

The Individual's Right to Choose – A New Direction for Collective Agreements in Denmark?

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Summary

This paper will describe and discuss recent trends in collective agreements in Denmark, against the background of declining union density and declining collective bargaining coverage (albeit still at quite high levels). One important innovation has been the introduction, in 1998, of one extra day's holiday (extended to five in 2000) which were non-mandatory, i.e. they could be changed to pay, depending on the individual employee's choice. Among trade unionists, such individualization is often a dirty word, which is why the issue of free choice in collective agreements has been – and still is – quite controversial. Can collective goods be delivered in the form of individual choice? And if members choose individually, will they be able to stand united against the employer, when necessary? Such questions are a part of the arsenal of traditional unionism. Thus, this kind of innovation has been highly controversial in the union movement, but in 2007, the bargaining parties in manufacturing decided to take something of a leap ahead with respect to opportunities of individual choice by employees.

The paper will describe the novel employee rights thus embedded in the collective agreements and discuss whether this represents a true change in the nature of collective agreements, more relevant in our globalized 'era of choice' (Rosenthal 2005).

1. A Union Crisis? – Trends in Unionization

The near-universal decline in collective bargaining coverage and in union density in most post-industrial economies has been slow in arriving in the Scandinavian countries, but as of the later years, the decline in Denmark has continued from a peak in 1996.

What, then, have been the main reasons behind this, and are there any remedies that unions may take into consideration?

The overall trend in union membership and unionization can be gauged from the table. Here, one can see that the main factor behind the overall decline is not so much declining membership in absolute numbers, but much more declining unemployment and especially the increasing labour force participation in Denmark since the mid-1990s. Declining densities may have resulted not from members leaving the unions, but from new entrants to the labour market not becoming recruited, due to a conspicuous lack of active mobilization and unionization activities among many unions may be one crucial factor.

**Table 1: Active Union Membership, Employed and Unemployed and Union Density.
Share of Union Membership by Union Confederation. Thousands and
Percentages. 1996 to 2008.**

	Year					Share of membership	
	1996	2000	2006	2007	2008	1996	2008
<i>Union confederation</i>							
- LO	1,208	1,176	1,101	1,052	1,017	65%	56%
- FTF	332	350	361	356	359	18%	20%
- AC	132	150	163	169	174	7%	10%
- LH (Foremen's Union)	75	80	76	74	76	4%	4%
- Independent unions	115	123	144	179	202	6%	11%
Total membership	1,862	1,879	1,845	1,830	1,828	100%	101%
Workforce excluding self-employed	2,547	2,614	2,638	2,657	2,649		
Union density	73,1%	71,9%	69,9%	68,9%	69,0%		

Source: *Statistical Yearbook* and *Statistical Ten-Year Review*, various years. The Danish Statistical Office and LO website

Outside observers may be forgiven for thinking that these are small problems, after all, union density is still quite high in Denmark, but it is not the only problem facing the main unions and union confederations today. From the table it is also evident that the LO (The Danish Confederation of Trade Unions, the equivalent of the British TUC) is losing by far the most ground: not only has it lost 191,000 members in ten years (or 16 per cent), but the decline has become the most accentuated in the most recent years: from 2006 to 2008, the LO has lost 84,000 members (a full 8 per cent of the membership). At the same time, other confederations and independent unions have either increased their membership or remained stable: especially the FTF (The Confederation of Unions for Salaried Employees and Civil Servants, consisting of unions of various semi-professional groups: nurses, school and kindergarten teachers, police officers, finance employees etc.) and the AC (The Danish Confederation of Professional Associations) have been moving upwards. This trend is mainly structural, since it has much to do with the fact that a larger share of the workforce obtain a longer theoretical, non-manual education that makes it natural for them to unionize outside the lower-skilled and mainly manual occupations in the LO. This contributes to the marginalization of the LO (whose share of members has declined from 65 to 56 per cent). Attempts from the LO to attract FTF member unions have – in the last decade – not been successful, neither have any attempts of a merger between the two union confederations. Since the LO unions are the ones who have founded the whole industrial relations system in Denmark, and who still constitute the main pillars supporting it, especially in the private sector, the weakening of these unions pose something of a problem for the 'Danish model'.

In Denmark, there is the additional problem of alternative, so-called 'yellow' or maverick unions. The main one is the Christian Union, which, like in Germany, since the 1980 has had considerable success in attracting members. Today, these kinds of unions today cover 11

per cent of all union membership. The problem with these unions is that – by and large – they have been unable (or, indeed, unwilling) to obtain collective bargaining agreements for their members in the private sector (nor, indeed, in the public sector). Thus, collective bargaining has become weakened in the private sector because LO unions have become weakened.

The latter problem is not structural, but more of a political nature. The increased ability of the alternative unions to attract members has to do with changes in labour market law by the present Liberal-Conservative government in Denmark. In Denmark, unemployment insurance and trade unionism have always been in close connection via the so-called Ghent system, where each national union organizes an unemployment insurance fund (UIF), which insures its members (there is a membership of the UIF and one of the trade unions, separate ones) against unemployment.¹ Until 2002, these UIFs were all skill-specific in the sense that a UIF could insure only one or a specified number of skills or trades. But from 2002, a UIF could declare itself as a cross-skill or cross-occupational UIF, implying that it could insure every type of employee. This of course was a boon for alternative unions, who could now insure and also unionize across the board. Thus, the government's policies have in fact created a kind of free choice among unions. Free choice is not a problem in itself, but the novel or alternative unions represent *de facto* a kind of opting out of the IR system, where the new unions are unable to establish collective agreements anywhere, and thus, where they have a major presence, no collective representation exists. This may slowly undermine collective rights, something which is clearly a problem, especially for less-qualified and less well-paid employees.

This membership challenge has been hard to handle for many LO unions, especially in the most recent years. Between 2006 and 2008, major LO-unions have lost up to 18 per cent of the membership, for example: The Food Workers' union has lost 18.1 per cent, the General Workers' Union 9.4 per cent, the Building and Construction Workers' Union 9.1 per cent and the Commercial and Clerical Employees' Union 8.5 per cent.

Of course, this decline in no way matches the decline of British unionism under the Thatcher governments, but it does to some extent match the present decline of Swedish unionism, where the Conservative coalition government has confronted the unions head on by various changes in labour law. Swedish LO unions have lost more than 200,000 members since 2003 (11.5 per cent), more than half of it in the last year. Nevertheless, especially the trend away from those unions that are parties to the main (in fact virtually the only) collective agreements is disturbing. It does raise the question whether LO unions in Denmark may become able to regain some of the lost ground. The structural changes in the patterns of unionization, due to higher educational levels, may be hard to combat, but losing out to the alternative unions who are not parties to collective agreements is by no means 'structural'. LO unions have been used to a situation of near-monopoly, when it comes to union membership, and they will now have to become more innovative with regard to attracting members. The biggest asset of the LO unions is no doubt still the collective agreements (which gives union representatives access to the workplace etc.), and the issue is whether it may be possible to make the substance of these agreements more relevant and attractive to members and indeed to potential members. This will be discussed in the next section.

¹ For an introduction to the Danish variant of the Ghent system of unemployment insurance, see Madsen (2006: 334-8) and Scheuer (1998a: 159-60). For a recent discussion of the Swedish context, see Kjellberg (2006).

2. Trends in Collective Bargaining Substance

While the unions' role on the central (national) level has been much reduced with regard to pay formation, due to decentralization of pay formation to the company level, they have had a substantial impact on general conditions of Danish employees through obtaining other types of results in connection with the renewals of the national collective bargaining agreements. In fact, collective agreements have gradually become more extensive catalogues of employees' rights, one implication of which is that far the most cases (90 per cent) heard today in the Labour Court are brought by unions concerning employee rights (as contrary to the strike-ridden 1970s, when the majority of cases were brought by employers concerning unlawful strikes). Some of the most important of these novel rights from the last two decades are the following:

Labor market pensions: Starting in 1989, steps were taken in the public sector to establish labour market pension funds, in order to ensure collective savings for pensions for the substantial majority of the work force (until then, only about 15 per cent of all employees had either collective or individual work-related pensions savings, the occupational groups in case being typically the most privileged – such as private sector managers or public sector academics). Today, more than 80 per cent of all employees have an individual account in a collective pension fund. From a modest start, the pension contributions (which are all of the defined contributions, not the defined benefits type) today amount to 12 per cent of the pay sum, the employer contributes 8 per cent and the employee 4 per cent. This has eased the economic burden of an ageing population from the tax-funded state pensions, since most employees now actually have reasonable pension savings of their own.

Right to vocational training: From the middle of the 1980s, increasing rights concerning vocational training have been inscribed into collective agreements. Today, an employee in manufacturing (whether operative or office employee) covered by the manufacturing agreement has the right to two weeks of vocational training per year, quite an extensive right. The problem here has been lack of take-up, due to various aspects of financing. But in the 2007 agreements, more money and emphasis was put into this side of the agreements, including a freer choice of types of courses and vocational training by employees. This should increase take-up by employees and from hear-say it appears that it has, but it is still too early to tell.

Extra Holiday Entitlements (sixth holiday week) and individual choice: In general, holiday entitlements in Denmark are laid down in law, comprising five weeks of holiday. In 1998, after some campaigning for 'more freedom', a first step was taken to phase in a sixth holiday week, commencing with one extra day. This proved highly controversial, because it was seen by the membership as too small a step, and for this reason, the proposal was rejected by the membership in a union ballot. This led to a very large official conflict, incurring the loss of 3.1 million working days (Due and Madsen, 2006; Scheuer, 1998b; 2006). With this in mind, bargainers in the year 2000 chose to introduce the sixth holiday week in the form of voluntary Extra Holiday Entitlements gradually over a four year period. The take-up of these holidays is extensive, but the specific form (giving the option of going to work and receiving the extra week's pay instead) does enable some employees who wish so to 'choose to money' instead of the holidays (Scheuer, 2004a). This individual right to choose, laid down in a collective agreement is something qualitatively new in the Danish industrial relations context (Kristiansen, 2000: 209). In 2007, a jump forward was made in this area, since the parties introduced what is explicitly called a 'free-choice wage account' on which 7 per cent of the pay is put aside (this includes the above-mentioned holiday entitlements). Each year, the employee will then choose how to spend this money, as extra holidays, as pension savings or as pay. The qualitative change now is that the collective agreements now explicitly state

the individual employee's right to choose, a choice which is embedded in the collective agreement, and which does not exist for employees not covered by such agreements. It will be interesting to see how the members choose among these options, and whether the introduction of free choice into collective agreements can revitalize the members' interest in these agreements.

3. A New Direction in Collective Bargaining?

As noted at the outset of this article, among trade unionists, 'individualization' is often a dirty word, which is why the issue of 'free choice' in collective agreements has been (and still is) quite controversial. How can the membership stand united, if bargaining agreements involve all kinds of individual choice? So some people ask.

However, since the workplace itself is becoming increasingly flexible (employer flexible, vis-à-vis employee friendly kinds of flexibility), and since some employers are offering more choice, especially to employees in the high end of the scale with regard to pay and privileges, why shouldn't trade unions try to extend such rights to ordinary employees as a kind of 'democratization' of the privileges of the upper rungs of society and of the workplace? While it is impossible to wipe out all inequality and privilege through collective bargaining, it is possible to extend some of the rights of the privileged to broader groups. Rights to choose between various aspects of the work and pay bargain (not having to ask the employer, if one may please take leave without pay, but having the right to do so), such individualization rights may well be demands that the next generation of employees may give high priority, exactly because they are rights, and because a strong union movement can back up these rights in practice.

After all, this kind of democratization was what extending pension rights were all about. This discussion isn't over in Denmark.

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