

**THE INEXTRICABLE LINK BETWEEN LABOR  
LAW AND INDUSTRIAL RELATIONS  
TRANSFORMATION: A REVIEW OF *FADING  
CORPORATISM: ISRAEL'S LABOR LAW AND  
INDUSTRIAL RELATIONS TRANSITION* BY  
GUY MUNDLAK**

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Over the past few decades, many national industrial relations systems have undergone comprehensive transformation. These transformations have resulted in dramatic changes to existing institutions, to the roles and relationships of key industrial relations actors, and to the actual organization of work for managers and frontline staff. One of the manifestations of this transformation in some countries has been in the movement away from corporatist systems of interest representation, characterized by a heavy reliance on centralized collective bargaining between state recognized social partners who negotiate prevailing industrial relations norms and practices. In their place, pluralist systems of interest representation, in which collective bargaining plays a much less dominant and decentralized role and the emphasis is on the private and often individual ordering of industrial relations norms and activity, are usually erected. Despite the abundance of empirical and theoretical research on the causes and consequences of this fundamental shift in the structure and patterns of, often, well established industrial relations institutions, there are many remaining questions. Namely, questions regarding the factors leading to change, the actual mechanisms through which these changes are brought about, and their associated implications. One of the areas that still lacks conceptual and empirical clarity is the relationship between labor law and industrial relations during periods of transformation.

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In his recent book, *Fading Corporatism: Israel's Labor Law and Industrial Relations Transition*, Guy Mundlak makes an important contribution to the study of both industrial relations and labor law by carefully mapping the intricate inner workings of Israel's shift from a corporatist industrial relations regime to a pluralist one. In an effort to understand and explain the far reaching changes to the Israeli system, which began to take hold in the mid-1980s, Mundlak traces the central historical, institutional, and legal forces that contributed to a decisive departure from a longstanding industrial relations centralized tradition. In doing so, Mundlak pieces together a detailed portrait of Israel's labor law and industrial relations from its pre-statehood origins to its current post-corporatist manifestations.

The book's nine chapters are organized into four main sections. The first section provides a general theoretical and definitional background on corporatism as an industrial relations system. In this section Mundlak outlines two overarching questions that guide the book's investigation of Israeli industrial relations transition. First, the author seeks to understand what it is about a legal framework that supports and enables an existing industrial relations system. Second and more central to *Fading Corporatism's* core contribution, Mundlak searches for the role of the law in system transition and the mechanisms by which that role is played out. The book's second section addresses the question regarding the necessary underlying legal foundation for corporatism by outlining the legal framework under which corporatism in Israel existed and, for the most part, thrived beginning in pre-statehood years until the late 1980s. In the third section Mundlak turns to an examination of the changes that took place in the relationship between labor law and the industrial relations system and their implications for the changes to the industrial relations system itself. The book's fourth section integrates insights achieved through the earlier sections' methodical review of eighty years of Israeli labor law and industrial relations by placing the discussion into a broader theoretical context.

The story of Israel's industrial relations transformation is a fascinating one and worthy of academic attention in its own right, but this book's relevance goes well beyond the chronicling of this particular industrial relations transition. Mundlak exposes core industrial relations themes that hold important generalizable lessons for the study of transformation and change in general and for the transition from corporatist to pluralist systems in particular. Furthermore, these lessons can serve as a theoretical framework for comparative industrial relations and labor law scholarship.

One of the most important lessons articulated in *Fading Corporatism* is that the study of industrial relations system transformation must be accompanied by a sophisticated analysis of legal institutions, actors, and historical developments, which help explain labor law's predominant roles and objectives. Mundlak, who is well versed in both disciplines, argues for the inextricable and bi-directional linkages between the legal and industrial relations realms, which are, for the most part, studied separately. Armed with evidence from the Israeli case, Mundlak asserts that although viewing the law as exogenous to industrial relations and vice versa may be conceptually and methodologically appealing, it is an unconvincing dichotomy empirically. For example, according to Mundlak's argument, one cannot properly understand the essence of the Israeli centralized industrial relations regime without accounting for the reinforcing role played by an extremely supportive corporatist labor law framework.

As noted, one of the dominant features of a corporatist regime is the autonomy granted to the central industrial relations actors to independently govern their own relationship. During the six decades of corporatist hegemony in Israel, an intricate legal infrastructure was erected to safeguard this protected space from state intervention. In this sense the law played a supporting role in maintaining the existing industrial relations system. In this protected space, employer associations and the General Histadrut, Israel's predominant labor organization, which operates in many ways like a federation of trade unions, had the autonomy to negotiate their relationship and to govern the collective world of work. Mundlak thus reminds us that the importance of the law is not diminished by what may be perceived as a passive or silent stance. The law is still actively at work, even where it serves as a buffer between a particular social system, in this case industrial relations, and the reach of the regulatory powers of the State.

The supportive and enabling role of the law, according to Mundlak, was not a permanent one. As the Israeli industrial relations system shed its corporatist features, labor law played an active role in both adapting and promoting a new legal order that was in line with the new pluralist system. In contrast to the removed non-interventionist stance adopted by legal actors and institutions throughout the corporatist phase, during the post corporatist phase the law became intimately involved with the regulation and inner workings of industrial relations institutions and activities.

The role of law that emerges from Mundlak's careful description of the Israeli case is complex and dynamic. Mundlak refuses to reduce the legal-industrial relations relationship to the traditional causal models common in mainstream social science scholarship. Instead of viewing labor law as either an antecedent explaining transformation or an outcome of such change, the author argues for a reciprocal reinforcing relationship. In other words, labor law, according to this account, is both responsive to a particular industrial relations reality and constitutes the very framework under which this reality is played out. This mutually supporting relationship did not only hold during periods of system stability, but was maintained during a period of immense change. As the corporatist system began to fade, labor law and industrial relations were no longer aligned in a manner that could sustain the needs of the system. As a result and through the facilitation of legal actors and institutions, like the labor court system established in 1969, labor law adapted to the changing terrain by taking on an alternative role and function altogether.

In fact, Mundlak's view of 1987 as the chronological dividing point between corporatism and pluralism stems from the fact that two legal developments symbolized labor law's altered role and function. First, Knesset, Israel's parliament, legislated the Minimum Wage Law of 1987, a law that clearly penetrated well into the self regulating collective bargaining domain. Thus, the corporatist legal armor had been cracked, paving the way for a much broader shift. Second, on the adjudicative front, 1987 also saw the genesis of a path breaking Supreme Court case in which the court's 1990 ruling found that a collective arrangement that mandated a retirement age of 60 for women and 65 for men was discriminatory and void. Here too, as Mundlak demonstrates, the role played by the law had dramatically changed and the Supreme Court directly intervened in an arena that had, for the most part, been off-limits to this type of external adjudication. As *Fading Corporatism* clearly details, with these developments and others that followed, the pluralist flood gates had been lifted.

Thus, *Fading Corporatism* contributes to the analysis of labor law in four important and interrelated ways. First, labor law is tightly linked to the nature of an existing industrial relations system. Second, the relationship between law and industrial relations is not unidirectional. Law is not solely a predictor or an outcome of industrial relations patterns. Third, the very role and function of the labor law is dynamic. As seen in the Israeli example, the law can shift from an enabling buffering role to a constitutive interventionist one.

Furthermore, this shift can occur in a relatively short period of time. Labor law, according to this book, evolves both to meet the needs of changing industrial relations models and to influence their continued development formation. Finally, the very nature of the relationship between industrial relations and labor law is subject to change. Under the corporatist system labor law played a predominantly enabling and facilitating role with the centralized industrial relations institutions and actors taking center stage. Under the pluralist system, labor laws supporting linkage to industrial relations gave way to a much more active and dominant role. To be clear, labor law and industrial relations appear to have had reciprocal relationship under both systems, but the specific “balance of power” shifted in the transition from one system to the other.

By shedding new light on the nature of the relationship between law and industrial relations, *Fading Corporatism* extends existing scholarship on transformation in additional ways as well. For example, one of the most hotly debated areas of industrial relations system transformation is the question of what motivates dramatic change. Is transformation the consequence of environmental and economic forces or is it the result of strategic choices made by central industrial relations actors? By infusing the discussion with a legal perspective, Mundlak contributes to both sides of this debate. On the one hand, by describing the role of labor law in protecting the existing industrial relations model, the author appears to restrict the degrees of freedom held by actors to choose divergent models and paths. On the other hand, the notion, advanced throughout the book, that both types of institutions are subject to change as a result of active choices made by key actors, Mundlak is incorporating the strategic choice model set forth in the mid 1980s (see for example Kochan, Katz and McKersie, *The Transformation of American Industrial Relations* (1986)). In contrast to the traditional strategic choice model, however, the actors involved in this transformation narrative are not simply labor and management. According to *Fading Corporatism's* account, change in the mid 1980s, especially to the legal framework, came about as a result of choices made by legislators, judges, and newly formed non-governmental organizations. These choices were, however, restricted by the overarching movement toward pluralism and by the new rules of engagement established by the very same actors in the form of a transformed labor law framework. The notion that strategic choices are constrained by environmental forces is certainly not a new one, but the book's detailed discussion of the intricate interplay between institutional forces and actor strategies

adds a new layer to this discussion. Thus, the integration of institutional centrality and strategic choice is another of the book's contributions to the study of industrial relations change.

As noted above, another way in which the book extends existing scholarship is by providing a framework for the comparative study of industrial relations. Although Mundlak focuses, almost exclusively, on the Israeli case, the insights generated as to the mechanisms of labor law and industrial relations interactions can be used to study other national systems. For example, the book depicts two alternative models for labor law—a passive and supportive one and an active, dominant one. In comparing different national industrial relations systems, it may be interesting to examine whether these two categories hold and the extent to which there is variation on this dimension. Similarly, the comparative scholar might explore the degree to which labor law in other countries has shifted from one model to another to meet industrial relations change. At the heart of Mundlak's argument are two interrelated assumptions. First, Mundlak appears to argue for the systemic need for alignment between the contours of the industrial relations structure and the role of labor law. The second underlying assumption set forth by Mundlak is that in the absence of such an alignment due to the puncturing of an existing equilibrium, the actors and institutions will adapt and evolve so as to meet the new equilibrium. While these assumptions are supported by the evidence provided from the Israeli experience, both of these assertions can serve a fertile and important future industrial relations research. Is there an inherent equilibrium between the industrial relations and legal patterns? If so, is this equilibrium sustained during periods of change?

Alongside the book's many clear strengths; there are two areas where extension of this research would most likely prove fruitful. First, although the book clearly creates a framework for comparative industrial relations scholarship, it would have been interesting to get a sense of how Mundlak would apply the lessons gleaned from this particular case to other examples. Second, while Mundlak's obvious contribution rests in the integration of labor law transition into the story of industrial relations transformation, there are elements of the industrial relations side of the equation that could benefit from additional attention. For example, the book does not give the reader a complete sense of how the Israeli transformation played out on the shop floor and at the organizational level more generally. We know from other accounts that this is one of the areas where change

2008]

## BOOK REVIEW

141

manifests itself most clearly, and it would be interesting to explore whether this is the case in Israel as well.

That said, *Fading Corporatism* is a must read for labor law and industrial relations scholars alike. By highlighting the often ignored linkages between these two arenas and by challenging underlying conventional wisdoms, Mundlak's new book succeeds in advancing the study of both disciplines in general and the study of their interrelated transformation in particular.

