

This is an Open Access document downloaded from ORCA, Cardiff University's institutional repository:<https://orca.cardiff.ac.uk/id/eprint/152090/>

This is the author's version of a work that was submitted to / accepted for publication.

Citation for final published version:

Preminger, Jonathan and Bondy, Assaf 2023. Conflicting imperatives? Ethnonationalism and neoliberalism in industrial relations. *ILR Review* 76 (4) , pp. 646-673. 10.1177/00197939221145117

Publishers page: <https://doi.org/10.1177/00197939221145117>

Please note:

Changes made as a result of publishing processes such as copy-editing, formatting and page numbers may not be reflected in this version. For the definitive version of this publication, please refer to the published source. You are advised to consult the publisher's version if you wish to cite this paper.

This version is being made available in accordance with publisher policies. See <http://orca.cf.ac.uk/policies.html> for usage policies. Copyright and moral rights for publications made available in ORCA are retained by the copyright holders.



Conflicting imperatives?

Ethnonationalism and neoliberalism in industrial relations

The relationship between the state and organized labor has been a key concern in studies of labor migration or transnationalism, a relationship complicated by neoliberal pressures. Where nationalistic regimes contend with these pressures while also excluding “unwanted” populations, tensions arise between two contradictory imperatives: the neoliberal imperative to include and exploit; and the ethnonationalist imperative to exclude and suppress. This dynamic is clear in settler-colonial regimes, where there is extreme tension between capitalist logics of exploitation and ethnonationalist logics of elimination. In this article, we assert that the imperatives of (neoliberal) inclusion and (ethno)nationalist exclusion are an insightful and heuristically useful framework that can illuminate the choices of social actors as well as the constraints on these choices. Furthermore, we show how this framework can explain the apparently contradictory decisions and developments that impact industrial relations institutions and the employment relationship more generally. Research has explored the tensions between these imperatives in terms of the voice, participation and inclusion of migrants, “unwanted” populations or the ethnonational “other”, but research into the impact of these contradictory imperatives on industrial relations (IR) and employment is only just beginning. Empirically, to demonstrate the utility of this framing, we therefore ask: how does this dynamic between ethnonationalism and neoliberalism, embodied in the imperatives of sociopolitical exclusion and economic inclusion, affect the institutions of IR and the regulation of the employment relationship?¹

¹ The findings presented in this article are part of a multi-year study, 2015-18. Material from this study has been published in three articles to date: Bondy (2021a) discusses relationship between traditional and new IR actors, and their impact on the representation of precarious workers; Bondy (2021b) develops the concept of

By “neoliberalization” we mean the policies and arrangements that bring about the gradual liberalization of the economy, the reduction of barriers to movement of capital, goods and labor, and the insertion of competition and market logics into ever-expanding swathes of economic and social life. By “ethnonationalism” we mean the dominance of one group of people over all others under the regime’s *de facto* authority; in some cases, this group is also identified with the state and disproportionately served by it. Yet both nationalism and neoliberalism are contested. The marginalization of certain population groups, dualization of labor markets, and marketization of the employment relationship are key mechanisms for the neoliberal project; yet the liberal commitment to formal equality at an individual level can open the way to forms of participation, active citizenship or resistance in the interstices of dominant social and political (national) institutions. The significance of this potential is clear when we view citizenship as a struggle and not merely a bundle of rights granted in return for the fulfillment of duties: various actors find ways to circumvent the harsh dictates of neoliberalization and thereby expand the “space” for citizenship.

Scholars of democratic transitions and regime change, 20th-century corporatism, civil society organizations, and day-to-day union activity have long recognized IR institutions as a bulwark against the impacts of neoliberalism and as an important channel for such citizenship struggles. Therefore, in this article, we not only explore the joint impact of ethnonationalism and neoliberal capitalism on IR institutions and the regulation of the employment relationship, but also investigate their implications for “effective citizenship” and the exercise of rights.

Israel constitutes an ideal case for such an investigation, with its history of strong IR institutions intimately connected to the nationalist state-building project, a firmly

“complimentarity” (between new and traditional IR actors) in the context of corporatist IR; Bondy and Preminger (2021) contribute to the literature on juridification, and explore the logics underlying the modes of action of IR actors.

ethnonationalist regime, and some 30 years of rapid neoliberalization. While the centralized IR system that characterized Israel provided representation and benefits to Jewish citizens, it effectively excluded non-Jewish workers. A salient manifestation of this developed after Israel's conquest of additional territories in 1967 and the beginning of its control of the noncitizen Palestinian population.² Entering Israel to work, these noncitizens found themselves under the centralized system, controlled by the nationalistic labor federation (the Histadrut), without any effective representation. However, while neoliberal policies implemented from the 1980s onwards deepened the exploitation of noncitizen workers, they also opened the way for new IR actors including rights organizations, and new forms of bottom-up resistance.

The Israeli construction sector embodies these developments very clearly, with its long history of collective labor relations, its importance to state-building, the changes it has undergone since the liberalization of Israel's political economy, and the prevalence of noncitizen labor within it. Presenting significant developments in the interrelations between the ethnonationalist and neoliberal imperatives, and their impact on IR institutions, this sector is therefore the focus of our study. While drawing on understandings of unions' contribution to the broadening of rights and participation, our empirical concern is whether the responses of key social actors to the pressures of both ethnonationalism and IR liberalization can result in the opening up of organized labor, so firmly embedded in the ethnonationalist ethos, and thus nurture the buds of an effective citizenship within IR institutions.

Organized labor, the ethnonational state, and industrial relations

² Palestinians who had stayed within the new state's borders after 1948 were granted citizenship, but remained a suppressed minority (about 20% of the citizen population), suffering discrimination at all levels of economic and political life (e.g. Semyonov and Lewin-Epstein 1987). Our focus here is noncitizen Palestinians, though our findings are relevant to all minorities excluded from the dominant ethos.

Trade unions have been key actors in struggles for increasing workers' collective access to rights and promoting other forms of political activism and political citizenship (Baccaro, Benassi and Meardi 2019; Bishara 2020; Fick 2009; Gumbrell-McCormick and Hyman 2019; Hyman 2016; Nicholls 2013; Turner, Ryan and O'Sullivan 2020; Wagner and Lillie 2014). However, the political and social contexts are crucial: access to rights through collective labor relations is a function of the broader economic system (Greskovits 2015; Pulignano, Meardi and Doerflinger 2015; Zafirovski 2020), and also of unions' strategies (Lillie and Greer 2007; Rubery 1978) or identities (Connolly, Marino and Martínez Lucio 2014), that are often nationally constructed (Bonacich 1972). The relations between unions and other actors, as well as between the different levels of the IR system (Bondy 2020, 2021a), are key factors nurturing or constraining the potential of collective representation to open spaces for "effective citizenship" (Preminger 2017).³ It is also shaped by the nature of unions' dependence on the state and their ties with the regime (Bellin 2000; Braton and van de Walle; Collier and Mahoney 1997; Howell 2005). This nationally-based dynamic raises important questions about the relations between various actors, their contributions to exclusive or inclusive representation, and the trajectories of change among different representation strategies.

A crucial factor in this dynamic is the country's response to neoliberalizing pressures (Kraus 2007; see also Beinin and Hamalawy 2007; Bishara 2014; Langohr 2014), which contradict the nationalist imperative to close borders and protect key population groups, creating tension between what we are calling the neoliberal imperative to include and exploit, and the (ethno)nationalist imperative to exclude and suppress.

³ Borrowing from social movement theories (e.g. Meyer and Minkoff 2004), this space represents the opening of a political opportunity for change, based on gaps created in the regulatory frameworks or in traditional (coercive) mechanisms of domination and control.

From a comparative perspective, many forms of employment relations are situated in the interstices of nationalism and neoliberalism, such as those created within transnational spaces involving migrant workers (Meardi et al. 2012; Wagner 2015). States often perceive migrant workers to be an ethnonational “other”, included in labor markets for the value of their labor but excluded to varying degrees from institutionalized protection and representation (e.g. Greer et al. 2013). Such exclusion can be seen throughout many developed market economies, where noncitizen workers are often confined to specific labor market sectors (Meardi et al. 2012; Milkman 2000) in which unions are often weak and labor regulation is under-enforced (Arnholtz 2019; Berntsen and Lillie 2016). Labor market segregation and exclusion from institutionalized protections based on ethnonational characteristics thus leads to potential limitations on workers’ free access to jobs but also on their social citizenship – developed through access to labor rights (Berntsen and Lillie 2016; Greer, Ciupijus and Lillie 2013; Lillie 2016).

However, current understandings of citizenship increasingly acknowledge that despite ongoing exclusion and deprivation of rights, noncitizens find alternative ways to influence society and exercise rights through various forms of individual and collective action (e.g. Kemp, Raijman, Resnik and Schammah Gesser 2000; Lillie 2016). Such developments remind us that citizenship is contested, and research in this field often focuses on the fight for inclusion, recognition and voice, beyond formal structures of political rights and duties (e.g. Sassen 2002). These studies position citizenship as a struggle (Isin 1999), as a “political activity” (Sassen 2002: 281), as a process open to agency (Kemp et al. 2000). Thus, even when excluded from formal institutions of representation and poorly served by regulation, noncitizen workers may act in various ways to resist exploitation and strive for improved employment relations (Berntsen 2016; Wagner 2015): far from being passive victims of circumstance, they have opportunities for agency. This agency can take a collective form, though due to workers’

mobile and temporary status in the labor market and to unions' exclusive approach toward noncitizens, alternative forms of agency may be more prevalent, including the individual threat of exit (Smith 2006), or via what Berntsen (2016) calls "reworking" the employment relationship: attempts to "materially improve" workers' position "within the confines of existing social and power relations and without attempting to change underlying power imbalances" (Berntsen 2016: 476). Agency is also granted via the activities of "new IR actors", which substitute traditional unions and their exclusion of noncitizen workers (Bondy 2021; Bondy and Preminger 2021).

Marginalized by unions, noncitizen workers may therefore benefit from the erosion of collective IR, since their possibilities for action are broadened by a liberal and individualized approach to rights (Greer and Doellgast 2017). After years of exclusion or marginalization, noncitizens may even reject traditional (union) representation in favor of alternative forms of representation, as they perceive unions to be agents of discrimination (Bondy and Preminger 2021; Bondy 2020). Thus, while the liberalization of IR may extend employers' discretion (Baccaro and Howell 2017), the alternative forms of agency it promotes may also enhance workers' power (Smith 2006; Berntsen 2016) and can open space for "effective citizenship" (Preminger 2017) in the gap between exclusive ethnonationalism and inclusive neoliberalism (Bondy and Preminger 2021).

In Israel, under the banner of "a new Middle East", the neoliberal transition of the 1990s promised to disconnect Israel's capitalism from its ethnonational features and integrate the country into the corporate-driven global economy, while retrenching the welfare state and undermining organized labor (Ram 2008; Shafir and Peled 2000). However, instead of just "globalizing" Israel's capitalism, the transition led to a restructuring of ethnonationalism, while eroding its nationalist-corporatist institutions in favor of increasing liberalization of IR and commodification of labor. Thus, even after Israel's corporatist or developmental-state

capitalism has been decoupled from the racialized state project, neoliberal capitalism still contains strong ethnonational inequalities, including suppression and exploitation that were the bedrock of its settler-colonial origins (Shafir 1989). Crucial to studies of the ethnonational face of Israeli neoliberalism (e.g. Machold 2018; Swed and Butler 2015; Tartir, Dana and Seidel 2021; Yacobi and Tzfadia 2019) is recognition of the state's centrality: while its role changes under neoliberalism, it remains a powerful regulatory actor (e.g. Maron and Shalev 2017), often increasing its security function, indispensable for ethnonational exclusion (Berda 2017).

Focusing more specifically on employment, ethnonationalism's influence on workforce dynamics has been investigated by critical scholars (e.g. Semyonov and Lewin-Epstein 1987). Shafir (1989), for example, has shown how the management of labor was crucial to the pre-state settlement of Jews in Ottoman and later British Mandate Palestine, while others have investigated the tensions between the Israeli national project and organized labor (e.g. Bernstein 2000; Lockman 2012) and attempts to create an exclusive "Jewish economy". Similarly, following the conquest of the West Bank and Gaza Strip, Farsakh (2005) and Rosenhek (2003) explore how the entry of Palestinian workers into "Israel proper" was managed according to the demands of Israeli employers and the government's changing aspirations regarding these occupied territories.

While organized labor's role in Israel's history is well researched (e.g. Grinberg 1993; Lockman 1996; Shalev 1992) including the impact of neoliberalization on the country's once robust corporatist institutions (Grinberg and Shafir 2000; Mundlak 2007; Preminger 2018), research into the impact of the current ethnonational project – the occupation – on the regulation of employment and on Israel's IR institutions is just beginning. At a national level, Preminger (2017) has analyzed the path to participation within IR institutions for those previously excluded, which he frames in terms of the contradictory imperatives of economic inclusion and political exclusion. Similarly, Sa'ar (2015) analyzes the placement of (citizen)

Palestinian women into the workforce, emphasizing the discursive dominance of the idea of workplace participation (the neoliberal imperative to economic inclusion) together with continued ethnonationalist exclusion, in what she calls “exclusionary integration”. Finally, Bondy and Preminger (2021) have investigated the development of noncitizen Palestinians’ inclusion within the traditionally nationalist-exclusive institutions of IR, spurred by Israel’s neoliberal transformation and a new form of social activism. This emerging body of work shares a concern with the extent to which one form of participation or inclusion (economic) can also open space for the emergence of another form (political) – or neutralize efforts to obtain broader citizenship rights. It thus begins to explore the impact of neoliberalization on the workforce as well as on IR within an exclusive ethnonational context.

Method

We aimed to understand the development of the construction sector in terms of the influx and representation of noncitizen Palestinians, and the impact they have on IR institutions, within a context of neoliberalization and ethnonationalism. To do this, we needed a firm understanding of the sector’s history, the institutions shaping employment within it, and key social actors impacting noncitizen Palestinians. We gained an understanding of the sector’s history from existing publications and historical documents including collective agreements, court rulings and government reports; similarly, we obtained details of the case and the events analyzed from collective agreements, court rulings and government reports, as well as from interviews with key actors. This, then, is a socio-political analysis of developments within a sector, which enables “a rich reconstruction of the chains of events while relating these events to sociologically theorized categories of actors and their typical modes of action and interaction” (Preminger 2013: 463).

We conducted archival research at several archives: the Lavon Institute (the Israeli labor movement archive), June 2015-January 2018; the Historical Jewish Press Archive at the National Library of Israel, September 2016-May 2018; and the Knesset (Israeli parliament) Archives, February 2017-April 2017; which yielded minutes from meetings of key actors and correspondence about the representation of Palestinians. The materials, collated as part of a broader research project, were located using numerous keywords, including “noncitizen construction workers”, “Palestinians”, and “the Histadrut of construction workers”, and covered the period 1945 to 2018.

In addition, we conducted 26 semi-structured interviews with workers (4), trade unions and employers’ associations (8), CSOs that assist noncitizen workers in Israel and facilitate their access to labor rights (4), new trade unions that act to represent noncitizen Palestinian construction workers (2), military officials that manage the checkpoints between the West Bank and “Israel proper” (2), and labor lawyers who represent noncitizen Palestinians (6). We selected interviewees by their key position in IR, by their relevance to noncitizen Palestinians in the construction sector, and by their proximity to the events researched, recruiting through personal connections and “snowball” sampling. During these interviews we asked about transformations in the labor rights of noncitizen workers in Israel, their access to these rights, and attempted reforms in the field of noncitizen workers’ rights in Israel. We obtained ethics approval for the study from Tel-Aviv University in 2018, allowing us to conduct the interviews. Interviewees’ consent was ensured by verbal (and in the case of noncitizen Palestinians – written) confirmation of agreement to participate in the research. We offered all interviewees anonymity: all the workers, lawyers and military officials requested to remain anonymous; union and employers’ association officials were willing to be named. We include a table of interviewees below (Table 1). All translations from documents and interviews are the authors’.

[[Table 1 here]]

Background: Israel's IR system and the construction sector

The foundations of Israel's IR system were laid before the state was established, when Jewish immigrants to Ottoman and later British Mandate Palestine created the institutions that were to form the future state. Among these was the General Organization of Workers in Israel (the Histadrut), established in 1920. As an organ of the Jewish settlement project, it owned concerns in a vast range of industries, as well as myriad cultural, health and sports organizations, alongside a trade-union department. Furthermore, the Histadrut was intimately connected with the political leadership of the Jewish communities in Palestine and, after 1948, with the governments of the State of Israel (Grinberg 1993; Shalev 1992). The intimate link between the settlement project and organized labor (Bernstein 2000; Lockman 1996), employers' commitment to the project (Gozansky 1986), the political and economic dominance of the Histadrut, and its close links with political leaders (Grinberg 1993) – all these led to the formation of a strongly corporatist IR. Under this structure, which prevailed until the mid-90s, over 80% of the workforce was unionized, and collective agreements at both peak and sector level regulated a very wide range of workplaces and employment conditions (Mundlak 2007).

In the first decades after 1948, this corporatist arrangement governed also the construction sector, which was crucial to the newly established state's objectives, including building the housing required for (Jewish) immigrant absorption. It was predominantly publicly owned (via the Histadrut) and provided stable employment with extensive benefits for its unionized (Jewish) workforce (Grinberg 2004); benefits that were partially extended to the entire sector through legally-binding collective agreements (Bondy 2020).

However, from the late 60s onwards, the sector began to change, partly as Israeli corporatism declined more generally (Mundlak 2007), and partly due to events impacting the sector specifically. Immediately after the conquests of 1967, noncitizen Palestinians began

entering Israel to work (Farsakh 2005) – an influx of cheap labor that flowed mainly to the construction and agriculture sectors. Most of these Palestinians entered sectors that sought manual, unskilled workers, headed by the construction sector which absorbed between 11,000 workers (in 1970) and 86,000 (in 1992) (12-46 percent of the sectoral employees). In 1970, construction sector employment accounted for 53 percent of the total employment of noncitizen Palestinian workers in Israel, increasing to 69% in 1992 (Farsakh 2005).

The construction sector attracted such numbers of unskilled Palestinian workers due to the growing need for immigrant housing, and because of the changing employment relations in the sector, which grew dependent on subcontracting (Amir 2000; Farsakh 2005). While the first factor is self-explanatory, the second needs further elaboration. As noted, the construction sector was dependent on public, state-based support for large housing and infrastructure projects. These state-led projects, comprising 50-60 percent of the sectoral output during the 1950s and 1960s, fostered the concentrated structure of the sector in which a handful of public companies dominated, while a cost-plus arrangement allowed them to maintain high labor costs. This state investment rapidly declined during the 1970s and 1980s to 15-20 percent of the sectoral output, pressuring employers to cut labor costs (Amir 2000; Bondy 2019), leading to an increase in the number of small contractors and subcontractors (from just a few hundred to some 5,700 by the early 1990s) that competed for construction projects. This change to employment relations was instrumental in displacing Jewish workers (who worked primarily in the big public companies) in favor of noncitizen Palestinians (working mainly through private contractors and subcontractors) from the 1970s onwards; this factor was a main driver of the decline in labor costs (Amir 2000; Farsakh 2005).

In the context of ethnonationalist IR, the Histadrut feared these developments would undermine its dominance in the construction sector (Bondy and Preminger 2021; Farsakh 2005). While centralized collective agreements granted the Histadrut extensive authority in

regulating workers' rights, its exclusionary approach toward noncitizens (formally unable to join as members until 2011) meant it was unwilling to organize them, yet it still sought to protect its dominance as the monopolistic representative of workers in Israel (Grinberg 1991). The Histadrut therefore looked to the state for an administrative solution to maintain its position, and its demands led to the establishment of a unique state mechanism: the Payments Division. This administrative-bureaucratic mechanism was established in 1970 to monitor and enforce sectoral collective agreements for noncitizen Palestinian workers. It also ensured centralized transfer of union agency fees from all Palestinian workers directly to the Histadrut, as if they were all directly covered by a collective agreement. The Division, then, drew on statist power to maintain the Histadrut's monopolistic position in labor regulation and bolstered the separation between citizen and noncitizen workers in the sector.

Though ostensibly a central mechanism in noncitizen Palestinian workers' access to labor rights (i.e. increasing social citizenship), the Division's capacities were limited, as reflected in a dramatic wage decline in the sector after 1967 (Farsakh 2005). Lacking sufficient staff and regulatory powers, the Division was not equipped to monitor employers' compliance with sectoral regulations (Shalev 2017). As noted by Shalev (2017), the Division's staff may have also lacked the desire to pursue its formal goals (see also State Comptroller 2014, p. 525). These deficiencies reduced workers' access to many social rights, such as vacation and sick pay (Niezna 2018; Shalev 2017; State Comptroller 2014). For example, to be eligible for sick pay, the Division required workers to obtain a medical certificate from an Israeli physician; but lacking Israeli medical insurance, Palestinian workers struggled to obtain this certificate. So at the moment they needed the Division's support, they encountered its inflexible bureaucracy and inability to serve its own *raison d'être*. The Division's deficiencies stand in stark contrast to its relative success in transferring agency fees from Palestinian workers to the Histadrut (interviews 1, 3 and 6). In this, the Division enabled formal corporatist control over the sectoral

labor market to be maintained and thus reduced the Histadrut's incentives to concern itself with the Division's dysfunctional operation. At the same time, despite its official aim, the Division's inability to enforce labor rights meant the workers were unable to benefit from the social citizenship granted them by law.

The state's control over noncitizen Palestinians changed dramatically in 1991, when free movement was severely curtailed through a new control mechanism – the permit regime (Berda 2017). Established as a reaction to the First Intifada,⁴ this regime required that Palestinians obtain work permits to enter Israel, which were subject to extensive controls and easily revoked; moreover, they severely limited Palestinians' ability to move between employers, "binding" each worker to a specific employer (with the threat of revocation if terms are violated; Shalev 2017). This arrangement resulted in a drastic decline in the number of Palestinians legally employed in Israel (to some 25,000 by 2011) (Nathan 2011).⁵ However, this policy also led to a gradual increase of illegally-employed Palestinians entering Israel without permits (Nathan 2018).

Though all workers are formally covered by basic labor regulation, the constraints of the permit regime, the lack of efficient enforcement, the binding arrangement and the illegal employment all increased workers' precarity and enhanced employers' discretion in managing the employment relations (interviews 9, 10). Without the ability to move freely in the labor market or negotiate terms of employment, and lacking effective enforcement mechanisms, noncitizen Palestinian workers' access to their rights was severely limited. However, these transformations also spurred workers, employers and civil society actors to take steps in their own interests, challenging the state-imposed order and modifying the balance of power

⁴ The widespread Palestinian uprising against the Israeli occupation.

⁵ As a response to employers' demands and to the government's desire to boost housing construction, numbers of noncitizen Palestinian workers gradually increased after 2011, reaching 105,000 in 2018 (Nathan 2018).

between capital and labor and between neoliberalism and ethnonationalism in Israel's construction industry.

Entrepreneurial recruitment and enforcement of labor rights: resistance from below

At the “shop-floor” level of employment relations, both employers and workers took advantage of changes to labor regulation, undermining formal employment relations in pursuit of increased profits: employers through the illegal collection of recruitment fees and violations of labor regulations (interview 11); and workers through the purchase of work permits that granted them (illegal) mobility in the labor market.

The permit regime and the power it granted employers enabled them not only to undermine formal regulations but also to demand payment for access to work. Employers are officially charged about NIS 800 (c. \$240) a month for the right to employ a Palestinian worker, but once the permit is in the employer's hands, it becomes a commodity, often sold on to workers. This practice has become widespread, with many Palestinians paying NIS 2,500-3,000 (c. \$750-\$900) for each month in which they are given the opportunity to work in Israel (Adnan and Etkes 2019). Adnan and Etkes (2019) estimate that around a third of noncitizen Palestinian workers pay for their permit; while military officials responsible for the checkpoints estimate this figure to be 50-60 percent (interview 8). According to an official from a new trade union (Ma'an), “more than half of the Palestinian workers pay these huge sums... [and] the state does nothing to stop this” (interview 13).

While workers' mobility between employers is formally banned, serving the ethnonational imperative of exclusion, paying for the work permit functions as an entry fee into the Israeli labor market: in return for payment, Palestinian workers acquire (informal) mobility – increasing their power and economic inclusion (interview 13), and reflecting the (neo)liberalization of sectoral employment relations. As Adnan and Etkes (2019) show, this

practice improves workers' (gross) wages; however, it also increases their precarity – making them dependent on labor intermediaries and payment of recruitment fees (which reduces net wages) as well as violating the rules of the permit regime which may result in their exclusion (with the denial of an entry permit) (interviews 11 and 12; see also Berda 2017). One worker noted, “[With the permit in hand] I get better wages and I can change employers... but if I get caught [violating the official permit]... I guess [the state] will kick me out” (interview 7).

Increased employer autonomy in managing the employment relationship and lack of administrative monitoring made labor law and collective agreements largely irrelevant to Palestinian workers. As noted, during the heyday of Israeli corporatism, the Histadrut did nothing in the face of recurrent violations of noncitizen Palestinian workers' rights (interview 10; see also Mundlak 2003). However, as corporatism declined, new actors – civil society organizations (CSOs), followed by private lawyers – came to compensate for the lack of internal supervision. These actors filled the regulatory void through individual representation, taking advantage of the juridification of Israel's labor relations (Mundlak 2007) to enforce Palestinians' rights.⁶ While the use of legal means to regulate labor relations is not new (e.g. Farsakh 2005), since the early 1990s it has dramatically increased, as affirmed also by our interviewees (interview 1, 2, 9, 15 and 16), and since the early 2000s, independent litigation has reached an unprecedented scale (interview 1). This form of representation opened space for Palestinian resistance to precarity and exploitation outside the traditional (and exclusionary) collective IR institutions and an alternative path to access their rights (Bondy and Preminger 2021). This form of resistance, which began piecemeal during the 1990s, became a flood in the

⁶ “Juridification” is “the process of establishing mandatory legal norms that substitute for extra-legal regulation of social or economic relationships” (Mundlak, 2007: 154). It is characterized by increased use of the courts to settle disputes, and the increased importance of legal deliberations in regulating labor relations, at the expense of traditional collective frameworks.

2000s, as interviewee 1 states: “We were facing numbers of legal claims we had never seen before... Some 9,000 lawsuits by Palestinian workers against their employers each year... This was an enormous burden that employers could not cope with”. This massive increase in workers’ judicial pleas signifies an important channel for expanding and enforcing the rights of Palestinian workers.

Furthermore, with the decline of the Israeli corporatism and its connection to the state’s ethnonationalist interests (Mundlak 2007; Preminger 2018), CSOs opened an additional front, mounting legal attacks against the suppressive and discriminatory structures. Adopting a logic of human rights, these new actors made claims against the state, focusing on the continued inefficiencies in the state’s administration of Palestinian wages and social rights and demanding their rectification. Repeated petitions against the Payments Division and the State proved effective in obtaining various rights anchored in collective agreements and labor law (Mundlak 2003; Preminger 2017). For example, petitions in 2008 and 2016 led by the CSO Kav LaOved (“Workers’ Hotline”) demanded that Palestinian workers be granted social security, sick pay and vacation leave (e.g. High Court of Justice cases 5666/03, 7399/15 and 5918/16); and together with other CSOs and social activists it also led the struggle for improved safety in the construction sector (interview 10, 11 and 13; see also Kav LaOved 2019). Such organizations do not only represent workers, but level unremitting criticism against the State’s control over noncitizen populations and against their exclusion by the Histadrut, thereby expanding the representation of Palestinian workers into areas with broader political significance and potential for change: “Both the state and the Histadrut are to blame... [therefore], in our judicial pleas, we don’t hold back our criticism of [either of] them” (interviewee 10).

Thus the exclusionary structures that had underpinned IR, with negative impact on noncitizen Palestinians, were challenged by the increased autonomy of employers and workers

and the forms of activism promoted by new IR actors – themselves “side effects” of neoliberalization. In light of the inefficiencies of labor market regulation, and the “marketization” of the employment relationship,⁷ employers, workers and new IR actors developed new strategies that “reworked” (Berntsen 2016) formal regulations and (partially) improved their situation in the market. Moreover, taking advantage of these changes, new IR actors challenged the domination of traditional IR actors while undermining the state’s autonomy. In so doing, these new actors along with workers’ individual agency accelerated the marketization of IR – promoting a (neo)liberal, market-oriented logic of action in traditionally corporatist labor regulation. However, these forms of reworking were only the beginnings of change, and goaded institutional players at the industry and national levels to respond. Their responses drew on the institutional legacies of a sector regulated via (state-sponsored) collective agreements, and on a rapid increase of state efforts to augment its autonomy and elude external pressures. We now turn to these responses and their implications for workers within the context of the two contradictory imperatives.

The collective reaction: reforming corporatism

These challenges to the combined neoliberal-ethnonational regulation of the labor market came at the peak of a previous process of liberalization that began in the 1980s (e.g. Kristal and Cohen 2007; Bondy 2020). While the IR institutions in the construction sector remained relatively intact, emerging reworking strategies posed increasing threats to their maintenance: civil society criticism of the Histadrut increased, noting its lack of action regarding Palestinians despite receiving agency fees from them (Niezna 2018); and employers, faced with increasing

⁷ By “marketization” we mean the increased reliance on individual contractual employment relationships between employer and employee, as opposed to collective and state-directed regulation, with an emphasis on the autonomy of private actors.

legal claims, began demanding that the Histadrut act to reduce Palestinians' access to the labor courts.

By undermining the union's and employer organization's dominance in the sectoral labor market, these pressures spurred them to change their strategy, from neglect to effective representation and regulation, as explicitly noted by interviewee 2: "We couldn't let these lawyers make money at the expense of these workers for nothing... So we joined the [the employers' association] to solve this problem." Both the union and the employers' association saw individual as well as CSO-led legal activism as eroding the monopolist control of their social partnership over sectoral labor regulation and sought to address workers' grievances in another way. In other words, in the face of judicial criticism based on a human rights logic, the social partners could no longer lean on the ethnonational exclusionary logic to undergird their neglect of Palestinian workers' rights.

To counter independent litigation, the social partners established an alternative dispute resolution mechanism, an "enforcement committee" comprised of representatives of both labor and capital, conceived as mediation substituting court proceedings. This committee subsumed the labor courts' human rights logic, accepting workers' individual grievances but proposing to solve them through rapid bipartite mediation between the parties: while labor courts often take several years to rule and cases often end in mediated compromises, the committee's similar process offers a faster and cheaper solution for both workers and employers (interviews 4, 6, 16 and 17). In a recent op-ed in the official Histadrut newspaper, the head of the Construction and Woodworkers Union praised the judicial efficiency of the bipartite mediation: "Through the committee the worker gets to conclude the dispute rapidly and get his money. The [employer] saves expensive work time... Often, after reaching conclusions for one worker, the accepted mechanism can be duplicated to others" (Moyal 2022).

It is important to note that Palestinian workers had no trust in the Histadrut or its efforts for their benefit, as stated by one of the workers: “I don’t know of any union activity for us... I don’t trust such organizations” (interview 21; see also Shalev 2017: 55). The lack of trust in the Histadrut was also noted by a Histadrut official: “When we come to the checkpoints, workers seldom reach out to us, even when we explicitly say we want to help them... They have no trust in us” (interview 7); as well as by CSO representatives – “After years of doing nothing but collecting union dues, the workers don’t believe them [the Histadrut]” (interview 10). Nonetheless, despite the general distrust and the Histadrut’s history of exclusion and suppression of Palestinian workers, its institutional power enabled the social partners to establish the committee as an obligatory stage before referral to the courts was permitted, by anchoring it in a collective agreement (sectoral collective agreement, 2015. No. 7020/2015). Thus, following the court’s ratification (as stated in several labor court rulings; e.g. case LD 42574-01-15), the committee was quickly positioned as the principal (quasi-judicial) instance for enforcing noncitizen Palestinian labor rights, incorporating it within the institutions of collective IR. The head of the Construction and Woodworkers Unions emphasized, “One of the great things about the bipartite committee, is that it’s a first-class service given to both employers and workers... [and] all the workers in the sector can turn to it” (Moyal 2022).

Having anchored their position in disputes over employment rights, the sectoral social partners moved to cement their status in the exercise of workers’ social rights. For example, following a petition against the state regarding workers’ sick-pay funds (HCJ 5918/16), they acted to get control of the funds, declaring they would be used to benefit workers. While the direct distribution of funds accumulated throughout years of underutilization was considered unfeasible (due to high turnover in the sector), the social partners proposed that the money be channeled through a sectoral joint fund (the Fund for the Promotion and Development of the Construction Sector) and used to develop occupational safety training. The head of the Fund

recalled, “What I suggested was to funnel some of the money through the Fund, as a ‘marked sum’ for promoting the health and safety of Palestinian workers” (interview 6). According to our interviewees, this suggestion was likely to be supported by both the union and the employers’ association but also by leading CSOs that led the original petition on the matter (interview 6 and 9). It thus marks another step in the collective reaction to the individual reworking that was facilitated by processes of (neo)liberalization.

Although they reproduce the Histadrut’s remote, top-down structure, these steps also begin the inclusion of noncitizen Palestinian workers by enforcing their labor rights following years of exclusion. In taking these steps, the Histadrut reinforces the social citizenship of noncitizen Palestinian workers – not according to an individualized logic of human rights, as promoted by the new IR actors, but according to a collectivist logic, now partially stripped of its exclusionary features. As emphasized by Bondy and Preminger (2021), this inclusion is only partial as the Histadrut still refrains from actively organizing and empowering noncitizen workers, or addressing their grievances regarding the all-encompassing military control over their lives – the ethnonational imperative. Moreover, by refraining from addressing workers’ grievances about the wider constraints on their mobility, the Histadrut also failed to address the recruitment fees, illegally charged from Palestinian workers. Nonetheless, while the Histadrut’s strategic change (subsuming rights’ enforcement within frameworks of collective labor relations) increased the inclusive representation of noncitizen Palestinian workers within traditional IR, it had two additional ramifications: limiting the space for workers’ individual agency through reworking; and further accentuating the ineffectiveness of state regulation (see also Shalev 2017: 50-53).

The state reaction: marketization as an answer to administrative failures and workers’ resistance

As noted, the liberalization of Israel's IR transformed the state's governance of the labor market. Moreover, the social partners' effort to shift regulation away from the legal sphere and back to "traditional" collective IR highlighted the ineffectiveness of the Payments Division, which continued to function according to an ethnonational exclusive logic. Nonetheless, employers, workers and the Histadrut still relied extensively on the Division – for the administration of pay slips, transfer of agency fees and distribution of work permits. However, as these processes deepened, expressing intense criticism of the state, new, internal criticism also intensified – mainly from actors that traditionally sought to liberalize the public sector.

Informed by developments outlined above, a State Comptroller report (2014) criticized state agencies for their inefficient regulation and the way they exposed the state to external pressures from social actors. Over some 25 pages, the report details the Division's deficiencies that enabled employers "to pay significantly less wages and social benefits to workers than that required by law, regulations, extension orders and collective agreements," and the implications for Palestinian workers, from whom "many rights have been denied". The report argued that the government should review the Division and reassess its future operations (State Comptroller 2014: 490). Spurred by the report and the costs resulting from these inefficiencies, the government began a process of substituting administrative (exclusionary) control with market-based (inclusionary) control.

This change of approach intersected with another interest of the state, which found itself facing a social crisis that stemmed from rising housing prices (Raz-Dror 2019) and culminated in extensive media criticism and widespread social protest (Rosenhek and Shalev 2013). The social crisis and the consequent protests threatened the autonomy of the state, goading it to seek additional ways of reducing its obligations and its exposure to criticism while refraining from developing expansive public-housing and public-construction policies.

To increase its autonomy from these two external pressures (criticism of workers' rights violations and house prices), the government established two inter-ministerial committees under the Finance Ministry, a central agent of marketization and liberalization (Mandelkern and Shalev 2010; Maron and Shalev 2017), to review state control over the mobility of noncitizen Palestinian workers and the regulation of their rights. The first inter-ministerial committee, established 2015 (Government Decision 317), proposed lowering housing prices “by increasing the number of workers and thus accelerate the pace of construction” (Construction and Housing Ministry 2016: 4). Noting the permit policy as a central factor in the declining availability of Palestinian workers, the committee proposed a first form of deregulation – substituting administrative control with a “free-market” model. This model, it was claimed, would maximize mobility for both parties and reduce recourse to illegal practices in the employment of noncitizen Palestinians. Mainly, however, this change would further reduce the state’s responsibilities in regulating the sectoral market, or in the committee’s words – “reduce the regulatory burden and the state’s activities” (Construction and Housing Ministry 2016: 24). The committee’s recommendations were accepted in Government Decision 2174 (December 2016).

The second inter-ministerial committee, established in 2016 to address the poor enforcement of Palestinians’ labor rights, proposed structural changes to the wage payment mechanisms and a further reduction in the Payments Division’s responsibility:

To guarantee the wages to which [Palestinian] workers are eligible... To streamline the oversight and monitoring mechanisms [that enforce their rights]... *while reducing the associated bureaucracy...* to enable more effective exercise of the worker’s rights and *put responsibility for the employment of the worker and for his rights on the employer* [emphases added].

The committee therefore recommended:

To make the employer responsible for all aspects of employing the worker... as is the norm regarding Israeli workers... except aspects which due to special circumstances cannot be the responsibility of the employer (due for example to agreements Israel has signed). At the same time, the state will focus on monitoring and enforcement of wages. (Finance Ministry 2019: 3)

The second inter-ministerial committee thus joined the first in further marketizing labor regulation, emphasizing the need to enhance the dominance of the market and the autonomy of private actors. Its recommendations effectively erode the dominant roles of traditional IR actors in labor regulation, expanding the role of the “free market” and of individual negotiations between employees and employers in the independent regulation of the labor market and the enforcement of rights.

These changes “liberated” noncitizen Palestinian workers from the binding arrangement that governed their employment relations, expanding their access to work and their ability to act as free market agents – to move more freely in the sectoral labor market without the need to pay illegal recruitment fees, and to independently bargain for their wages and rights. Thus the state’s key response was market-based: to increase the supply of (cheap) labor to the sector, thereby accelerating construction and reducing the price of new accommodation (Government Decision 2174). The state’s subsequent shirking of responsibility for enforcing labor rights further undermined the ethnonational logic governing the control of the labor market in favor of a market-based agency. Promoting this form of agency may expand Palestinian workers’ economic inclusion and social citizenship, but its ramifications – namely the dismantling of the traditional state and IR control over labor regulation – holds but small promise: as the state substitutes the broken and exclusionary Payments Division, based on ethnonational logic, with the “free market”, it also exposes

workers to the vicissitudes of marketized labor regulation and its failures to safeguard workers' rights. Furthermore, by dismantling the Division's role in wage regulation, the state also undermined the ability of the social partners to centrally collect agency fees (from workers and their employers). While this move abolished the Histadrut's non-democratic control over workers' representation, its impact on the social partners' strategies regarding Palestinian workers' rights is not unequivocal: a Histadrut official noted that "if the centralized collection of agency fees is eliminated, we won't be able to get this money [ourselves]... This will lead to a decline in Histadrut efforts for Palestinian workers" (interview 6). These developments, implemented in 2020, reveal the overarching implications of this process – seeking to cancel the universal collection of agency fees from workers, the state also stripped the unions of their traditional power and undermined their ability to centrally represent class interests.

In a postscript to these developments, interviews and correspondence with Histadrut officials from the Construction and Woodworkers' Union and from the Economics and Policy Department revealed further plans to complement the new sectoral inclusive frameworks with an additional strategy – of organizing noncitizen Palestinian workers. This was no ordinary organizing, based on a bottom-up, conflictual strategy and aimed at improving wages through collective bargaining; rather it was more of a recruitment strategy, based on top-down social partnership (interview 7; see also Bondy 2021a; Bondy and Preminger 2021). According to the enforcement secretary in the Histadrut's Economics and Policy Department,

Facing the dismantlement of traditional state mechanisms, we developed several ideas... including a central calculator for workers' wages, the distribution of information for workers regarding their Israeli social security rights, the distribution of unique credit cards for noncitizen Palestinians, a special offer of private health insurance, a centralized mechanism for job

hunting for Palestinians, and professional legal aid and counsel (interview 8).

This official (interview 8, later correspondence) noted that the recruitment “was meant to get back at least some of the agency fees” that no longer flowed to the Histadrut: without state support based on a strong ethnonational logic, the Histadrut aimed to shape its new strategy based on a more inclusive, economically-motivated logic.

Despite enjoying the support of the union’s younger leadership, which drew inspiration from inclusive social movements (Bondy 2021b), the strategy failed to bring quick results and contradicted the union’s well-established norms of social partnership over bottom-up organizing – and it was therefore found to be of secondary importance (correspondence with interviewee 8). Nonetheless, this “path not taken” shows how the dominant ethnonationalist labor organization, facing the decline of its traditional institutional power (Bondy 2021b), is willing to countenance the inclusion of the ethnonational “other” to regain economic power while developing a new associational base that can, potentially, reinforce its institutional power – while at the same time increase the access of noncitizen workers to social rights. Furthermore, with the abolish of the mandatory deductions of agency fees to the Histadrut, new trade unions increase their efforts to represent Palestinian workers, through both grassroots organizing (interview 13) and top-down regulatory reforms (interview 14).

[[Table 2 here]]

Discussion and conclusions

Past research shows that a state’s response to neoliberalizing forces and its attempts to integrate into the wider global economy are crucial factors impacting the relationship between the state and organized labor, shaping labor regulation and IR. But the context of neoliberal ethnonationalism, built on the exclusion of certain workers from the polity, complicates the

picture: the ethnonational “other” is subject to the inclusionary imperative that demands the exploitation of labor as well as the contradictory imperative that demands ethnic exclusion. Building on research that traces the tensions between these two logics, we have demonstrated the utility of this framework of ethnonational exclusion and neoliberal inclusion in explaining the apparently contradictory developments in the regulation of labor and changes to IR institutions.

The narrative presented here shows how labor nationalism (the logic of exclusion) combines with the neoliberal desire for unprotected labor to produce an underclass of particularly vulnerable workers. This basic situation accords with existing literature. However, in line with some recent research into these contradictory imperatives, we assert that neoliberal ethnonationalism can also open up space for inclusion and – potentially – participation towards effective citizenship.

At the most fundamental level, neoliberal policies lead the unwanted and suppressed ethnic “other” to be economically included but still socially or politically excluded. Nonetheless, neoliberal processes and logics also engender the rise of new practices as well as new IR actors, which challenge the exclusionary logics of a nationalistic IR system, using the logic of human rights (Preminger 2017). These new forms of activism do not amount to full-blown (collective) resistance to the exclusionary IR institutions; nonetheless, their ability to “rework” traditional employment relations through individual agency leads to deeper institutional transformations in the central IR structure. While organized labor (the Histadrut) was traditionally in line with the nationalist logic of exclusion, the activities of these new actors, as well as the broader marketization trend, spurred organized labor to change: to be less exclusionary and develop new strategies within state-sponsored IR institutions. Following this strategic change, the traditional social partners (employer organizations and the union) sought to reassert their dominance within the sector and renew the class logic of collective worker

representation, through subsuming the individualistic logic of juridification within collective IR and including individual workers into the union. Crucially, these efforts enhanced the inclusion of formerly excluded and suppressed workers (Palestinians), opening traditional IR institutions to workers excluded by the ethnonational logic – increasing their access to rights and the effective exercise of their social citizenship.

At the same time, with the rise of a neoliberal logic, the state takes steps to enhance its autonomy from social actors and reduce its regulatory-administrative responsibilities. The transfer of responsibility from the state to market actors increases the economic inclusion of Palestinian workers (by increasing their labor market participation and enhancing their mobility) at the expense of undermining state mechanisms of social inclusion (which enable the exercise of rights). So these processes reflect the fact that Palestinians were effectively excluded from the institutional frameworks ostensibly meant to safeguard their rights, resulting in their exploitation. However, more crucially, they reflect the development of a market logic in the regulation of the country's labor market, in which the state strives to limit its responsibility towards these workers and indeed to all actors in the sectoral labor market.⁸

For the oppressed ethnic group (Palestinians), the result of the state's efforts to maximize its autonomy while maintaining ethnonational domination is the triumph of the neoliberal logic (the market) within "Israel proper" in regulating employment (e.g. Alimahomed-Wilson and Potiker 2017; Yacobi and Tzafdia 2019). The material presented in this article, then, does not suggest any slowing of the state's commitment to the (neo)liberal

⁸ An example can be seen in the Covid-19 crisis, when noncitizen Palestinians employed in Israel were excluded from state efforts to combat the virus, including vaccination (Niezna, Kurlander and Shamir 2021). CSO pleas to the government and High Court of Justice secured health insurance for these workers (ACRI 2020) and the traditional social partners were directly involved in establishing and administering a vaccination program (Zvi-Hacohen 2021).

regulation of the employment relationship; however, it does suggest that the dynamic between the two contradictory imperatives of neoliberal economic inclusion and ethnonational exclusion impacts institutions of labor regulation in ways that can open space for the inclusion of workers from the suppressed population, and promote their economic and social rights via collective IR institutions. Within this context, the struggle for workers' rights takes different forms at different institutional levels, from the shop floor, through the sectoral social partners, to the state:

At the micro-level, we see organized labor rooted in the institutional legacies of a strongly exclusionary nationalistic IR system, combined with the state's neglect of regulation and increased employer discretion, leading to marketization: the decentralization of regulation, its transformation according to market logic and – as a consequence – the rise of employers' power as well as the formation of alternative, reworking strategies. These alternative strategies, alongside the activism of new actors who adopt a juridified, legalistic approach, increase the salience of workers' exploitation, while undermining traditional collective IR strategies and actors, and further promoting the marketization of labor regulation.

At the meso-level, the social partners respond to this marketization by taking steps to reassert their monopolistic status in the sector and increase their relevance to noncitizens. In so doing, they counter both the exclusionary imperative and the neoliberal desire for cheap, unprotected labor – turning against organized labor's own historical role in simultaneously excluding the oppressed population and turning a blind eye to its exploitation. Similar to other contexts, facing extreme liberalization and marketization of employment relations that undermined the (exclusive) foundations of IR, the union made efforts to reform its power by addressing the concerns of the most precarious. Yet, like in many contexts of strong social partnership or institutional security, where organizing strategies seldom have a major impact (Mundlak 2020), the union's efforts did not include substantive bottom-up participation,

neither did they address the structural – ethnonational – causes of workers’ exclusion and suppression.

At the macro-level, the liberal logic of state autonomy from social actors went hand in hand with the increasing salience of liberal governance institutions, notably the State Comptroller and the Ministry of Finance (that controlled both inter-ministerial committees of ostensibly apolitical “experts”). This led to the assertion of a free-market logic over employment in the sector, increasing economic inclusion, but reiterating the ethnonational logic as well as underscoring the key role of the neoliberal security state (Lea and Hallsworth 2012) in controlling the entry of the ethnonational “other” into “Israel proper”.

In the context of extreme ethnonationalism, then, trends in the “privatization” of regulation can have various and contradictory results: enhanced access to work and rights as “free” agents in tandem with declining protection from basic state bureaucratic frameworks; yet spurring access to the protective framework of collective representation. Thus the preservation of ethnonational dominance combined with neoliberal pressures not only affects the movement of labor (Farsakh 2005; Rosenhek 2003), but also leads to the reregulation of the employment relationship within the state, and the recalibration of its IR. While the shift of control over the labor market from a corporatist-nationalist order to a neoliberal-ethnonational order signifies increasing economic exploitation and the erosion of social citizenship, the recalibration of labor market and IR regulation also opens spaces for the exercise of rights. This is not the inclusion of the oppressed within the formal political structures of the state; however, as organized labor is compelled to relinquish its nationalistic role, the institutions of collective IR become increasingly accessible to the excluded – migrants, minorities and various “others” – representing an expansion of the social dimension of citizenship.

To conclude: we have asserted that in the context of ethnonationalism, the dynamic between the contradictory imperatives of ethnonational exclusion and neoliberal inclusion can

explain the sometimes paradoxical developments in the regulation of the labor market and changes to the institutions of collective IR. The impact of these imperatives is at least partly dependent on the diverse interests of key social actors. In this case, this was an ethnonational state trying also to implement neoliberal policies and maximize its autonomy; organized labor within the institutional legacies of an ethnonationalist regime facing the undermining of the union's dominance; and employers facing the pressures of "marketized" regulation of the employment relationship. As market forces erode traditional IR, they also engender new forms of agency as expressed in individual "reworking", which may spur additional steps in a gradual transformation of the IR structures and their traditional foundations.

Ultimately, this study reveals the dialectic relationship between the two imperatives, between the expansion and contraction of economic inclusion and social citizenship, while reiterating the exclusion of the ethnonational "other" from political citizenship. From the perspective of citizenship as struggle (Isin 1999), as political activity open to agency (Kemp et al. 2000; Sassen 2002) and as access to rights (Lillie 2016), this clearly deepens the content of citizenship for Palestinians, though still outside the currently non-negotiable boundaries of the national (formal) citizenship regime. On one hand, (liberal) economic inclusion grants them formal equality at an individual level, and access to the (legalistic) juridical frameworks that support the exercise of employment-related social rights. On the other, inclusion in the frameworks of collective labor relations is a first step to political empowerment, and reasserts the importance of organized labor as a legitimate and powerful actor able to engender progressive change. In light of ever more stridently nationalistic electoral politics, these other frameworks for democratic participation appear increasingly significant.

References

- ACRI – Association for Civil Rights Israel. 2020. *Palestinian Workers' Rights During COVID-19*. https://www.acri.org.il/post/_419. [Hebrew]
- Adnan, Wifag and Dror Etkes. 2019. *Illicit Trade in Work Permits for Palestinian Workers in Israel: Current Conditions and Approved Reform*. Jerusalem: Bank of Israel Research Department.
- Alimahomed-Wilson, Jake, and Spencer Louis Potiker. 2017. The logistics of occupation: Israel's colonial suppression of Palestine's goods movement infrastructure. *Journal of Labor and Society* 20: 427-447.
- Arnholtz, Jens. 2019. Posted work, enforcement capacity and firm variation: evidence from the Danish construction sector. *Economic and Industrial Democracy*, online first: <https://doi.org/10.1177/0143831X19853022>.
- Baccaro, Lucio and Chris Howell. 2017. *Trajectories of Neoliberal Transformation: European Industrial Relations since the 1970s*. Cambridge: CUP.
- Baccaro, Lucio, Chiara Benassi and Guglielmo Meardi. 2019. Theoretical and empirical links between trade unions and democracy. *Economic and Industrial Democracy* 40 (1): 3-19.
- Beinin, Joel and Hossam Hamalawy. 2007. Strikes in Egypt spread from center of gravity. *Middle East Report Online*, May 9: <https://merip.org/2007/05/strikes-in-egypt-spread-from-center-of-gravity/>.
- Bellin, Eva. 2000. Contingent democrats: Industrialists, labor, and democratization in late developing countries. *World Politics* 52: 175-205.
- Berda, Yael. 2017. *Living Emergency: Israel's Permit Regime in the Occupied West Bank*. Stanford: Stanford University Press.
- Bernstein, Deborah. 2000. *Constructing Boundaries: Jewish and Arab Workers in Mandatory Palestine*. Albany: Suny Press.

- Berntsen, Lisa. 2016. Reworking labor practices: on the agency of unorganized mobile migrant construction workers. *Work, Employment and Society* 30 (3): 472-488.
- Berntsen, Lisa and Nathan Lillie. 2016. Hyper-mobile migrant workers and Dutch trade union representation strategies at the Eemshaven construction sites. *Economic and Industrial Democracy* 37 (1): 171-187.
- Bishara, Dina. 2014. Labor movements in Tunisia and Egypt. *SWP Comments* 1: 1-8
- Bishara, Dina. 2020. *Legacy trade unions as brokers of democratization? Lessons from Tunisia*. *Comparative Politics* 52 (2): 173-195.
- Bonacich, Edna. 1972. A theory of ethnic antagonism: the split labor market. *American Sociological Review* 37 (5): 547-559.
- Bondy, Assaf. 2020. The rise and fall of sectoral collective bargaining: the emergence of a hybrid industrial relations in Israel's private sector. *Labor, Society and Law* 16: 79-102. [Hebrew]
- Bondy, Assaf. 2021a. New labor actors under corporatism: complementarity and the renewal of class representation for precarious workers. *Critical Sociology* 47 (3): 425-439.
- Bondy, Assaf. 2021b. Conflictual complementarity: new labor actors in corporatist industrial relations. *Work, Employment and Society*, online first: <https://doi.org/10.1177/0950017020981557>.
- Bondy, Assaf and Jonathan Preminger. 2021. Collective labor relations and juridification: a marriage proposal. *Economic and Industrial Democracy*, online first: [10.1177/0143831X20983593](https://doi.org/10.1177/0143831X20983593).
- Braton, Michael and Nicholas van de Walle. 2012. *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*. Cambridge: Cambridge University Press.

- Collier, Ruth Berins and James Mahoney. 1997. Adding collective actors to collective outcomes: labor and recent democratization in South America and Southern Europe. *Comparative Politics* 29 (3): 285-303.
- Connolly, Heather, Stefania Marino and Miguel Martínez Lucio. 2014. Trade union renewal and the challenges of representation: strategies towards migrant and ethnic minority workers in the Netherlands, Spain and the United Kingdom. *European Journal of Industrial Relations* 20 (1): 5-20.
- Construction and Housing Ministry. 2016. *Distribution of Employment Permits for Palestinian Construction Workers: Summary of Inter-Ministerial Committee Work*. Jerusalem. [Hebrew]
- Farsakh, Leila. 2005. *Palestinian Labor Migration to Israel: Labor, Land and Occupation*. Abingdon: Routledge.
- Fick, Barbara. 2009. Not just collective bargaining: the role of trade unions in creating and maintaining a democratic society. *Working USA* 12 (2): 249-265.
- Finance Ministry. 2019. *Inter-Ministerial Group for Wage Assurance and Employment Conditions of Noncitizen Palestinian Workers*. Jerusalem. [Hebrew]
- Gozansky, Tamar. 1986. *The Development of Capitalism in Palestine*. Haifa: Mifalim Universita'im Lehotza'a La'or. [Hebrew]
- Greer, Ian and Virginia Doellgast. 2017. Marketization, inequality and institutional change: towards a new framework for comparative employment relations. *Journal of Industrial Relations* 59 (2): 192-208.
- Greer, Ian, Zinovijus Ciupijus and Nathan Lillie. 2013. The European migrant workers union: union organizing through labor transnationalism. *European Journal of Industrial Relations* 19 (1): 5-20.

- Greskovits, Béla. 2015. The hollowing and backsliding of democracy in East Central Europe. *Global Politics* 51 (6): 28-37.
- Grinberg, Lev. 1991. *Split Corporatism in Israel*. Jerusalem: Hebrew University.
- Grinberg, Lev. 1993. *The Histadrut Above All*. Jerusalem: Nevo. [Hebrew]
- Grinberg, Lev and Gershon Shafir. 2000. Economic liberalization and the breakup of the Histadrut's domain. In Gershon Shafir and Yoav Peled (Eds.), *The New Israel: Peacemaking and Liberalization*, pp. 103- 127. Boulder: Westview.
- Grinberg, Yitzhak. 2004. *Anatomy of a Crisis Foretold: the Collapse of the Workers' Corporation in the 1980s*. Tel Aviv: Am Oved Publishing. [Hebrew]
- Gumbrell-McCormick, Rebecca and Richard Hyman. 2019. Democracy in trade unions, democracy through trade unions? *Economic and Industrial Democracy* 40 (1): 91-110.
- Hassel, Anke and Bruno Palier. 2020. Tracking the transformation of growth regimes in advanced capitalist economies. In Anke Hassel and Bruno Palier (Eds.), *Growth and Welfare in Advanced Capitalist Economies: How have Growth Regimes Evolved?* pp. 3-65. Oxford: OUP.
- Howell, Chris. 2005. *Trade Unions and the State: The Construction of Industrial Relations Institutions in Britain, 1890-2000*. Princeton: Princeton University Press.
- Hyman, Richard. 2016. The very idea of democracy at work. *Transfer* 22 (1): 11-24.
- Isin, Engin F. 1999. Citizenship, class and the global city. *Citizenship Studies* 3 (2): 267-283.
- Kav LaOved. 2019. *2018 – Year Summary in Construction Sector Work Accidents*, available at: www.kavlaoved.org.il. [Hebrew]
- Kemp, Adriana, Rebecca Raijman, Julia Resnik and Silvina Schammah Gesser. 2000. Contesting the limits of political participation: Latinos and Black African migrant workers in Israel. *Ethnic and Racial Studies* 23 (1): 94-119.

- Kraus, Jon. 2007. Trade unions in Africa's democratic renewal and transitions: an introduction. In Jon Kraus (Ed.), *Trade Unions and the Coming of Democracy in Africa*, pp. 1-33. New York: Palgrave Macmillan.
- Kristal, Tali and Yinon Cohen. 2007. Decentralization of collective agreements and rising wage inequality in Israel. *Industrial Relations* 46 (3): 613-635.
- Langohr, Vickie. 2014. Labor movements and organizations. In Marc Lynch (Ed.), *The Arab Uprisings Explained: New Contentious Politics in the Middle East*, pp. 180-200. New York: Columbia University Press.
- Lea, John and Simon Hallsworth. 2012. Bringing the State Back In: Understanding Neoliberal Security. In Peter Squires and John Lea (Eds.), *Criminalization and Advanced Marginality: A Critical Assessment of the Work of Loïc Wacquant*, pp. 19-40. Bristol: Policy Press.
- Lillie, Nathan. 2016. The right not to have rights: posted worker acquiescence and the EU labor rights framework. *Theoretical Inquiries in Law* 17 (1): 39-62.
- Lillie, Nathan and Ian Greer. 2007. Industrial relations, migration and neoliberal policies: the case of the European construction sector. *Politics & Society* 35 (4): 551-581.
- Lockman, Zachary. 1996. *Comrades and Enemies: Arab and Jewish Workers in Palestine, 1906-1948*. Berkeley: University of California Press.
- Lockman, Zachary. 2012. Land, labor and the logic of Zionism: a critical engagement with Gershon Shafir. *Settler Colonial Studies* 2 (1): 9-38.
- Machold, Rhys. 2018. Reconsidering the laboratory thesis: Palestine/Israel and the geopolitics of representation. *Political Geography* 65: 88-97.
- Meardi, Guglielmo, Antonio Martín and Mariona Lozano Riera. 2012. Constructing uncertainty: unions and migrant labor in construction in Spain and the UK. *Journal of Industrial Relations* 54 (1): 5-21.

- Meyer, David S and Debra C Minkoff. 2004. Conceptualizing Political Opportunity. *Social Forces* 82 (4): 1457-92.
- Milkman, Ruth. 2000. Immigrant organizing and the new labor movement in Los Angeles. *Critical Sociology* 26 (1): 59-81.
- Moyal, Yitshak. 2022. The Dispute Resolution Committee in the Construction Sector Saves Money and Time for Worker and Employer. *Davar*. Available at <https://www.davar1.co.il/356310/>. [Hebrew]
- Mundlak, Guy. 2003. Workers or foreigners in Israel? The “foundational contract” and the democratic deficit. *Iyunei Mishpat* 27 (2): 423-487. [Hebrew]
- Mundlak, Guy. 2007. *Fading Corporatism: Israel's Labor Law and Industrial Relations in Transition*. Ithaca: ILR Press.
- Mundlak, Guy. 2020. *Organizing Matters: Two Logics of Trade Union Representation*. Cheltenham, UK: Edward Elgar, ILERA.
- Nathan, Gil'ad. 2018. *The OECD Expert Group on Migration SOPEMI Annual Report: International Migration - Israel 2017-2018*.
- Niezna, Maayan. 2018. *The Occupation of Labor: Employment of Palestinian Workers in Israel*. Tel Aviv: Kav Laoved.
- Niezna, Maayan, Yahel Kurlander and Hila Shamir. 2021. COVID-19's Impact on Non-Israeli Workers: Vulnerability, Commodification and Hope. *Sociologia Israelit* 21(2): 82-89. [Hebrew]
- Nicholls, Walter. 2013. Making undocumented immigrants into legitimate political subjects. *Theory, Culture and Society* 30 (3): 82-107.
- Preminger, Jonathan. 2013. Activists face bureaucrats: the failure of the Israeli social workers' campaign. *Industrial Relations Journal* 44 (5-6): 462-478.

- Preminger, Jonathan. 2017. Effective citizenship in the cracks of neocorporatism. *Citizenship Studies* 21 (1): 85-99.
- Preminger, Jonathan. 2018. *Labor in Israel: Beyond Nationalism and Neoliberalism*. Ithaca: ILR Press.
- Pulignano, Valeria, Guglielmo Meardi and Nadja Doerflinger. 2015. Trade unions and labor market dualization: A comparison of policies and attitudes towards agency and migrant workers in Germany and Belgium. *Work, Employment and Society* 29 (5): 808-825.
- Ram, Uri. 2008. *The Globalization of Israel: McWorld in Tel Aviv, Jihad in Jerusalem*. New York: Routledge.
- Raz-Dror, Ofer. 2019. The Changes in Rent in Israel During the Years of the Housing Crisis 2008-2015. *Israeli Economic Review* 17(1): 73-116.
- Rosenhek, Zeev. 2003. The political dynamics of a segmented labor market. *Acta Sociologica* 46 (3): 231-249.
- Rosenhek, Zeev and Michael Shalev. 2013. The political economy of the 2011 protest: a generational-class analysis. *Theory and Criticism* 41: 45-68. [Hebrew]
- Rubery, Jill. 1978. Structured labor markets, worker organization and low pay. *Cambridge Journal of Economics* 2 (1): 17-36.
- Sa'ar, Amalya. 2015. Palestinian women in the Israeli workforce and the idea of economic citizenship. *Economic Sociology* 16 (2): 14-20.
- Sassen, Saskia. 2002. Towards post-national and denationalized citizenship. In Engin F. Isin and Bryan S. Turner (Eds.), *Handbook of Citizenship Studies*, pp. 277-292. London: Sage.
- Semyonov, Moshe and Noah Lewin-Epstein. 1987. *Hewers of Wood and Drawers of Water: Noncitizen Arabs in the Israeli Labor Market*. Ithaca: ILR Press.

- Shafir, Gershon. 1989. *Land, Labor and the Origins of the Israeli-Palestinian Conflict 1882–1914*. Cambridge: Cambridge University Press.
- Shafir, Gershon and Yoav Peled (Eds.). 2000. *The New Israel: Peacemaking and Liberalization*. Boulder: Westview.
- Shalev, Michael. 1992. *Labor and the Political Economy in Israel*. Oxford: Oxford University Press.
- Shalev, Shiri. 2017. *Arab Work: Wage Payment Mechanism for Palestinians Working in Israel*. MA thesis, Tel-Aviv University, Israel. [Hebrew]
- Smith, Chris. 2006. The double indeterminacy of labor power: labor effort and labor mobility. *Work, Employment and Society* 20 (2): 389-402.
- State Comptroller. 2014. Report on the activities of the Interior Ministry, pp. 485-540 in *State Comptroller Annual Report*, Jerusalem.
- Swed, Ori and John S. Butler. 2015. Military capital in the Israeli hi-tech industry. *Armed Forces and Society* 41 (1): 123–141.
- Tartir, Alaa, Tariq Dana and Timothy Seidel. 2021. *Political Economy of Palestine: Critical, Interdisciplinary and Decolonial Perspectives*. Cham: Palgrave MacMillan.
- Turner, Thomas, Lorraine Ryan and Michelle O’Sullivan. 2020. Does union membership matter? Political participation, attachment to democracy and generational change. *European Journal of Industrial Relations* 26 (3): 279-295.
- Wagner, Ines. 2015. Rule enactment in a pan-European labor market: transnational posted work in the German construction sector. *British Journal of Industrial Relations* 53 (4): 692-710.
- Yacobi, Haim and Erez Tzfadia. 2019. Neo-settler colonialism and the re-formation of territory: privatization and nationalization in Israel. *Mediterranean Politics* 24 (1): 1-19.

Zafirovski, Milan. 2020. Some dilemmas of economic democracy: indicators and empirical analysis. *Economic and Industrial Democracy*, online first: <https://doi.org/10.1177/0143831X19893761>

Zvi-Hacohen, Nitzan. 2021. Israel starts vaccinating Palestinian construction workers. *Davar Rishon*, <https://www.davar1.co.il/287520/>. [Hebrew]

Number	Interviewee, position and role	Date, location and means of interview	Interviewer	Recorded/transcribed	Language of interview
1	Itshak Gurvitch, HR manager – the Builders’ Association.	May 12 th 2018, Offices of the Builders’ Association, Tel-Aviv (in person)	Author 2	Recorded	Hebrew
2	Eldad Tsion, head of the Association for Foreign HR Construction Corporations	July 4 th 2018, offices of the Association for Foreign HR Construction Corporations	Author 2	Recorded	Hebrew
3	Itshak Moyal, head of the Construction and Woodworkers Union	April 5 th 2018, Union headquarters, Tel-Aviv (in person)	Author 2	Recorded	Hebrew
4	Fadel Badarna, official in the Construction and Woodworkers Union	April 12 th 2018, Union headquarters, Tel-Aviv (in person)	Author 2	Written notes	Hebrew
5	Dan Warshevsky, head of the Crane Operators Union	October 24 th 2018, Tel-Aviv (in person)	Author 2	Recorded	Hebrew
6	Shay Biran, Manager – the Economics and Policy Department of the General Histadrut (until December 2020) and CEO of the Fund for the Promotion and Development of the Construction Sector (from December 2020)	August 3 rd 2018, March 11 th 2019, February 1 st 2021, Tel-Aviv (in person)	Author 2	Written notes	Hebrew
7	Matan Bar’el, head of Enforcement Unit, the Economics and Policy	September 15 th 2018, November	Author 2	Written notes	Hebrew

	Department of the General Histadrut (until September 2020)	7 th 2019 (telephone)			
8	Tamar Friedman – head of Enforcement Unit, the Economics and Policy Department of the General Histadrut	March 1 st 2021 (in person and via email)	Author 2	Written notes	Hebrew
9	Michal Tadjer, CEO Kav LaOved	May 22 nd 2018, Tel-Aviv (in person)	Author 2	Written notes	Hebrew
10	Michal Grinberg, policy official, Kav LaOved	May 22 nd 2018, Tel-Aviv (in person)	Author 2	Written notes	Hebrew
11	Noa Shauer, policy official, Kav LaOved	January 18 th 2021 (telephone)	Author 2	Written notes	Hebrew
12	Kenneth Mann, head of LEAP – Legal Aid for Palestinians	February 1 st 2021 (telephone)	Author 2	Written notes	Hebrew
13	Asaf Adiv, DG of WAC-Ma'an Workers' Association	July 6 th 2022 (telephone)	Author 2	Written notes	Hebrew
14	Zohar Steinberg, Manager of Amit – Fund for Construction Workers Training and Welfare, Histadrut Leumit	July 21 st 2021 (Zoom)	Author 2	Written notes	Hebrew
15	Lawyer (1)	April 19 th 2018, Tel-Aviv (in person)	Author 2	Recorded	Hebrew
16	Lawyer (2)	April 19 th 2018, Tel-Aviv (in person)	Author 2	Recorded	Hebrew
17	Lawyer (3)	April 20 th 2018, Tel-Aviv (in person)	Author 2	Recorded	Hebrew
18	Lawyer (4)	February 3 rd 2020 (telephone)	Author 2	Recorded	Hebrew
19	Lawyer (5)	January 11 th 2020 (telephone)	Author 2	Recorded	Hebrew
20	Lawyer (6)	January 8 th 2020 (telephone)	Author 2	Recorded	Hebrew
21	Worker (1)	December 14 th 2018, ArabeH (in person)	Author 2	Recorded and transcribed	Arabic (with translation by research assistant)
22	Worker (2)	December 14 th 2018, ArabeH (in person)	Author 2	Recorded and transcribed	Arabic (with translation by research assistant)
23	Worker (3)	December 7 th 2018, Sakhnin (in person)	Author 2	Recorded and transcribed	Arabic (with translation by research assistant)

24	Worker (4)	December 7 th 2018, Sakhnin (in person)	Author 2	Recorded and transcribed	Arabic (with translation by research assistant)
25	Military official (1)	January 22 nd and 26 th 2022 (telephone)	Author 2	Written notes	Hebrew
26	Military official (2)	January 23 rd and 2022 (telephone)	Author 2	Written notes	Hebrew

Table 1: interviewing details

Dates	Key events
1948	State of Israel established; construction sector crucial to the new state
1967	Israel gains control of occupied territories; influx of noncitizen Palestinians to Israel to seek work begins almost immediately
1970	Payments Division established to monitor and enforce collective agreements covering noncitizen Palestinian workers, and to administer their wages as intermediary
1970s onwards	Histadrut-owned enterprises gradually sold; gradual liberalization of Israel's economy and erosion of Israel's corporatism
Late-1980s onwards	Acceleration of liberalization processes; increasing prevalence of "new IR actors" and gradual juridification of the IR system
1991	Establishment of prominent rights organization, Kav Laoved, focusing primarily on the protection of (individual) Palestinian workers' rights using legal means; government establishes the permit regime to control entry of noncitizen Palestinians into Israel
1993 and 1994	Culmination of peace process between Israel and the Palestinian Liberation Organization anchors Payment Division's role in international agreements
2000 onwards	Increasing pressure on government from CSOs to tighten regulation of labor in the sector to protect workers' rights (and human rights of Palestinian workers); increasing pressure on government to solve the housing crisis
2015	Histadrut and employer organization establish the "enforcement committee"; government establishes first inter-ministerial committee

2016	Government establishes second inter-ministerial committee
2016	Government accepts inter-ministerial committees' reports and reduces barriers to noncitizen Palestinian mobility within Israel, shifting burden of responsibility onto employers

Table 2: overview of key events in Israel's construction sector