Where bargaining is actively endorsed by the state, high rates of membership are matched by considerable coverage. Over the last two decades, some countries, four of which are studied here, have gone through a process that I designate as hybridization, in which a gap emerges between a rapidly declining rate of membership and persistent relatively high level of coverage. The Article accounts for the growing gap between coverage and membership and its implications. On the basis of extensive interviews with trade union officials, organizers, works councils' members, Labor Chamber representatives, academics and journalists in the four countries, the Article further seeks to document and explain new organizing practices at two levels. First, why do unions seek to organize, despite persistent power accorded to collective agreements by the state? Second, which strategies are used for current recruitment and organizing practices? The discussion highlights the ongoing tension that is folded in the meeting of institutions that are aimed at sustaining the centralized system of bargaining and social partnership, with the dynamics that are characteristic of raising membership levels. Some best practices that seek to address this tension are identified, but are also characterized as difficult to emulate and extend as a general practice.

* Tel Aviv University, Faculty of Law and Department of Labor Studies. The study was supported by the Israeli Science Foundation, Grant 1648/12.

INTRODUCTION

Trade unions, unlike many other social organizations, are based on membership. Recruiting members is essential for the trade union's strength and financial basis. The workers who join the trade union expect some benefits for their membership, ranging from tangible rewards in a collective agreement to an ideological sense of affiliation with a workers' movement. While this exchange may be true for trade unions generally, its details vary considerably from one industrial relations system (IRS) to another. There are differences in what unions expect from gaining membership, what they need to do to organize members, and what the workers gain.

Some IRSs are based on a clear material exchange. In North America, trade unions rely on organizing members to secure the power to negotiate at the enterprise level.¹ Workers must become members to be covered by a collective agreement. In countries that have a "Ghent System" (e.g., the Nordic countries, Belgium, and Israel until 1995), where the state delegates social-economic functions to the trade unions, unions do not need to intensively invest in organizing new members, bargaining takes place at multiple levels that extend beyond any particular workplace, and workers may obtain the benefits of a collective agreement regardless of whether or not they are members.² In this model the exchange is fostered by the state, relieving the pressure of linking membership to the power of collective bargaining.

The American model secures a fit between low levels of membership and coverage, because it is a ground-up exchange. Without organizing new members, trade unions cannot access new fields for negotiations, and workers cannot secure a collective voice. The Ghent system also secures a fit between membership and coverage of collective agreements, but the rates of both are very high. Collective bargaining takes place almost irrespective of membership rates, and membership is induced by the state. This is a top-down system of interests' representation.

In this Article I wish to look into what I designate as a "hybrid IRS"; that is — an IRS in which coverage rates are relatively high and membership rates

1 See, e.g., Jefferson Cowie, *Reframing the New Deal: The Past and Future of American Labor and the Law*, 17 THEORETICAL INQUIRIES L. 13 (2016); Catherine L. Fisk, *Workplace Democracy and Democratic Worker Organizations: Notes on Worker Centers*, 17 THEORETICAL INQUIRIES L. 101 (2016).

2 On the Ghent system and its effects on membership rates, see Lyle Scruggs, *The Ghent System and Union Membership in Europe, 1970-1996*, 55 POL. RES. Q. 275 (2002).

are low.³ In such systems, membership and coverage rates may be significantly different. These systems are less comprehensible to the outsider. How can collective bargaining persist even when membership is declining? Is there any political legitimacy for members-based associations that are not endorsed by members? The explanations to these preliminary questions are outlined in Part I, in which I explain the logic of hybrid systems.

The focus of this Article is on the organizing challenge in hybrid systems. The growing disparity between the coverage of collective agreements and declining membership rates challenges the stability of these systems. The bulk of this Article is based on the observation that over the last decade new organizing attempts have been made in several hybrid systems. The Article focuses on four: Austria, Germany, Israel and the Netherlands. Despite the similarity in the new trend of organizing, the four countries also present an institutional diversity that accounts for the differences in organizing strategies, and in the interests of trade unions, workers and the political agents in the system. Part II briefly presents the current situation as regards industrial relations in the four countries. The study is based on secondary literature from these countries, materials provided by the trade unions, and on extensive in-depth interviews that were conducted in all four. The interviews covered questions that ranged from the macro level of understanding the political situation of trade unions, to questions of trade unions’ strategies, and then down to the micro practices of organizing.

Part III seeks to describe the emerging practices of organizing new members in the four countries and to locate them in a political, legal and organizational context. The findings indicate both the converging challenges for hybrid systems, but also diverging practices that are embedded in the distinct legal arrangements and institutions of workers’ voice that prevail in each system. Of particular importance are the findings that indicate the unique problems of organizing in hybrid systems, with a focus on the need to create a bridge between the grassroots nature of new organizing campaigns and the traditional locus of bargaining and social partnership that is distant from the workers themselves.

I. THE NATURE OF HYBRID SYSTEMS

I characterize a hybrid system as one in which relatively high coverage of collective agreements is not matched by high membership rates in trade unions. The hybrid system integrates two distinct notions and practices of

3 Guy Mundlak et al., *Union Density in Israel 1995-2010: The Hybridization of Industrial Relations*, 52 *INDUS. REL.* 78 (2013).

the freedom and right of association. The first notion is that the freedom of association is a way for a group of workers to come together and negotiate their wages and working conditions.⁴ One by one, the workers coalesce and then exert their collective power to negotiate. Their power is achieved through organic forms of solidarity on the shop-floor. The second notion is that the state's role is to steer the regulation of labor and social matters away from the contractual sphere and the domain of state-authored regulation,⁵ and instead prefer governance of work that is based on bipartite and tripartite negotiations, whereby the voices of labor and capital are represented by the structure of social partnership. In this the state endorses negotiations from above.

The law of collective bargaining for the two methods of bargaining is different. The bottom-up variation requires, paradigmatically, a threshold requirement for membership in a bargaining unit, and once that is achieved then a trade union can negotiate. Because of the grassroots nature of association, bargaining is generally at the enterprise level (or parts of the enterprise). Hence, membership rates serve as a precondition for bargaining power. Otherwise stated, the power of the trade union derives, first and foremost, from its ability to organize workers as members. In the top-down notion of association, the law grants power to trade unions and employers' associations (as well as individual employers) to negotiate. In the paradigmatic case, there are no threshold membership requirements. The power of the trade union may be connected to the level of membership, but it is dependent, first and foremost, on the power accorded to it by the state.

The share of workers who are members in trade unions and the share of workers who are covered by collective agreements are the two common measures of trade unions' power. While membership is more indicative of the bottom-up type of trade unions' power, coverage is more indicative of the top-down type of power.⁶ For example, while membership rates in France

4 Typical analysis of this view is depicted by ALAN BOGG, *THE DEMOCRATIC ASPECTS OF TRADE UNION RECOGNITION* (2009); and SHELDON LEADER, *FREEDOM OF ASSOCIATION: A STUDY IN LABOR LAW AND POLITICAL THEORY* (1992).

5 Typical of this view of the freedom of association is Philippe C. Schmitter, *Democratic Theory and Neocorporatist Practice*, 50 *SOC. RES.* 885 (1983); and Archon Fung, *Associations and Democracy: Between Theories, Hopes, and Realities*, 29 *ANN. REV. SOC.* 515 (2003).

6 SUSAN HAYTER & VALENTINA STOEVSKA, ILO, *SOCIAL DIALOGUE INDICATORS* (2011), <http://laborsta.ilo.org/applv8/data/TUM/TUD%20and%20CBC%20Technical%20Brief.pdf>; Martyn J. Andrews et al., *The Estimation of Union Wage Differentials and the Impact of Methodological Choices*, 5 *LAB. ECON.* 449 (1998); Mundlak et al., *supra* note 3; Jelle Visser, *Union Membership Statistics in 24 Countries*, *MONTHLY LAB. REV.*, Jan. 2006, at 38.

and the United States are relatively similar (single digit membership rates), coverage rates indicate that the two countries are very different. France, with its ninety-five percent coverage rates, and the United States with small coverage rates, are therefore very differently situated.⁷ For many years the French trade unions enjoyed strong public endorsement, even at times of social conflict, while trade unions in the United States are more reliant on their power to hold on to their members.

Hybrid systems must receive some power from the state, but they cannot rely on the state to secure membership. Unlike states with a Ghent system where the state actively creates incentives for workers to join the trade unions, in hybrid systems the state provides lesser means that suffice with according trade unions the power to negotiate, regardless (at least formally and legally) of their membership rates. Most commonly, this is achieved in two ways: (a) enabling a broad bargaining basis and (b) the *erga omnes* — “towards all” — effect.⁸

When bargaining does not depend on the actual coalescing of workers, it is possible to engage in sector-wide, occupational or state-wide bargaining. National pacts, for example, do not assume a town-hall meeting, not even in a metaphorical sense. Rather, the trade unions are accorded the power to negotiate on behalf of a large group of workers. However, even broad negotiations do not apply spontaneously to everyone. Sometimes they only apply to workers-members of the trade union (e.g., in Germany), and at other times they apply only to employees of employers who are members of the employers’ associations (e.g., Israel). The *erga omnes* effect makes it possible to extend coverage even further.

The *erga omnes* effect is sometimes designated as “coverage outside the bargaining domain.” It is achieved in different ways. For example, in Germany it is mostly a matter of voluntary extension of the collective agreement’s terms to all the workers in the establishment, regardless of their membership status. In Israel and the Netherlands, and to a much lesser degree in Austria and Germany, it can be done by extension decrees that are issued by the Minister, applying the collective agreement to all the workers in the state,

7 Data is taken from *ILOstat Database*, ILO, <https://www.ilo.org/ilostat> (last visited Nov. 27, 2015); *OECD Stat. — Trade Union Density*, OECD, https://stats.oecd.org/Index.aspx?DataSetCode=UN_DEN (data extracted Nov. 26, 2015); and *ICTWSS: Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts in 34 Countries Between 1960 and 2012*, AMSTERDAM INST. FOR ADVANCED LABOUR STUDIES (AIAS) (Apr. 2013), <http://www.uva-aias.net/208>.

8 Brian Bercusson, *European Labour Law and Sectoral Bargaining*, 24 *INDUS. REL.* 257 (1993).

region or sector. In Austria, the “domain” is extremely broad because of the employers’ compulsory membership in the Economy Chamber that negotiates the collective agreements; an *erga omnes* effect is therefore of little use.

While bargaining strength, as measured by membership rates, is inevitably important in hybrid systems (as explained in Part III below), it is not the only way a trade union can exert influence and reach collective agreements. A strong alliance with political parties and employers’ associations is just as important. It provides an independent pillar of power, one that could potentially act as a stand-alone leverage for trade unions’ actions, independent of membership rates. Workers’ interests in joining the union in hybrid systems are less obvious compared to systems in which membership carries clear gains — whether social benefits as in the Ghent system countries or access to collective bargaining as in the North American model. Although membership can strengthen the union in bargaining, the benefits are not individualized. This leads to a problem of conscious free-riding, or simply idleness, which can be somewhat attenuated by social norms and peer pressure.⁹

To summarize, hybrid systems are dialectic in their institutional logic. Unlike the North American IRS, they accord trade unions the power to negotiate regardless of the level of membership, but unlike the Ghent system IRS they do not actively encourage membership. This midway position also creates the fundamental threefold dilemma for organizing:

- a. If workers enjoy the coverage of collective agreements, directly or indirectly, regardless of membership, what can workers gain from becoming members (and paying membership fees)?
- b. Why should unions engage in the costly activity of increasing membership, if they have other means of social influence, and consequently — what message does the trade union carry to encourage membership?
- c. How can unions create a bridge between the grassroots-related activity of recruitment and organizing and the more centralized bargaining that is partially disassociated from the actual mobilization of workers?

More generally, when the two logics of association intertwine, do they undermine each other? If the trade union is granted power by the state, regardless of membership, then it may achieve better gains by acting as a responsible (or coopted) agent in its relationship with the state and the employers. If the trade union needs to recruit members, then it should legitimize its voice by asserting the workers’ confrontational demands from the state and the employers. Rather

9 MANCUR OLSON, *THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS* (1965); Jelle Visser, *Why Fewer Workers Join Unions in Europe: A Social Custom Explanation of Membership Trends*, 40 *BRIT. J. INDUS. REL.* 403 (2002).

than expanding possibilities for trade union revitalization, this dialectic “utility function” may present an agenda that suffers from internal contradictions. The following Parts seek to answer these questions and understand the challenge of recruiting membership in four hybrid systems. To set the background, I begin by comparing the institutional structure of the four countries.

II. CONVERGENCE AND DIVERGENCE

In 1995 the major Israeli trade union (The General Histadrut) started several organizing attempts. These sporadic attempts lasting for several years failed, but there has been a surge of renewed organizing since 2008. In 2002, the Dutch FNV Bondgenoten started to organize cleaning workers in various establishments, including a high visibility campaign in Schiphol airport. At the same time, an organizing campaign in Hamburg by the German union Ver.di received much attention in trade union circles. In Austria, a relative newcomer to the organizing arena, organizing attempts started around the turn of the century, but shifted gear more recently, particularly after the 2006 collapse of the union-sponsored bank.¹⁰ All four countries correspond to the description of a hybrid system, and the relatively similar period of time in which organizing attempts started indicates a certain convergence. At the same time, there are also significant differences in the institutional structure of the IRS in each country. These differences are important in identifying both the similarities and differences in organizing strategies and purposes. In this Part, I present a rudimentary description of important aspects of the IRS in each country with an emphasis on those factors that have been found to be of significance during the study of current organizing practices. A summary of the important features is presented in the following Table.

10 *Union Crisis Puts Social Partnership at Risk*, EUROFOUND (Sept. 13, 2006), <http://www.eurofound.europa.eu/observatories/eurwork/articles/union-crisis-puts-social-partnership-at-risk>.

A Summary of the Four Countries in the Comparison¹¹

	Austria	Germany	Israel	Netherlands
Membership rates 1990	47%	31%	65%	25%
Membership rates 2013	27%	18%	24%	18%
Coverage rates 1994	98%	80%	Lower than 80%	82%
Coverage rates most recently	98% (2013)	58% (2013)	50% (2012)	85% (2013)
Threshold requirement for bargaining	No	No	A third of all covered employees for enterprise-based bargaining; the union with the most members for higher levels of bargaining	No
Exclusive representation by a single union	No, but there is informal coordination between the unions	No, and there is some competition within the federation (DGB) and between the federation (DGB) and small independent unions	Yes — accorded to the union with the most members in the bargaining unit	No — and multiparty agreements are possible
Dominant bargaining level	Sector	Sector, with varied geographical scope Enterprise level	Enterprise, Sector (services), Coordinated (public), State-wide	Sector

¹¹ For source of membership and coverage rates, see *supra* note 7.

	Austria	Germany	Israel	Netherlands
Rules of direct coverage	All employees of organized employers	Voluntarily extended by the employer to employees who are non-members	All workers employed by the employer or employers affiliated with an association	All workers employed by the employer or employers affiliated with an association
<i>Erga omnes</i> effect	Residual because compulsory membership in the Economy Chamber ensures almost full coverage within the domain	Little use of extension orders	Extension orders, declining use	Extension orders commonly used
Works councils	Yes	Yes	No	Yes
Other forms of workers' voice	The Workers Chamber (Arbeiterkammer)	Employee representation on the Board of directors (Mitbestimmung)	No	Institutionalized social dialogue (SER and STAR)

A. Austria¹²

Social partnership in Austria is highly developed and grounded in the constitution. Its origins lie in the class struggle that prevailed between the two world wars, and it reached its current highly institutionalized form after World War II. In addition, Austria is unique in its three-tier system of interests' representation.

The trade union Federation (*Osterreichischer Gewerkschaftsbund* — ÖGB) and the employers' associations are based on voluntary membership. The trade union Federation has seven trade unions, and the officials of the trade unions and the Federation are closely linked to the political parties. There is a legal distinction between blue-collar and white-collar workers, and while it still accounts for differences between the individual unions its practical

12 This Section draws on interviews conducted in Austria, and on MARTIN RISAK, INTERNATIONAL ENCYCLOPAEDIA FOR LABOUR LAW AND INDUSTRIAL RELATIONS: AUSTRIA (2010).

implications are in decline. Membership rates have gone down from 46.9% in 1990 to 27.4% in 2013.¹³ The employers' associations are not centralized in the same manner and their importance is generally smaller in the overall system of interests' representation.

There is a mandatory system of affiliation to Chambers, on both the labor and business side. Employers must be affiliated with the Economy Chambers (*Wirtschaftskammern*) and workers with the Labor Chambers (*Arbeiterkammern*). Chambers are established in each of the nine Austrian provinces. All workers in the private sector, except for management employees and those who are employed in agriculture, must be members of the Chamber and pay 0.5% of their earned wage as fees. The Chambers are established for advancing the objectives of social partnership.

While the voluntary employers' associations have a small role in the collective system, it is the Economy Chambers that are dominant in the process of collective bargaining. Conversely, trade unions are the dominant players in collective bargaining on the worker side, and the Labor Chambers' role is limited to advising on legislation, individual legal aid, training matters and social policy issues. The concentration of labor's interests is achieved through the de facto monopoly the ÖGB enjoys. There is a tradition of cooperation between the ÖGB and the Labor Chambers, although there are currently provinces in which disparate political affiliations render this tradition more difficult to carry out.

Collective bargaining in Austria is almost exclusively conducted at the sector, provincial and national levels. Bargaining for an individual enterprise is rarely legally permissible and even less so at the practical level. Given the mandatory affiliation of employers with the Economy Chamber, collective agreements reach an extraordinary level of approximately ninety-eight percent coverage of the workforce. Functionally, the mandatory membership of employers in the Chamber achieves the same objective that *erga omnes* arrangements serve in the other systems studied here. For the very small segment of workers that are not covered by collective agreements there are alternative measures of coordination — charters (the equivalent of extension decrees) and regulated minimum wage scales.

The third track of representation is that of the works councils, which are given various powers by statute. Trade union members have a strong presence in the works councils, although the operations of the works councils are distinct from those of the trade unions, and are focused solely on the enterprise level. The works councils conclude work agreements at the enterprise level,

13 These figures include retired members as well, and not only workers in the active workforce.

which are limited in scope in comparison to collective agreements and bound by them. Works councils can be an ally or an obstacle to the trade union, depending on their composition, and establishing works councils and staffing them by cooperative trade union members is a key to the union’s access to the workplace.

B. Germany¹⁴

The German system of interests’ representation is three-tracked: (a) trade unions and employers’ associations, (b) works councils, and (c) board-level participation of workers’ representatives. Of the three tiers, only the first two are of importance for the present context.

The system of collective bargaining is based on negotiations between trade unions and individual employers or employers’ associations. On labor’s side, the largest federation of trade unions — the DGB (Deutscher Gewerkschaftsbund) — is currently composed of eight trade unions, following a series of mergers. The trade unions have separate sector-based jurisdictions, but inter-union disputes within the federation are resolved by the federation itself. Aside from the DGB-affiliated unions, there is a federation of public servants (although their working conditions are regulated by law and not through bargaining) and the Federation of Christian Unions, both of which are treated by the DGB as “yellow unions,” that is unions dominated by employers or otherwise in line with employers’ interests. However, they are currently recognized by the courts. There are several independent unions as well, mostly for well-defined professional groups. Employers’ associations are organized on both a sector and regional level, and are affiliated with the umbrella association — the BDA (Bundesvereinigung der Deutschen Arbeitgeberverbände).

Collective agreements can be concluded at several levels — enterprise, sector, or sector that is limited to the region. There is no strict guiding principle and the level of bargaining is itself a matter for bargaining. Regional and sectoral collective agreements apply to all employers who are members of the signing employers’ associations, and therefore there is a decline in coverage as employers are resigning from their associations. Overall there is a general trend of decentralization that is viewed by the trade unions as weakening labor. An *erga omnes* effect can be reached by issuing an extension order (*allgemeinverbindlicherklärung*), although in practice such executive orders are rarely issued.

14 This Section draws on interviews conducted in Germany, and on MANFRED WEISS & MARLENE SCHMIDT, INTERNATIONAL ENCYCLOPAEDIA FOR LABOUR LAW AND INDUSTRIAL RELATIONS: GERMANY (2010).

An exceptional feature of the German system is that collective agreements apply directly only to the trade union's members. This would seem to be a major advantage for the trade union in offering workers a clear benefit when becoming members. However, employers commonly apply the collective agreements to all workers in the covered establishment, to avoid conceding this very advantage. In the past, the courts also condemned "for members only" arrangements in collective agreements, although more recently they upheld such arrangements to a very limited extent, particularly as long as the benefits are of a very limited financial scope. An important advantage that is reserved for trade union members is the benefit from the union's strike fund.

The works councils in Germany offer a separate track for workers' voice. While unions are intended to represent the more adversarial aspect of industrial relations, the works councils reflect its cooperative aspect. They are therefore established to advance the goals of the company, even if they are composed exclusively of workers' representatives. The works councils can, of course, serve as watchful guardians, but they are denied the power to negotiate a collective agreement, particularly on wage matters, as well as the power to declare a lawful strike. While there is a duty to establish a works council in each firm (subject to small-size exceptions), workers must demand and even fight for establishing a works council.

The dualization of industrial relations was intended to provide a strict separation between the cooperative and conflictual aspects of collective relations. In reality, there are strong links between the trade unions and works councils, and the trade unions have succeeded in coopting works councils by aiding workers to demand the establishment of works councils at the workplace and suggesting trade union members for election. Consequently, works councils have become an important union stronghold within those firms with a union-influenced council.

C. Israel¹⁵

Until 1995 Israel was characterized as a Ghent system country, whereby health care benefits (and to a lesser extent — pensions savings) were associated with trade union membership. Even at present, the law on collective bargaining, dating back to 1957, reflects the logic of a relatively centralized system of negotiations. Membership in a trade union is voluntary but coverage of collective agreements is determined by law and for the most part applies to

15 This Section draws on GUY MUNDLAK, *FADING CORPORATISM* (2007); and on RUTH BEN-ISRAEL & HADARA BAR-MOR, *INTERNATIONAL ENCYCLOPAEDIA FOR LABOUR LAW AND INDUSTRIAL RELATIONS: ISRAEL* (2009).

all the employees in the bargaining domain. Bargaining can take place at all levels — from the enterprise, to sector and the state. Only a representative trade union can negotiate on behalf of the workforce. For enterprise agreements, this is the union that has (a) the most members in the bargaining domain and (b) at least a third of the workforce to whom the agreement applies. For broader agreements, only the first condition applies thus ensuring there are no legal barriers to entangling trade unions and employers associations to conclude broad agreements.

In 1995, the legislature nationalized healthcare. Although the impact was less dramatic, a year earlier pension savings were “privatized” away from the trade unions and no longer required a collective agreement. Membership in trade unions had been in decline prior to the abolishment of the Ghent system, and collective bargaining was decentralized, with a decline in sector-wide bargaining, particularly in industry, albeit continuing in services. However, the major decline in membership came at the time of abolishing the Ghent system. At the same time, there was also a decline in coverage, but of a lesser extent, due to the persistent coverage of sector-wide agreements.

Since pre-statehood years, the General Histadrut, an umbrella association for many industrial unions, dominated the trade union activity, with a small number of professional trade unions operating outside the Histadrut. In the late 1990s, following the removal of the Ghent system, the General Histadrut attempted to organize workers at the enterprise level. These attempts failed for the most part, but induced legal protections for organizing drives. In 2008, the entry of a small trade union with a grassroots orientation, Koach La-Ovdim (Power to the Workers), induced a renewed effort at organizing for the purpose of concluding enterprise-level agreements.¹⁶ The General Histadrut and its small rival, the National Histadrut, followed suit, leading to a vibrant organizing culture, which succeeded in a host of private-sector organizations, ranging from small restaurants to the leading cellphone companies, insurance, and financial institutions.

The benefits of membership are threefold: first, it is a condition for meeting the threshold level for enterprise bargaining, although beyond the one-third requirement this may not be significant. It is not a formal condition for broader-level collective agreements (sector- or state-wide). The application of the collective agreement is not dependent on membership. Second, a trade union is the sole representative at the shop-floor level, given that Israel’s IRS sidestepped the European dual-representation system. Workers’ committees at the enterprise level are a derivative of collective agreements, and no

16 Pnina Alon-Shenker & Guy Davidov, *Organizing: Should the Employer Have a Say?*, 17 THEORETICAL INQUIRIES L. 63 (2016).

statutorily mandated works councils exist in Israel. Third, some individualized benefits are associated with trade unions, including individual representation in employment-related grievance proceedings (inside and outside the courtroom), as well as occasional consumer-related privileges.

The costs of membership range from 0.5% to 1% of the wages (capped), but the law permits the collection of agency fees from workers who are covered by a collective agreement but who are not members. The agency fees are only slightly lower than the membership fees. The small difference between the two may diminish the free-rider problem. At the same time, it may serve as an incentive for unions to conclude sweetheart agreements with the employer, or even more so — with the employers' associations (for sector-level bargaining). The gains from agency fees can be greater than the gains from membership fees that also require considerable investment in the organizing process itself.

D. Netherlands¹⁷

The Netherlands has a dual system of representation, drawing on both trade unions and works councils at the enterprise level, and complemented by a strong culture and institutional design of social partnership at the state level. There are numerous trade unions in the Netherlands, most of which are clustered in three confederations: the leading confederation is the FNV (*Federatie Nederlandse Vakbeweging*), followed by the considerably smaller National Christian Confederation and the MHP that clusters white-collar unions. Some of the small independent unions are considered by the leading ones to be “yellow unions.” Organization of trade unions is for the most part on a sector level, although there can be several unions representing workers within the sector. Consequently, a striking feature of the Dutch system is that employers can, and often do, negotiate with several unions over the same sector or workplace. In the past this led to a high degree of coordination, and sometimes cooperation, among the unions that have a membership base in the workplace or sector. At present such outcomes are also muddled by instances of “divide and conquer” strategies, where employers are hasty to conclude agreements of convenience with smaller unions, undermining the position of the stronger ones.

Collective bargaining can be conducted at the enterprise level or with employers' associations. These are organized at the sector level, with a high

17 This Section draws on interviews conducted in the Netherlands, and on ANTOINE T.J.M. JACOBS, *INTERNATIONAL ENCYCLOPAEDIA FOR LABOUR LAW AND INDUSTRIAL RELATIONS: NETHERLANDS* (2015).

density of membership. Despite the tradition of sector-level negotiations, there is a growing pressure to decentralize, either by designing the sector agreement in framework terms that are later adapted at the enterprise level, or by turning directly to company bargaining. Company agreements are still less significant, in terms of coverage, compared to sector agreements, but the employers’ pressure to decentralize is persistent.

The *erga omnes* effect in the Netherland is achieved primarily by extension orders that are commonly issued by the Minister of Social Affairs and Employment. Due to the extensive use of such orders, coverage of collective agreements remains stable at around eighty-five percent, regardless of the shrinking membership rates. Although members-only benefits in collective agreements may be legal, they are rarely used and cannot be extended. However, only members can participate in the internal decision-making processes in the trade union and benefit from a strike fund.

Dutch law also requires establishing works councils (with size-related exceptions). These are established at the demand of the workers or the employer. They are composed of the workers’ representatives. The works councils enjoy a list of rights and privileges that are stated in law, but they are denied the power to negotiate collective agreements or agreements on wages. Unlike Germany, where they can extend representation to individual grievances, the Dutch works councils are limited in their operations to organizational policy matters. Unlike Germany and Austria, on average, there is also less cooperation between the works councils and trade unions, where in some instances they work closely together and in others take confrontational positions.

Aside from the trade unions and works councils, there are two peak-level fora for deliberations on social-economic matters — the Economic and Social Council (SER) and the Foundation of Labor (STAR). The STAR is a bipartite institution with an emphasis on peak level deliberations over working conditions. The SER is a tripartite institution, with participants and experts who are delegated by the state, extending advice and research on legislative and policy measures in the social field. The Dutch have a tradition, designated as the “polder model” of deliberations toward consensus. Like most traditions of this kind, it commonly meets resistance and tension, but remains an overarching characteristic of the Dutch system.

III. COMPARING ORGANIZING PRACTICES IN HYBRID SYSTEMS

This Part summarizes the study’s findings, which are based to some extent on the existing literature, and to a greater degree on extensive and intensive interviews that were conducted in the summer of 2014. I am deeply familiar with

the Israeli IRS, and I have been indirectly involved in various organizing drives and have met on numerous occasions (conferences, workshops, and training courses) active members of the General Histadrut, the General Histadrut's youth branch, and Power to the Workers. By contrast, the comparative aspect required a deeper understanding of the countries I chose to study, over and above what academic texts and websites can provide. To that end, I conducted extensive interviews in Germany, Austria and Netherlands between July and October, 2014. Many of them were with various agents of trade unions that are known as innovators in this field, and less commonly with unions that are just starting to consider their organizing and recruitment strategies. The union informants belong to the IG Metalle, Ver.di, NGG and IGCBE (Germany), FNV Bondgenoten and FNV Abvakabo (Netherlands), ÖGB (Federation), PRO-GE and PGA-DJP (Austria). In addition, interviews were conducted with partners for organizing in the Austrian Chamber of Labor, with consultants (ORKA in Germany, and a former member of Change to Win — Europe), academics in all countries, and journalists.

The focus of the interviews was to understand the considerations and concerns of trade unions that are innovating in recruitment and organizing. The interviews are limited to the trade unions' perspective, although they made it possible to surface tensions within the trade unions themselves. They do not address the views of employers, the state, and the workers themselves (members and nonmembers alike). They are further limited by the fact that they rely on the subjective consciousness of the respondents. Factual matters were oftentimes confirmed by formal (newspapers) and informal (blogs) journalistic accounts. Data on the number of workers who were recruited as members most often would not be divulged, other than public numbers of aggregate levels of membership.¹⁸

The aim of a qualitative study of this kind is twofold. First, it is intended to document processes that are currently taking place, as well as dilemmas that do not reach the academic literature. The second objective is to elicit the personal views of those who are engaged in organizing, ranging from understanding personal motivations to reflections on their activity. Interviews usually lasted two hours, but given the personal involvement of the informants, some were extended up to five hours. Some interviews required the participation of a translator, and all of them were transcribed to be used for screening and classifying content. The interviews were semi-structured, with some differences in emphases and

18 Some respondents revealed some data on the condition that I not report it. Generally, data that was presented cannot be confirmed. On the problem of drawing on trade unions' reports for verifying membership rates, see Visser, *supra* note 6.

content between the countries, reflecting institutional differences between their IRSs.

This Part starts with the claim of convergence regarding the reasons for declining membership rates in the four countries (Section A), but then moves to a comparison that indicates institutional divergence in their responses. Section B discusses the trade unions’ reasons for placing organizing at a higher priority, compared to the past; Section C discusses the trade union’s strategies at the policy level, particularly with regard to the question of whom to organize; and Section D looks into the question of what the trade unions can offer members in a hybrid system. Section E demonstrates the actual practices of organizing. Section F concludes by emphasizing what I view to be the most fundamental challenges that distinguish organizing in hybrid systems.

A. The Reasons for Declining Membership Rates: Setting the Background for New Organizing Practices

The explanations provided for declining membership by the informants in the four countries were generally similar, pointing at the effects of globalization that has prompted the move of traditional industry across the borders to venues where labor costs are cheaper; changing demographics that bring into the labor market a more diverse workforce and migrant workers who are more difficult to organize; and organizational change that renders trade unions’ operations among smaller units and subcontractors more difficult to perform.¹⁹

These explanations omit one of the most favored accounts for the decline of trade unions in North America — the legal infrastructure. The decline in membership is not the outcome of a hostile legal environment. While informants report instances of employers’ opposition, even systematic in Israel and Germany, this may account for some difficulty in recruitment, but not for the ongoing decline in membership.

Why then do workers avoid joining trade unions at their own initiative, as they used to do in the past. Membership in trade unions is no longer an obvious choice. One informant (Netherlands) noted: “We don’t have the culture that there is in Belgium [a Ghent system country, GM], that once you start working in the labor market you immediately fill the forms for membership in the unions.” Trade union officials described the effort they must invest in recruiting young people in the labor market, for example, apprentices.

19 On the general reasons cited for the declining strength of trade unions, see CAROLA FREGE AND JOHN KELLY, *VARIETIES OF UNIONISM: COMPARATIVE STRATEGIES FOR UNION RENEWAL* (2004); and ILO, *REPORT OF THE DIRECTOR GENERAL, ORGANIZING FOR SOCIAL JUSTICE* (2004) (ILO Conference, 92nd Session).

Informants outside the trade unions reflected on the image of the trade unions as part of the “old state bureaucracy,” unattractive to those who are outside the immediate trade union constituency. Another issue that was raised in the countries where there is a dual (or triple) track of representation referred to the fact that workers do not really understand the division of labor between the various institutions of workers’ voice. Moreover, in all four countries, workers are not always aware of effects that collective bargaining has on their wages and benefits. Hence, unlike the legal debate that has flourished in the United States, the decline in membership rates in the hybrid countries engages more directly with workers’ actual preferences and awareness.

Placing preferences at the center does not imply that declining membership is identical with estrangement between the idea of trade union representation and what workers want. Preferences are embedded and are shaped by social values, the trade unions’ strategies and what they have to offer. The point of departure for the discussion of current trade unions’ strategies is change in the background conditions of the industrial relations system, as well as the admitted idle position taken by trade unions in hybrid systems with regard to membership. Declining membership was not the result of state-led animosity. Instead, changing conditions, coupled with trade unions’ traditional reliance on their state-sponsored power, have led to a neglect of the meeting point between what unions have to offer and what workers want.

B. Why Do Unions Take a Proactive Approach to Gaining Membership Rates?

The growing interest in the membership problem over the last decade is a derivative of declining membership. However, there are several distinct explanations for the surging interest in membership expansion. Some are instrumental to immediate unions’ needs, while others are less so. An important instrumental explanation, one that informants from the trade union movement were in no hurry to highlight, was the financial motivation. Except for the Netherlands, where employers contribute directly to the trade unions, trade unions rely almost exclusively on membership dues. Other sources of funding may include earmarked sums for particular projects. Even in the Netherlands, the employers’ contributions are intended to fund limited informational purposes (e.g., making the content of collective agreements known to the workers).

The financial loss from the decline in membership is particularly acute in countries that had a different financing structure in the past. In Israel, the Ghent system that prevailed in the past — coupled with other economic pillars that propped up the Histadrut, such as its ownership of a range of economic activities — ensured an extensive budget and eliminated concerns about

economic shortage. The Austrian Federation of Trade Unions was in control of a large bank, which provided the trade unions ongoing financial stability. A 2006 management crisis led to the withdrawal of this source of funding. In both instances, the *relative deprivation* of income sources accentuated the gap between the available revenues and the organizational needs.

Less instrumentally, as a matter of degree, trade unions pointed at the need for membership in order to increase their bargaining power. Admittedly, the reasons for trade unions’ idleness in the past still persist. Trade unions in hybrid regimes can negotiate collective agreements at the sector and state levels without a large basis of support of members in the relevant workforce. The only exception is Israel, where the trade union must demonstrate at least a thirty-three percent membership level among the workers who are covered by the collective agreement for enterprise bargaining (but not for sector-level bargaining). In the other countries studied here, the unions can negotiate agreements without a particular threshold of members. Informants in the countries where no formal threshold exists reported that employers are well aware of the trade union’s organizational capacity and therefore membership rates are important for their achievements in bargaining. Otherwise stated, it is not enough to have the *legal* license to negotiate; trade unions also need an actual *bargaining* license from the workers themselves.

A different reason for membership, which removes us one step further from the instrumental end of the continuum, is the need for securing political and economic legitimacy. The unions’ privileged position in hybrid systems requires demonstrating some level of support from the workers themselves. The legitimacy of state-endorsed power, particularly measures that extend bargaining *erga omnes*, which are in tension with the freedom of contract, the right to property, and “unfettered markets,” requires a social counterweight that can be demonstrated by membership. For example, extending an agreement that applies to a sector in which most workers are members, and the employers are affiliated with the employers’ associations, is morally and politically different from the extension of an agreement that applies to a handful of employers and their nonmember employees. Similarly, social partnership, consultation rights with the government and influence over legislative processes require maintaining the notion that trade unions are an important institution that is valued by the workers. It is more difficult to legitimize such provisions when both individual employers and workers withhold their support.

Examples of threats to the political position of trade unions were given in all countries. In Israel there are occasional challenges to the practice of extension orders, even though it is of lesser use. Other attempts to curtail the power of the unions commonly seek to limit the power to strike. In Austria, a conservative government tried to limit the power of the Labor Chambers, with

which the trade unions have a relationship of interdependence. Although such proposals were defeated — and in fact a 2008 amendment to the constitution secured the role of the Labor Chambers — there is less confidence that the current system can withstand any political challenge in the future. In the Netherlands, a pension reform that was achieved in 2003, despite the large trade unions' objection, signaled the potentially fragile position of trade unions in the future. However, as in Austria and Israel, attempts to question the legitimacy of basic principles, such as extension orders, have thus far been defeated. German unions, particularly the large ones, voice confidence in the stability of the political and legal infrastructure. Nonetheless, the large German trade unions, as well as the Israeli and Dutch unions, are also motivated by conflicts within the labor camp, whereby inter-union rivalry strains the dominant position of the traditional unions.

The final reason that is given for the current trend of organizing attempts is the least direct, in the sense of tying strategy to immediate outcomes. Trade unions explain their interest in expanding membership in terms of their “mission.” A narrow public interest approach may seek a more explicit account of these statements, and may actually be critical of such objectives. However, considerable weight should be ascribed to the informants' statements on this, particularly because their account of mission wove together the trade unions' objectives and their personal perspective. The mission can be a prescription for organizational survival, but also the search of committed trade union officials for the *raison d'être* that makes sense of their own work and vocation. Their statements talk about the need to re-center trade unions in both the political and the bargaining dimensions.

To conclude, despite a relatively supportive legal regime, broad coverage of collective agreements and persisting political strength, what has happened in the last decade indicates that trade unions foresee a bleaker future. A new emphasis on organizing workers is a result of considerations that range from immediate financial need, securing de facto bargaining power, securing their political and legal position, and incrementally rethinking the trade unions' mission. There are differences in the weight of each, between states, between trade unions, and within the trade unions. Due to the strong bias of informants for this study, who are all engaged in organizing, they ascribe considerable weight to the latter reasons, only half-heartedly “admitting” the financial motive. However, they do testify that within the unions some view the funding issue as *the* important benchmark for increasing the level of membership. This may be a potential source of tension within the unions. Those supporting the “old way” of passive membership and peak-level bargaining seek recruitment strategies that are not too costly to operate, and that do not require costly engagement of the workforce. By contrast, those who seek a new method in

which membership is associated with activism, may draw less members and may be more costly to maintain.

C. Whom to Organize?

The motivation for increasing membership levels accounts for the focus of organizing — who do the unions target? As demonstrated below, trade unions’ choices on this matter requires integrating the complex institutional structure that characterizes the hybrid systems. Bearing in mind the importance of national differences in a comparative study,²⁰ some considerations are common to trade unions in all countries (e.g., organize in industry or services), others are particularly characteristic of hybrid systems (e.g., organize where collective agreements prevail, or in industries and establishments that are not covered by agreements), and still others are dependent on unique industrial relations structures (e.g., the relationship between trade unions’ recruitment efforts and works councils).

General considerations in the decision where and whom to organize conform to the unions’ cost/benefit calculations. For example, trade unions reported that they could recruit more workers in economically prosperous brownfield sites (i.e., those that are already organized), compared to brownfield sites that are in a dire economic state, or to greenfield sites (i.e., sectors and establishments that are unorganized). Recruitment in brownfield sites relies on existing institutions of representation, particularly those that are coopted by the trade unions (e.g., German Works Councils) or are directly accountable to the union (e.g., Israel’s workers’ committees). At the same time, unions reported that the major difficulty in recruiting new members in active sites is the free-rider problem. The hybrid system ensures coverage of collective agreements, and therefore some level of free-riding behavior is expected. To overcome free-riding preferences, trade unions’ strategies resort to peer-pressure, accommodating individualized preferences by the provision of services and benefits, or most difficult — building a stronger sense of community around the trade union’s activities. The latter is not only economically costly, but also runs the risk of giving rise to conflicts between strong local and democratic communities on the one hand, and the centralized hierarchical structure that conforms to centrally coordinated systems of bargaining on the other hand.

The size of the establishment is a determinant of organizing, but it is not a unilinear relationship. On the one hand, unions prefer to organize in medium- and large-sized enterprises, because the number of workers who

20 Guy Mundlak & Matthew Finkin, *Introduction*, in *COMPARATIVE LABOR LAW* 1 (2015).

may join the trade union may be more significant than in small enterprises. At the same time, large enterprises can be more difficult to organize and may require a large taskforce of organizers. The problem is particularly acute in Israel, where the union must achieve a formal threshold of thirty-three percent membership among the covered workforce. Where size is detrimental to the union's capacity to organize, it may seek to carve smaller bargaining units to make the organizing drive feasible.²¹

There is no reported organizing at the branch level, formally speaking. What unions do report is an attempt to concentrate organizing drives within a particular sector. The difference between these two nuanced variations requires identifying the institutional background. Sector-level bargaining is viewed as political and generally wholly disassociated from organizing activities. However, concentration of organizing in the sector can increase the importance of social norms in constituting workers' choices and bargaining strategies. In Austria (e.g., healthcare and other forms of care) and the Netherlands (e.g., cleaning workers), organizing attempts are generally under the umbrella of an existing sector-level agreement. However, organizing is not formally at the branch level, and the organizational units in which trade unions recruit new members remain at the enterprise level. In Germany, leading initiatives, such as IG Metall's organizing drive in the wind energy sector, seek to organize several enterprises in the same sector. Such a focus can lead, over time, either to the negotiation of a sector/regional agreement (as the trade union prefers), or to a series of enterprise-based agreements (as employers would prefer). Similarly, in Israel a concentration of successful enterprise organizing in "new services" (cellphone companies, insurance and investment houses) led to the establishment of a specialized unit within the General Histadrut, and an incremental clustering of organization drives can potentially lead the way to sectoral coordination. Similarly, efforts at organizing fast food chains are made with the purpose of achieving a sectoral impact, once the large chains will have been successfully organized.

The choice of which greenfield sites should be organized can be made strategically by the union, or in response to grassroots demands. Here, too, the institutional context matters. In Israel, most organizing attempts have been made following initiatives that came from the workforce itself. In Germany and Austria, some organizing attempts were reported in response to workers' efforts to establish a works council. However, more commonly, in Germany,

21 On bargaining units in Israel, see MUNDLAK, *supra* note 15. The case law on this matter is vast, but particularly instructive is NLC Collective Dispute 41357-11-12 Gen. Histadrut v. Electra Elec. Appliances (15.1.2013), Nevo Legal Database (by subscription, in Hebrew) (Isr.).

Austria and the Netherlands, the initiative is taken by the unions themselves. This is most evident when the union decides to concentrate its resources on a sector, where such a decision requires building a grassroots cadre of workers.

A different question is whether to increase the union’s strength in sectors where it is already strong or to address those sectors in which it is absent. Increasingly, the focus of attention is on enlarging the union’s footprint in sectors where representation is missing. Two general directions emerged from the interviews. First, unions are attempting to enter relatively new sectors, such as wind energy in Germany or the cellular phone service providers in Israel. For reasons of technological development, the growth and importance of these sectors came after the unions’ membership started to decline. A different direction of growth is into the secondary labor market. While strong industrial plants are occasionally targeted, there have been numerous experiments in strengthening the union presence among temp work agencies (Austria), cleaning and security workers (Israel, Netherlands and Germany), and care-workers (Netherlands, Germany and Austria).

Another target for recruiting members that is important in the three European countries are the young workers, particularly at entry level, and especially those who enter the job market following apprenticeships. This is considered to be a prime objective, given the aging of the current membership and the need to introduce unionism as a relevant representational form at times when young people do not identify with the trade union movement. The problem of recruiting young workers was attributed to their age, their overrepresentation in precarious employment situations that are difficult to organize, and their generational attributes, one of which is resentment toward long-term commitment to or association with formal and political bodies.²² For example, the FNV Bondgenoten’s Metal Sector developed programs to enter schools and present the trade union. The IG-BCE (mining, chemicals and energy) in Germany prepared a kit that is distributed to young apprentices, targeting their cultural and economic interests. Austrian unions are developing a campaign to retain workers who complete their apprenticeship and often resign from their trade union membership. In Israel, reaching out to young people is done through the youth movement that is affiliated with the Histadrut (*Hano’ar Ha’oved Vehalomed* — The Working and Learning Youth movement), and is currently tied to the attempt to incrementally organize fast-food chains where young workers are concentrated. In the interviews, consistently, organizing women,

22 On the challenges posed by organizing young workers, see also REBECCA GUMBRELL-McCORMICK & RICHARD HYMAN, *TRADE UNIONS IN WESTERN EUROPE: HARD TIMES, HARD CHOICES* ch. 3 (2013); and MAARTEN KEUNE, *TRADE UNIONS AND YOUNG WORKERS IN SEVEN EU COUNTRIES* (2015).

migrants or ethnic minorities was not reported to be an objective in itself. However, some of the greenfield sites require the adaptation of organizing techniques to the demographic composition of the workforce.

In all countries, there is also a certain level of outreach to the general population, in which the emphasis is mostly on services, ranging from legal aid in employment-related matters to insurance benefits and the like. This form of general outreach was not emphasized in the interviews for two reasons. First, it is a relatively passive “advertise and wait” strategy, and there is generally little monitoring, if any, of its efficacy. Second, the informants were selected on the basis of their familiarity with active strategies, and were therefore less concerned with “plain” general advertising and tended to discount the importance of this general form.

In all countries, there are no data available that can sort the relative importance of each of these tracks, whether measured by the growth in membership, or by the union’s investment (in money or human resources). Sometimes it was argued that no such data are being kept in an orderly fashion, and at other times it was made implicit that such data exist but are not available to anyone outside the trade union’s managerial team.

D. What Do Unions “Market” to the Workers? — The Cost/Benefit of Organizing

The crucial question in hybrid systems is what the trade union can offer workers to encourage their membership. This is important because we assume that workers consider the benefits of membership, weighted against the costs, before they join a trade union. When considering the benefit of trade union membership for workers, the two extremes are posed by Austria on the one hand and Israel on the other hand. In between, Germany is closer to the Israeli end, while the Netherlands is closer to Austrian end.

At the Austrian end, the comparative advantage the union can present when recruiting members is relatively small. Almost all workers in Austria are covered by collective agreements. Moreover, all workers are affiliated with the Labor Chamber that offers them, *inter alia*, legal representation in employment disputes. Furthermore, there are works councils in the workplace, although they are geared towards the company’s interests. The comparative advantage of joining the trade union is therefore smaller than in the other systems surveyed. The union can claim that greater membership is likely to impact its success in bargaining, but this claim requires strong persuasion to overcome the rational passivity the well-developed Austrian system has created.

At the other end, by contrast, Israel’s system of social partnership and enterprise-based cooperation is the least developed. Coverage of collective

agreements is partial. There is also a significant problem for some of the workers who are covered to claim their rights. Workers' committees at the enterprise level are a derivative of collective agreements and have no independent statutory position. Many establishments that are covered by collective agreements do not have an active workers' committee, and some have a weak committee with no significant power leverage. Membership can strengthen the trade union and accommodate an active or more powerful committee. The new organizing drives seek to achieve enterprise-based bargaining units for which a threshold of thirty-three percent of the expected coverage is necessary. Without organizing, no collective agreement can be concluded at the enterprise level, and no workers' committee can be established. For workers this is therefore an essential requirement for coverage. Less commonly, workers may turn to the large trade unions for individual legal help, for which the only alternative is a private lawyer. Hence, the material benefits of joining a union are clear.

The Netherlands and Germany are in an intermediate position. German workers may join the union for the purpose of gaining a collective agreement. As explained in the following Section, the process towards a collective agreement is long, as opposed to the relatively short duration of organizing campaigns in Israel. However, due to the likely possibility that works councils in Germany will be coopted by unions, workers may be motivated to join the union as a way of gaining the trade unions' help in establishing *de novo* works councils, or in increasing the power of existing works councils. The timeframe for impacting the works councils is much shorter. Although there are no legal thresholds for trade union membership in Germany, and in fact the law seems to strictly separate between the trade union and the works council,²³ trade unions often condition their aid on a certain level of membership, around thirty percent (Germany) and even fifty percent (Netherlands). These, however, are general targets that the unions consider on a case-by-case basis. Workers tend to show interest in establishing or strengthening a works council or organizing locally when they experience material and tangible problems at work, ranging from worktime issues, shiftwork, and promotions, to a general sense of undignified treatment by management. Offering them trade union representation when they have well defined problems at work makes it possible to focus the union's message.

The Netherlands, with its extensive *erga omnes* coverage of collective agreements, and a stricter (de facto) separation between the works councils

23 The importance of trade unions' cooptation of works councils in Germany is in contradiction to the original intent of the legislation on works councils, which sought to demarcate between the objectives of the two forms of workers' representation.

and the trade unions, also poses a problem for organizing and recruitment. The gains offered to the workers tend to fall into two broad categories. The first is specialized services and benefits that are offered to the trade union's members (legal representation or insurance benefits and the like). The second is community-oriented benefits, referring to the ability to take part in bargaining and a general commitment to the trade union's efforts to improve working conditions through bargaining. The former are easier to market in the sense of displaying the balance between costs and benefits. The latter require some kind of commitment on the part of individuals despite the persisting problem of free-riding opportunities, and therefore imply a different kind of organizing. Organizing for the communal good requires creating a stronger bond between individuals and the trade unions.

In reality, both types of messages prevail in organizing and recruitment, but there is an inherent tension between them. Those who specialize in organizing, particularly in greenfield sites, and in community-building actually stated their objection to marketing the trade union as an individualized service provider. They claim that it undermines the attempt to create a more committed union membership, as opposed to the passive role of workers under the umbrella of social partnership. Others hold that the expectation that workers will join for the benefit of "spending time" and being more active in the trade union, rather than free-riding on the activism of others, is not likely to increase membership in a significant way. Moreover, in the attempt to build a community, the union representatives reported that one of the differences between members and nonmembers — namely, the right to vote on union issues — is diluted, and the unions allow at least informal input of the nonmembers as well. Hence, the objective of community-building dilutes the value of tangible benefits, even if minor, which are reserved for members, and it can therefore accentuate free-riding behavior.

The dilemma regarding what the trade union can offer the workers is most apparent in Germany and the Netherlands. Israeli organizing practices tie individual benefits to the collective good. Austrian organizing is extremely limited in its individualized offerings (e.g., better legal representation than is offered by the Labor Chambers). In Germany and the Netherlands, individualized and communal approaches mark two distinct methods of trade union revitalization. It is possible to conflate the two approaches by stating that one strategy should not undermine the other. Works council members affiliated with the German unions said: "We see what kind of message can work with which kind of workers. We use whatever works." Consultants to the trade unions also admitted that they pragmatically tailor the reason for organizing to the situation and the type of workers involved. However, pragmatism notwithstanding, the two approaches are the source of a fundamental debate

about whether the “new unionism” requires recruiting a membership that is committed to the collective goals, or should merely seek to attract more members by individualized benefits, even if they remain passive members of the union.

Alongside what workers receive from membership, it is also important to comment on the other side of the equation — the costs that workers pay. Here too, there are differences between the four systems. On the one side, Germany demonstrates a strict application of membership fees. On the other side, there are two methods to reduce the payments. In the Netherlands and Israel, temporary reductions in the membership fees are offered, particularly at times of new organizing. Israeli trade unions offer workers in the process of organizing greenfield sites a temporary exemption from membership fees, which the employers claim distorts the actual extent of support the union enjoys from its membership. Another method of reducing the fees is by the state’s endorsement of membership, which falls short of the support extended by the Ghent System countries. In the Netherlands and Austria there is a tax reduction by the state (leading to an up to forty percent reduction in the actual membership fees that are paid).

On the cost side of the equation, it is also necessary to include the risks associated with the organizing process itself. Most notably in Israel, and least problematically in Austria, employers’ resistance to organizing may threaten workers’ jobs, or somehow entail vindictive behavior, despite strict legal prohibitions. The formula for understanding the extent of employers’ resistance is simply the inverse of what workers have to gain from organizing. Because the gains are clearer in Israel, employers’ resistance is greater. The gains in Austria are much smaller, which makes organizing more difficult, but also diminishes the employers’ resistance. Germany and Netherlands are therefore situated in between, with Germany closer to the Israeli side, with more instances of employers’ resistance, whereas in the Netherlands employers’ resistance is weaker than that reported in the other countries. The quality of social partnership also affects the degree of employers’ resistance and therefore of the workers’ potential costs. The Austrian commitment to social dialogue and the Dutch “Polder tradition” attenuate the sting of employers’ resistance.²⁴ By contrast, the declining strength of social partnership in Israel and the absence of institutionalized partnership in Germany augment

24 The Polder Model refers to the tradition of tripartite consultation that is based on consensus-building. It extends beyond the specific institutions for deliberations and is used to describe a more general idea of culture. On the Dutch Polder Tradition, see JELLE VISSER, *A DUTCH MIRACLE: JOB GROWTH, WELFARE REFORM AND CORPORATISM IN THE NETHERLANDS* (2014).

resistance strategies. Finally, in all four countries, for those who are active in the organizing process there are also costs associated with the time and emotional commitments involved.

E. Strategies for Membership Expansion

The discussion on “who to organize” and “what to offer” has already touched on some aspects of strategy. In this Section I would like to present a prevailing distinction that was made in all my interviews in Europe, but is applicable to Israel as well. Recruiting new members generally is distinguished from what has become an idiosyncratic term of the art — “ORGANIZING” (hereon — capitalized). Unlike the various recruitment strategies, ORGANIZING has become shorthand for intensive campaigns that seek to introduce the unions, mainly in greenfield sites. It tends to emphasize the cultivation of grassroots activism among the workers themselves, build leadership, advance collective ordering of some sort where it is thought that employment relations are wholly individualized, and to deeply affect the trade union’s image and mission. While a few incidents of ORGANIZING drew a substantial new membership, most did not. These outcomes are discussed in subsequent Sections.

The new “orthodoxy” of ORGANIZING and the debates surrounding are European. It can be traced back to some attempts that started locally, as well as the “import” of strategies from other countries, primarily the United States.²⁵ There are agents who are responsible for spreading the gospel of ORGANIZING in the European countries. Among them is the organization “Change to Win,” sponsored by trade unions from around the world, whose European branch served as a consultant to ORGANIZING campaigns,²⁶ a private consultancy group (ORKA) in Germany (also outreaching to Austria),²⁷ and a network of activists who informally share information, convene to discuss strategies and rely on previous experience of joint work.²⁸ Informants constantly named each other as the “experts” in the various interviews. This network of expertise did not extend to Israel. However, many new attempts at enterprise organizing in Israel at least partially conform to the basic elements of the European ORGANIZING trend. They are not spelled out in the same methodological way, but some of their premises are identical.

25 For up to date documentation and analysis of various Organizing efforts in Germany, see ORGANIZING: DIE VERÄNDERUNG DER GEWERKSCHAFTLICHEN PRAXIS DURCH DAS PRINZIP BETEILIGUNG [ORGANIZING: THE CHANGE IN THE TRADE UNION’S PRACTICE WITH THE PRINCIPLE OF PARTICIPATION] (Detelf Wetzels ed., 2013).

26 CHANGE TO WIN, www.changetowin.org (last visited June 29, 2015).

27 ORKA, <http://www.orka-web.de/> (last visited June 29, 2015).

28 LABOUR START, www.labourstart.org (last visited June 29, 2015).

ORGANIZING is primarily focused on getting together workers in a certain location, and particularly in a certain enterprise. It is therefore a method for building an organic and vibrant community that is active in identifying its goals, establishing joint interests, and acting in concert for their achievement, with a well-defined purpose and a plan of action. In this short description I am trying to merge various components that emerged in the interviews. Examples of such ORGANIZING attempts that were described in more detail in the interviews include:

- *Israel*: enterprise organizing for the purpose of achieving an enterprise-based collective agreement in diverse private sector establishments;
- *Germany*: workers in the wind-energy sector, housing service workers, roadside restaurant workers in an international chain;
- *Austria*: healthcare workers in a church-owned hospital, care workers, temp agency workers, a home-electronics retail chain;
- *Netherlands*: cleaning workers, security workers, operations centers for supermarket chains, nursing homes staff and, exceptionally, a large industrial manufacturing plant.

ORGANIZING is labor-intensive (on the union’s side), costly and time consuming. It is sometimes led by innovators within the trade union, and in only a few unions it is based on a new cadre of organizers who specialize and devote their time to ORGANIZING. Such is the case, for example, in the IG Metall and Ver.di (Germany), FNV Bondgenoten and FNV Abvakabo (Netherlands), in the General and National Histadruts, as well as in the small union Power to the Workers (Israel). When unions build an organizing team, some recruits for the job come from the outside, and a few come from within the union. Many of those who are recruited for the job tend to be ideologically inclined to social activism, have university degrees, and were engaged in various forms of civil and political action before. Consistently, in all countries, interviewees reported that the organizers’ working hours are very long and their work schedules erratic. Only initial steps toward professionalization have been taken in the field of organizing, such as routinization of practices and training, but the job description remains tentative and uneven.²⁹ This cadre of professionals is the least developed in Austria, where ORGANIZING still seems to be more of a local experimental initiative. Other than the few large

29 On the importance of professionalization in social change contexts, see ANDREW ABBOTT, *THE SYSTEM OF PROFESSIONS: AN ESSAY ON THE DIVISION OF EXPERT LABOR* (1988). Studies of professionalization in the context of trade unions discuss the more common task of “trade union officers.” See, e.g., JOHN KELLY & EDMUND HERRY, *WORKING FOR THE UNION: BRITISH TRADE UNION OFFICERS* (2009). There are no systemic studies of organizers in continental systems of industrial relations.

unions that employ a designated organizing team, unions tend to experiment with both ORGANIZING and recruitment, drawing either on their regular staff or on local leaders.

In unions where ORGANIZING is more developed, there are manuals, training sessions for Organizers, and a general protocol on the methods of ORGANIZING³⁰: initiating research, targeting the appropriate establishments, identifying local leaders, engaging workers in the merits of organizing, how to identify with the workers the relevant issues for organizing, and how to advance negotiations with management. The ORGANIZING process usually includes the following components:

- a. *Research*: Planned organizing should consider which companies should be targeted. This includes such considerations as the economic situation of the company, its public profile, its importance in the sector, and its public image “soft spots.” Other factors that are studied include the stability of the workforce and the potential for building local leadership
- b. *Initial contacts*: These can be conducted at the workplace (usually secretly), on home visits (reported in the Netherlands), or at meetings in public spaces outside the workplace (reported in Germany).
- c. *Identifying leadership within the workforce*: The unions try to move the responsibility for the campaign as quickly as possible to the workers themselves. The trade union is there to assist, but leadership should gradually emerge from within. Union organizers work with the local leaders on problem-solving strategies through simulations, mentoring and individualized help.
- d. *Secrecy*: The need for secrecy during the initial stages of the campaign correlates with the intensity and frequency of employers’ resistance strategies. It is therefore common in Israel and to a large extent in Germany, but considered less important in the Netherlands and Austria.
- e. *Demonstrating action*: Focused campaigns that seek to solve some problem as a way of demonstrating the union’s competence, rather than starting with the “big targets.” In the Netherlands, these are sometimes referred to as “issue fights.” In all four countries there is an emphasis on recognizing the problem that “ticks the workers” — the state of the canteens or changing rooms; working time and work schedules (in the European countries);

30 Organizing materials appear in the form of manuals, films and training sessions. See, for example, Ver.di’s trainings materials: *Materialien ver.di MitgliederEntwicklung*, VER.DI, <https://www.verdi.de/wegweiser/organizing/materialien> (last visited June 29, 2015); and FNV’s films on the cleaning workers organization drive, *FNV Organizing*, YOUTUBE, <https://www.youtube.com/channel/UCgyGJe1nqyWYdPtt537hj5Q/feed> (last visited Dec. 13, 2015).

or what often appears to be an important trigger — a sense of violated dignity. In addition, when selecting the issues with which to start the process, unions reported that they also consider which are more likely to capture the public’s attention.

- f. *Strikes*: Local strikes are becoming more common in ORGANIZING campaigns, even in Austria and the Netherlands, where strikes are considered to be foreign to the culture of social partnership. Where strikes are in conflict with the tradition of social partnership, they tend to be shorter and often resort to partial forms of industrial action (such as strikes with a gimmick that catches the media’s attention, inverse-strikes (work harder), slowdown strikes, revolving strikes, and the like). In Austria, unions often avoid the full-fledged strike by arranging, together with works councils, “assemblies of workers.” These assemblies are actually mandated by the law, but context matters, and choosing to conduct them at a particular time and place carries with it a clear message. Where industrial action is crucial for a clear gain, such as winning the status of exclusive bargaining agent in Israel or the establishment of a works council in Germany, it tends to be longer and include a full-fledged strike.

At times of strike, it is usually only the union’s members who strike. When nonmembers strike as well, or informally “go on vacation,” only the members benefit from the union’s strike fund. This creates a strong incentive for those who are supportive of the trade union’s organizing drive to refrain from free-riding behavior.

- g. *Sustainability*: A major dilemma that is currently emerging is how to sustain successful campaigns over time, while moving organizing resources to new sites. In particular, if ORGANIZING leads to successful collective relations in the workplace, there is a risk that the angry core that instigated the organizing drive will become dormant.

Of particular interest is the extension of labor organizing outside the traditional domain of trade unions, namely cooperation with other organizations in civil society. The potential for such alliances rests on the need to meet the interests and preferences of workers outside the context of class, and to acknowledge the politics of identity.³¹ This kind of alliance has been developed in some of the Anglo-American countries, but was in the past resisted in the systems where social partnership was institutionalized and strong. There was a particular concern that interests’ representation outside the formal channels of collective bargaining by the social partners would undermine the unity

31 On the relationship between class politics led by trade unions and the politics of identity led by other types of organizations in civil society, see SIAN MOORE, *NEW TRADE UNION ACTIVISM: CLASS CONSCIOUSNESS OR SOCIAL IDENTITY?* (2010).

of the system. However, the new ORGANIZING, more than any other type of recruitment strategy, seeks to change the trade unions' social positioning. It would seem that in the interest of recruiting workers who are outside the trade unions' traditional constituency, such alliances harbor a potential for growth.

The interviews indicated that cooperation between the trade unions and organizations in civil society is at most embryonic, with only sporadic examples. When questioned on this issue, informants needed some time to come up with examples of cooperation with civil society and usually concluded with the observation that animosity, or at least disregard, persists. Examples of cooperation included some joint action with green movements (but not on recruitment) or informally working with local communities that rely on wind energy factories (Germany). However, there were also counter-indications, such as reports of disparate interests when "green" (environmental) and "red" (labor) agendas conflicted (as was the case regarding fracking policies in Germany).³² In Israel, the new union Power to the Workers emerged from the discursive space of civil society with its emphasis on organic communal empowerment and organizational democracy. This tenuous position regarding cooperation may suggest that unions still feel relatively secure that they are the forerunners in the market of social interests' representation.

To conclude, there are ongoing tensions between the attempt to routinize and adapt ORGANIZING as a daily practice, and the desire to situate it as an extraordinary endeavor. First, consultants and the leading innovators in the field emphasize that no two campaigns are the same. ORGANIZING is a way of adapting strategies to what the workers want and need. On the other hand, as unions try to increase their use of ORGANIZING and integrate it into their day-to-day operations at all levels, union officials and secretaries seek an anchor of stability and certainty. They want the routine, the handbook, and the guided steps. A second kind of tension stems from the fact that campaigns in which the trade union puts in much effort are based on publicized innovation. However, as campaigns become more frequent, it is more difficult to surprise and capture public (through media) attention. Third, the objectives of ORGANIZING may not be identical for all agents in the union. Top officials often view them as a way

32 *Gewerkschaft steht auf Fracking: IG BCE und Industrie fordern Zulassung der umstrittenen Fördertechnologie* [Union Stands on Fracking: IG BCE and Industry Approval of the Controversial Mining Technology], DIE WELT, Apr. 26, 2013; *Neuer Vorstoß zum deutschen Schiefergas, Eine ungewöhnliche Allianz aus Gewerkschaftern und Industrie fordert die Zulassung der Fracking-Technologie in Deutschland* [New Attempt for German Shale Gas, an Unusual Alliance of Trade Unions and Industry Calls for the Approval of Fracking Technology in Germany], DIE WELT, Apr. 26, 2013.

to expand membership, while organizers judge their success by other criteria — such as changing the nature of trade union representation, mobilization and empowerment. Although these tensions are different in nature, they can be simplified by sketching, even if crudely, two major perceptions of what is needed: (a) a systemic protocol that can be used by all union representatives for the purpose of enlisting more members, or (b) an exceptional strategy that requires unique interpersonal skills and strategic agility, which can “shake” the foundations of what unions do.

F. Overcoming the Problematics of Organizing in Hybrid Systems

For unions to increase membership in the hybrid systems, whether by means of ORGANIZING or by other methods of membership enhancement, they must consider the challenge of bridging the gap between two distinct bargaining levels. On the one hand, the hybrid systems maintain institutions of social partnership and bargaining at the sector level. On the other hand, many organizing attempts are centered at the enterprise level and seek to constitute a community of interests.

There are two situations in which the problem is attenuated. The first is when recruitment and organizing takes place at the enterprise level, and no sector agreement or other forms of sector-level coordination exist. Such, for example, is the case in the wind energy organizing drive in Germany, or in most enterprise-based organizing in Israel. However, even in these situations, the sector- and state-wide position of trade unions is implicated. Some of the trade union’s policies are established at the state level. Furthermore, the trade union must somehow bring together the various components of the IRS. That is, the union must seek to provide a coherent statement of purpose for workers who are organized in different settings, and to legitimize the organizing drive by demonstrating that new members are treated like the seasoned ones in the powerful strongholds of the union.

The second situation in which the problem of hybrid systems is attenuated concerns recruitment into well-established brownfield sites, or the targeting of young members. In these instances there seems to be no need to adjust the trade union’s statement of purpose. However, in this context as well, the dilemma of trade unions in hybrid countries persists. Given their image as archaic and foreign to new workers’ needs, the trade union must offer an alternative reference point. If new members suffice with benefits, the union can suffice with the relatively passive strategy of a service union, but then risk the overall image of the union as entrenching the model of social partnership with its lesser role for individuals’ activism. If the new workers are indeed seeking a new community for active participation, it is likely that recruitment must

bridge the gap between peak-level bargaining and the location of individual action (generally the enterprise, although conceptually it can also be at the level of occupation or identity communities). Creating local strongholds may threaten the agendas of those who are in the leadership position and engaged in macro-coordination between the social partners.

The problem is confronted in its most acute form in campaigns where sector- and state-wide bargaining prevails, or at least exists as an option, but at the same time ORGANIZING is focused on small local units, which are expected to generate real activism. Hence, the epitome of *adaptation* of North American organizing strategies to the hybrid systems can be viewed in innovative attempts to bridge the gap between local activism and social partnership at higher levels.

An exemplary attempt can be viewed, for example, in the Dutch organizing drive of cleaning workers. In this example, bargaining takes place at the sector level, but ORGANIZING is conducted at the company level (that is, mostly cleaning contractors who employ the cleaning workers to clean the parent company's facilities). The problem of organizing cleaning workers who are employed by subcontractors prevails in all systems of industrial relations.³³ However, in the Dutch context there is a need to connect the company level with the far-removed arena of bargaining. As an official of FNV Bondgenoten explained, "one of the campaign's goals is that the workers will feel that it is their collective agreement . . . that the agreement is that of the people." This connection is conducted by semi-formally institutionalizing coordinating mechanisms. Membership units are being surveyed about their needs and preferences. Other than problem solving at the company level, the members are also informed about the bargaining process. There are representatives from the workforce in the bargaining team, and workers are involved in the bargaining sessions themselves. Reports are then submitted from the bargaining team to the workers, thereby creating a dynamic learning cycle in which workers are both informants and informees, giving rich and active meaning to the trade union's accountability to its members.

The system of representation can be described as semiformal because it is not mandated by the union's constitution, but neither is it a temporary device that is structured around the leadership skills of a particular organizer. An organizer in FNV Bondgenoten described the task of maintaining an ongoing institutional structure of active representation: "There is a parliament of workers that is elected, and the 'government' is chosen from within the parliament,

33 Hila Shamir, *Unionizing Subcontracted Labor*, 17 THEORETICAL INQUIRIES L. 229 (2016).

and there is the ‘president’ who is actively involved in the negotiations. The parliament also draws on active committees.”

Similar challenges have been met in Austria, where the sector-level agreements are the sole method of collective bargaining. Some solutions indicated a different type of coordinating mechanism. For example, there is a growing use of ballots to poll the workers’ views and preferences during bargaining rounds. In 2014, workers were polled about whether they were willing to work on Sundays, and their views were presented in the course of sector-level bargaining. A more ambitious idea was reported with regard to the organizing drive of temp-agency workers. PRO-GE, one of the leading blue-collar trade unions, tried to complement the organizing drive by building a grassroots network (administered by an NGO, not by the union) for the agency workers. They further sought to negotiate benefits that would give the union an opportunity to be in contact with the workers whose place of work is unstable, namely, a fund that the workers can claim with the union at the end of their employment. It was explained that temp agency workers are widely dispersed and do not have a works council to protect their interests like other workers do. A legal advisor of the Austrian PRO-GE explained: “The problem is that they don’t come to us (the union) and we don’t have real access to them. We need something in between the union and the workers to forge that connection.”

These semiformal methods of multitiered representation are relatively new, and have to steer away from well-documented potholes of danger, such as the iron law of oligarchy,³⁴ the crystallization of hierarchy,³⁵ and organizational fatigue. The hybrid nature of the system creates even more hurdles, for example if negotiators bargain in opposition to what workers want; if the social partners seek a compromising position while the workers advocate a militant one; or if the needs of workers in different locations (e.g., those employed by large versus small employers) are not mediated and legitimized in central bargaining. Current attempts to create bridging institutions are instructive for meeting the challenge posed by hybrid systems. Ironically, while the situation of trade unions in hybrid systems remains better than that of trade unions in systems where bargaining is limited to the enterprise level, the complexity

34 On the iron law of oligarchy, see ROBERT MICHELS, *POLITICAL PARTIES: A SOCIOLOGICAL STUDY OF THE OLIGARCHICAL TENDENCIES OF MODERN DEMOCRACY* (Eden Paul & Cedar Paul trans., 1915). On the application of the problem in the context of contemporary challenges to trade unions, see, for example, Kim Voss, *Democratic Dilemmas: Union Democracy and Union Renewal*, 16 *TRANSFER: EUR. REV. LAB. & RES.* 369 (2010)

35 JANE MANSBRIDGE, *BEYOND ADVERSARY DEMOCRACY* (1980).

of the hybrid system requires more layers of coordination and entails a more difficult mission of legitimizing the system of membership.

IV. CONCLUDING REMARKS: ARE MEMBERSHIP ENHANCEMENT SCHEMES “EFFECTIVE”?

When asked about the number of workers that joined the union following an ORGANIZING campaign, answers were often hesitant. In only a few instances, the numbers are remarkable (at least the reported figures). For example, the security workers campaign in the Netherlands has already gained approximately 35,000 new members (figures reported by the union and other union-friendly sources). However, in other instances, the numbers are low, sometimes as few as a hundred (or few hundred) members who joined.

Sometimes small gains are offset by the natural attrition of veteran members. This, for example, was evident in the figures on trade union density in Israel, where in 2012, a couple of years after successful ORGANIZING campaigns started, membership levels dropped beyond what was expected.³⁶ New strategies slowed down the decrease in membership, but did not offset it, and did not even halt it. However, several trade unions that invest much effort in recruitment and organizing of various sorts did report a stabilization in membership rates after years of continuous decline. Typically, the more affluent trade unions that were interviewed presented such figures.

My questions about the numbers were repeatedly and consistently across borders, answered with some objection to the actual framing of the question. Two common objections were voiced. The first was that outcomes should be measured over time and in the long run. Some efforts, whether giving classes in high schools, or incrementally working on changing the public perception of the unions by means of high-visibility campaigns, do not generate immediate results. One of the leading organizers (Germany) explained that each campaign should be viewed as a lighthouse: “good examples that light the landscape around them.” Following a headcount of how many people they had organized in the first year (150 out of a 1000 in the relevant workforce, with a target of 400 — that is, forty percent density as the desired benchmark), I asked the organizer what keeps him going, and he answered that it is the lighthouse effect: “The strategies spread around, they affect even ‘old school’ unionists and they should change the union over time. The time to ask is not five years

36 Tali Kristal, Guy Mundlak, Yitchak Haberfeld & Yinon Cohen, *Trade Union Density 2006-2012: Dualization of the Industrial Relations System*, 14 WORK, Soc’y & L. 9 (2015).

into the process, but twenty years later. The lighthouse effect is slow and takes time.”

The second objection, which is also closely related to the “lighthouse effect,” was that at least some of the strategies are not directly intended to raise membership rates. As one of the informants from FNV Bondgenoten explained: “Recruitment strategies are about numbers, but ORGANIZING is about a deep change in the union culture, empowerment of the people . . . ; it is not about getting bigger, but about getting stronger.” Another union official from Ver.di claimed that “it’s not about making members, but about making people realize that they can do things and move them together.”

The objections to the framing of recruitment and ORGANIZING (solely) in terms of numbers point at other gains, namely a change from within and from outside. From within, such processes require unions to engage in some form of organizational change, which ranges from deep to superficial. From the outside, the assumption is that they will change the way the general public views the unions.

However, despite all the hopeful experimentation that is visible, a core problem for trade unions’ revitalization strategies in hybrid systems remains. There is a tradeoff between being “good” social partners and “good” representatives of labor. A small trade union, like the Israeli Power to the Workers, which does not have a clear footprint at the level of social partnership, does not experience this problem as much as the stronger unions like the General Histadrut, FNV Bondgenoten, IG Metall, Ver.di and the Austrian unions. For the latter, they have to walk a thin line. Grassroots organizing emerges from a tradition of conflict and power, and provides a different response from that of social partnership.

Informants acknowledge the problem and it is debated within the trade union movement. Particularly in the Austrian unions, there are claims that German-style (originally U.S. style) ORGANIZING techniques are detrimental to the “old type of negotiations” that still guarantee almost full coverage of collective agreements in Austria. In the Netherlands and Israel, Organizing of cleaning workers who are employed by subcontractors requires a huge investment of resources, which some claim would be better used if invested in the sector-level bargaining process.

These general debates frame almost every aspect of the trade unions’ strategy. For example, where inter-union rivalry prevails, the debate also frames the arguments — legal, political and public (media) — about the “rules of the game.” In the Netherlands, where there is no doctrine of exclusive representation, active organizing at the shop-floor level may sometimes be addressed by the employers who negotiate a collective agreement with a competing (“yellow”) union. The small union that draws on the traditional

claims of partnership undermines attempts to gain actual workers' empowerment on the shop floor. By contrast, Israel's small union — Power to the Workers — presents a more militant position at the shop-floor level, and is sometimes claimed to be less concerned with the benefits of forging social partnership. While institutional details may work in different ways, the animating forces that shape this debate are the same.

Informants indicate that the unions are aware of the tension and seek to mediate between the conflicting poles. For example, Austrian unions rely on a formulation of “*conflict-ready social partnership*.”³⁷ Nevertheless, such a formulation is not a solution, but a framing of the problem in which different agents within and outside the trade union movement must identify where they throw their weight.

The tradeoff is most acute when the institutions of social partnership are still functioning. More generally, the paradox is that the more developed the system of social partnership the more difficult it is for the unions to organize. By contrast, where social partnership has been disrupted, unions are more willing to throw their weight behind local conflict. Such is the situation in Israel and to some extent in Germany. Success and emphasis on organization is therefore a reflection of the dwindling effect of partnership ideals. However, successful, innovative and mobilizing experiments of ORGANIZING at the shop-floor level are unlikely to have enough of an impact on the headcount that organizers seek to avoid. Innovation in organizing comes from where trade unions are most desperate and must face a hostile institutional environment (e.g., the United States or Australia). There is a concern that the move to organizing at the enterprise level may diminish the trade unions, rendering them a small social movement with an important historical legacy, but gradually irrelevant to vast segments of the workforce.

Hence, many of the examples and innovations described by the informants should be understood against the backdrop of this challenge: creating organizing and recruitment systems that are well suited to the hybrid systems' demands but can also preserve their hybrid characteristics; creating a new identity of a union member, and at the same time maintaining the class-based representation vested in the idea of social partnership.

37 Susanne Pernicka & Sandra Stern, *Von der Sozialpartnergewerkschaft zur Bewegungsorganisation? Mitgliedergewinnungsstrategien österreichischer Gewerkschaften* [From the Social-Partners Trade Union to Organization Movement? Membership Strategies of Austrian Trade Unions], 40 ÖSTERREICHISCHE ZEITSCHRIFT FÜR POLITIKWISSENSCHAFTEN [AUSTRIAN J. POL. SCI.] 335 (2011).