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Changing Conditions for Economic Interest Organizations

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Collective Institutional Structures and the Need for Change – Changing Conditions for Economic Interest Organizations

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1. Introduction

In Europe, unionism and solidarity almost always pass as plus-words due to their positive connotations, roughly in the same manner as democracy, equality and freedom. Nevertheless, the backslide suffered by trade unions in Europe (and in most of the rest of the world) begs the issue of why many (and indeed an increasing number of) employees cannot or will not accept this understanding, resulting in declining union membership, both in absolute numbers and measured as union density, declining levels of union activities and of strikes (Ebbinghaus & Visser 2000, Scheuer 2006, Visser 1998, 2003). Also, it is a striking paradox to re-read Dunlop's classic work (1958) work in *Industrial Relations Systems*, where he describes all the advantages connected to this kind of system in the U.S., considering the fate of this system and of U.S. unions in the decades after the publication of his book.

Of course, one may assert that across the globe 'forces of evil' have weakened unions through aggressive anti-union conduct by companies (as in the U.S.) or by legislation weakening union strongholds (as in New Zealand or the U.K.). Or that the neo-conservative or neo-liberal counteroffensives especially in the 1980s have persuaded employees (wrongly) that unionism is not in their interest. But such explanations – if forwarded by union supporters – are 'self-serving', and thus they may tend to deflect attempts to a more self-critical approach to the understanding of the forces at play. Can we not provide better explanations of the recess of unionism, explanations that might also point to the downsides of union ideology and activity earlier on, and thus assist in defining how unions may redefine their ideology and their roles? In order to do this, this paper will do the following:

- first, it will examine some central theoretical aspects of union ideology and practice with a main emphasis on European unionism (a case in point due to the

obvious general backslide in unionism's strongholds in combination with major variance in the fate of unionism in the individual European countries), and

- second, it will point out some issues needing further clarification in cross-national studies in order to enable the redefinition of the union's role in the 21st century.

2. Back to Basics: What Do Unions Do?

A trade union is or has, fundamentally, three functions towards its membership (and potential membership), and they may be game-theoretically formulated as three types of games:

1. Unions represent a particular kind of insurance for members, producing individualized goods for members needing it, related to their employment relationship.
2. Many unions are also professional associations, where a specified set of qualifications in an occupational group (and a degree of control of entry into the profession, i.e. a strong link between education/training and occupation, in some cases even in terms of an actual monopoly) is translated into a clearly delimited bargaining strength towards the employers (if necessary by unilateral action). In general, unions represent sets of qualifications or sets of job competencies that are more or less monopolized.
3. Unions are collective actors, producing collective goods via collective agreements, strikes or political influencing, aiming to alter the balance of influence and welfare at work and in society more broadly to the advantage of the membership.

2.1. Unions as insurance agencies

This is the most basic of the union's activities, one which clearly distinguishes unions from other interest organization based more on activism, namely their individual member service concerning assistance vis-à-vis the employer. Some organizational researchers even believe that the trade unions were founded as insurance associations (the working classes often became insured through the trade union in mutual unemployment insurance funds, sick benefit associations, strike funds and burial clubs), in which the very insurance association for members only proved to be fundamental for the unions' ability to hold on to their members in the early stages of organizing (cf. Hechter 1987: 111-24). This view of the kinds of services offered by trade unions is absolutely central for understanding present unionization trends and role of unions at work. Of course, employees may hire a lawyer if they are subjected to unfair dismissal, pay discrimination or other perceived wrongdoing at work, but this is both expensive and risky, and going through the normal court system is often also a very slow procedure. Therefore, people who join unions do it in many cases because they are aware that even if they feel absolutely secure today, they may be in trouble with their employer tomorrow. This is why so much of the everyday humdrum work in the local union consists in individual member servicing, at least in the countries with reasonably high union densities. It is crucial that the union can help individuals in trouble, since if it cannot, then this is not only a problem in its relation to the particular member, but also in relation to the larger group of members who may hear about it (and the press will also willingly report any news of unions failing to service their members). Even within one particular country, there is undoubtedly substantial variance in the extent and the qual-

ity of the individual services rendered by various unions, but it would appear to generally be the case that this aspect of unionism is an important explanatory factor concerning the union's ability to attract especially those sections of its potential membership that do not have an inherent and strong ideological commitment to the union's political or ideological mission. Those particular sections today no doubt represent the larger share of the potential membership.

Hypothetically, one might indeed state that should unions decide to terminate all individual servicing of the membership and only to pursue its ideological or political goals and mission, no doubt the majority of the membership would resign when they found out. Conversely, should they terminate their lobbying and their pursuing ideological goals, a much smaller section would probably resign (cf. Knoke 1988, 1990). One might conjecture that France be considered a case in point of the former hypothetical situation: union density in France (at just about 10 per cent) is about the same level as the number of unionists in Denmark or Sweden who are active union members, *i.e.* who have been elected to the board of local club, who are shop stewards or security reps (these groups make up roughly 12-15 per cent out of the membership with a density of about 80 per cent).

This might appear as an argument for pursuing pure 'business unionism' (cf. Perlman 1928), but as Hyman (2001: 3-4) has pointed out, the results from unions pursuing pure business unionism strategies (e.g. in the U.S.) have been less than convincing.

Pure business unionism has rarely, if ever existed; even if primary attention is devoted to the labour market, unions cannot altogether neglect the overall social and political context of market relations. (Hyman 2001: 4).

Pure business unions do exist, though, but their successes have certainly been quite limited.

The point here, however, is a different one: if unions focus too much on their roles as parties to collective bargaining and as political influencers (lobbyists, as it has become more common to say in Europe, following the growing importance of the EU decision making process in Europe), or if they take too much to the streets, they may fall prey to ignoring or perhaps just giving too low priority to the individual services side of the membership relationship to the union. It would appear to this author that these individual servicing aspects are crucial in understanding the unions' debacle, but also in formulating ways to rejuvenate the relationship between the unions and its present discontents.

But why cannot this rejuvenation become based on a pure business unionism strategy? The reason probably is that the individual services of unions are based on the unions' ability to either mobilize members or (more commonly) to appeal to the framework of rules and regulations that the employment relationship is embedded in. These rules may partly be national (or international) law, but in most cases this is supplemented by the rules laid down in collective bargaining agreements, to which unions are of course parties. These agreements require collective action in order to exist and they must be constantly renewed in order to be an 'active good' for the membership. Without these agreements, trade union individual services will do little more than may be done by a law firm, and in this competition the union may certainly be at a disadvantage: unions are not necessarily best equipped to compete in a market-for-services and may be losing their 'primacy' in the access to certain types of service provision (Crouch 2003). In Denmark, aggressive competitors do challenge the unions' traditional fields in this respect, some more successfully than others, but altogether not growing in ways that threaten the present structure of collective bargaining.

Thus, the nature of collective bargaining agreements and of the rules-of-the-game in the labour market more generally are important determinants of the degree to which unions can successfully pursue an individual service or insurance strategy. I shall return to this below.

2.2. Unions as expressions of professionalism

If collectivism or solidarity were always connected to unionism in the literature, professionalism had a more ambiguous role. This is due to the fact that in traditional sociological theory, professionalism was connected with the 'high professions', doctors, lawyers etc., and not with craft unionism, although craft unionism certainly has at least some of the same traits. The ambiguity towards the concept is also founded in its exclusivist nature, but it does not require much probing into the origins of the labour movement to realize that the first unions were craft unions and that their purposes were directed towards the unilateral regulation of the supply of employment in combination with the exclusion of the unskilled.

Of course, industrial unionism erased many of the distinctions thus created, but industrial unionism did not prevail everywhere, and even where it prevailed, some profession-based groups still manage to survive as trade unions or (softer-speaking) associations. Some industrial unions also have sections for particular craft or educational groups. The point of this is that unions that represent clearly demarcated educational groups or crafts and who spend their efforts to safeguard the quality of the education in question and to translate educational privileges into economic ones, have a much easier time recruiting a substantial share of their potential membership. This is because the collective action problem is minimized substantially when the potential membership is so much smaller, clearly defined and when it has economic interests that can be clearly separated from those of employees in general. Common socialization in particular educational institutions also helps.

One may argue against this that the importance craft unionism may become much smaller in the second half of the 20th century, but one must remember, that the general level of education in all populations is growing, and that novel professional groups take the place of old ones: IT specialists and micro-electronics engineers may not feel the need for unionism very strongly, but times may change for them, too, and the need for a professional association defending educational privileges could very well be more clearly felt even by such groups.

2.3. Unions as collective actors

This is the most well-known and debated function of unionism, and it is certainly also the most visible one to the public eye. It is, however, vulnerable, due to two things:

First, the collective action problem (Crouch 1982, Elster 1989, Hechter 1987, Olson 1965, 1982), which makes it non-rational for the individual to join the union, since any goods produced by the union (a pay rise, say, or a shorter working week) will be likely to be shared by all, unionized as well as non-unionized. One solution to this problem has been the closed shop, but today in Europe the closed shop is outlawed virtually everywhere, due to a number of verdicts in the European Court of Justice and the European Court of Human Rights (one of the last countries to outlaw closed shop agreements was Denmark, cf. Scheuer 2007: 243).

Second, the notion of collective 'goods' may also appear as too self-serving, since certainly not all employees may share the values and agree with the mission of a particu-

lar union. Especially when unions are closely tied to a particular political party, and in consonance with this party over its policies, a substantial share of the potential membership may consider these policies as collective 'bads' instead and thus retract from membership.

In the industrial (and labour) relations and perhaps especially in the political science literature on unionism and the role of unions, there is often a tendency towards a highly aggregated view of unions, perhaps unavoidable especially in the comparative writing. Thus, unions are sometimes mainly seen as collective actors interacting in a macro game with politicians and governments, companies and employers' associations, public administration. The problems and dilemmas of unionism are seen as problems of collective interest representation, collective action problems etc. (Crouch 1982, 2003, 2004, Traxler 1998) and when the issue of the membership relation is raised, the debate becomes embedded in the democracy discourse or in the debate of how to organize the unorganized. While all of these issues are important, they seem to bypass the very basic aspects of unionism mentioned in sections 2.1 and 2.2 above

But before I turn to the consequences of this thinking in present-day Europe, I shall have a few words to say about the collective 'bads' of trade unionism that have to be dealt with in any rejuvenating strategy.

3. 'La Distinction': Solidarity as exclusion, some critical remarks

Worker solidarity and union solidarity are social constructs, and while there are real social and economic differences at work which can sometimes explain how distinctions are drawn, many of the distinction between who may become a member and who may not of a particular union would appear to a non-national in a particular European as arbitrary. Especially craft unions and later professional unions and associations have turned out rather exclusive in their approach to the membership demarcation issue. Sometimes union demarcations may ease co-operative efforts of unions, since when they do not compete over the membership, animosity between unions is less intense, but union demarcations have the bad fortune of being forced upon the individual employee (impeding free choice), and also of excluding potential members, sometimes even in times of membership decline.

Joining a union implies giving up some of your autonomy, and handing it to the collective, i.e. to the union or the local union club. In the past, union activists have been adamant that union members should be as uniform a group as possible: thus, part-time employees were, in earlier times, not seen as worthy of membership (and thus membership was not worth it for them), and collective agreements have often laid down rules and regulations that everyone has to adhere to, the logic being that the greater the differences between the membership, the more difficult would it be for the union to act collectively. Sometimes, this is depicted as an historical trend: in the past, workers were more alike, while today – in these post-modern times – the average member no longer exists. Nevertheless, this is probably a gross exaggeration, since individual differences among employees have always been present, maybe even more so a hundred years ago than today. Management styles may have changed and become more individualistic (Purcell 1997), and with the growing standards of living, the requirements and needs of the membership (and the potential membership) grow and – perhaps especially – take other forms. The issue of autonomy thus becomes crucial: the more the union requires the membership to become activists in a struggle often indirectly aimed against other employees, i.e. the less inclusive they are, the less attractive they are to parts of the potential membership. Also, as the standard of living increases, employees no longer want 'more of the same', but start to formulate a whole variation of require-

ments, many of which cannot become realised simultaneously: some may want higher pay, others more flexible working hours, others again longer holidays, and yet others higher pensions savings. If the bargaining process requires that a bit of the gains is spent in every one of these varying areas, there will only be marginal advances in each area will be marginal.

Seen from the U.S., Europe is a continent of many old-fashioned privileges. Not only do Americans often depict the class structure in Europe as more embedded in old nobility structures than in the U.S., but also in the labour market, strong legislation or practices not only impede dynamism (that is the traditional OECD view, cf. OECD 2006), but here we come to an area where union practices have been truly exclusionary: the levels of employment protection in many (most) Continental European (e.g. Belgium, France, Germany, Italy, Spain) countries create substantial insider-outsider problems and very high level of youth unemployment and especially amongst non-nationals, while other countries (e.g. Denmark) even have legislation that gives special protection to salaried employees (and not manual workers). These national variances may be considered irrelevant in this context, were it not for the fact that any attempt by national governments to deregulate even slightly the rights of certain groups of employees embedded in the law, often call the unions to the streets in vociferous protests, often successful protests. France and Italy are probably the most obvious cases in point here. Thus, the exclusivity and insider-outsiderism of strong employment laws is certainly upheld by the unions in those countries, who seem to give less of a thought to the fate of those not yet fortunate enough to have obtained permanent employment.

Thus, in many ways, unions may act or may have acted in ways that are sectional and not as universal as they would like to pose. What is in the interest of some group may run counter to another, and especially if the other group is less well organized (e.g. young unemployed people), the well-organized unions' protests may carry the day.

This sectionalism may become enhanced in countries where union density is low, because those unionized may represent an extremist section among the general pattern of employees. In countries with high union densities, the majority of moderate members tend to restrain the activities of the activists, while in countries with low densities, this restraining factor is defused, and union strength is measured by how many they can call into the streets. But this depends on many things, and demonstrators can be many other people than those in gainful employment.

4. Union Supports and Challenges from Below

In the macro view, European unions are still in a much more favourable position than their U.S. counterparts. In most European countries and in the EU, there is a strong understanding that the 'social partners' should play some role in policy formulation and implementation, and even in countries with Liberal or Conservative governments, these governments are often so adamant to uphold social peace and avoid large-scale industrial conflict that they will go quite some way to co-opt the trade unions into their projects. Thus, the newly elected president in France – while clearly wanting reforms of the French labour market – he nevertheless seems to wish to integrate the major French unions into his project and he will probably go some way to comply with union wishes, as long as they do not thwart the main thrust of his policies. In the same way, the new Swedish government did not choose a wholesale, Thatcherite attack on Swedish union, only a number of minor privileges were eradicated, much in the same manner that the Danish Liberal-Conservative government has approached this whole area since 2001.

On the other hand, there are a number of challenges from below:

Trade unions in most countries achieved their peak of membership and hence representativeness first with the expansion of large 'Fordist' manufacturing firms and later on of public services and union strength was based among male manual workers in full-time employment and with more or less permanent contracts.

Often, trade unions mirrored the centralised, bureaucratic character of their members' employers, in what may be interpreted as the result of mimetic isomorphism (Hyman 1999, 2004b; Scott 2001); while the construction of solidarity among a workforce with limited opportunity for individual career advancement encouraged the pursuit of a standardised 'common rule' in employment (Richards 2001).

Changes in the demography of both employers and employees have challenged established regulatory processes from below. The average size of private firms has shrunk, while increasingly, even large private employers seek to develop company-specific regimes of production organisation and conditions of employment (Bacon and Blyton 2004; Traxler et al. 2001). In this and other respects, the structure of employers which supported a nationally standardised system of industrial relations has given place to a 'post-Fordist' pattern of IT and service companies, which, it is often argued, presupposes a more diversified and fragmented system, often without any form of collective bargaining (Levy and Murnane 2004; Streeck 1987).

The parallel changes in the labour force are in part a consequence, in part a reflection of separate dynamics. Universally, white-collar employees today outnumber manual workers. In almost all countries, the former were traditionally far less well unionised than the latter, to some extent because the scope for individual career progression inhibited collective consciousness but also because many trade unions had reservations about recruiting occupational groups which were seen as close to the employer—though Denmark and Sweden are important exceptions to this general rule (Kjellberg 2001; Scheuer 1996; Scheuer and Madsen 2000). The growth in non-manual occupations is linked to a feminisation of the workforce; and many union movements in the past failed, or often made no serious effort, to recruit and represent women – though in this context, EU regulation creates new scope for union intervention (Rubery 1992). Other increasingly prevalent forms of 'atypical' work include part-time employment, fixed-term contracts, agency work and dependent self-employment, and the labour force has also become more ethnically diverse (Greene et al. 2005). For many analysts, the consequence is that solidarity is no longer possible, or at least cannot be sustained as traditionally defined by most trade unions (Beck 2002). Perhaps these views are too deterministic. Solidarity and unionization are, after all, social constructs, and they may become constructed in many ways, if not to the union's unilateral will. Unions did always construct solidarity uphill, against the individualizing offers to employees of employers. But to do it again requires novel approaches.

In the literature about union renewal (e.g. Frege and Kelly 2003, 2004, Kelly 1998), the emphasis is on revitalizing on the macro level, concentrating on the mobilizing and political roles of trade unions. While this is certainly important, since political influencing determines the future conditions that unions must work under, it still seems to overlook more basic and mundane aspects of union activity, the union and its relationship to the membership. This is the union services or the 'insurance game' issue.

A corollary is that protective and supportive functions traditionally undertaken by trade unions with the legitimisation of collective solidarity are now increasingly regarded as 'union services' which may be bought in the market: labour exchange activities, once a central union activity, are offered today by a seemingly quite vast array of private companies, technical and educational advice can be bought from consultants, unfair dis-

missal cases, representation in conflicts and conflict resolution activities can be carried out by lawyers, and even policy network activities can be pursued by professional lobbying firms. For this reason, even trade unions are beginning to see themselves as service providers with a trading arm, selling some of their services. But unions are not necessarily best equipped to compete in a market-for-services and may be losing their 'primacy' in the access to certain types of service provision (Crouch 2003). In Denmark, aggressive competitors do challenge the unions' traditional fields in this respect, until now with mixed success.

Redefining trade unions as service providers only is thus a blind alley. Rather, the solution to the challenges from below is likely to require a more subtle redefinition of the boundaries and interaction between collective and individual regulation (Piore 1995; Zoll 2000). While 'free choice' will strike many union leaders as a 'market solution' and thus as undesirable, because it sits uncomfortably with unions' collectivist traditions and ideology, free choice embedded in collective bargaining institutional arrangements may be seen as not only more attractive, but maybe as the only way out of the present quandary.

5. Challenging the Discontents – What *Should* Unions Do?

Summarizing, one can say that there are many reasons why it would appear necessary for trade unions and more generally for the organizations representing collective interests in the labour market to rethink their options. Many of the trends challenging unions from below have to do with changes at work and in the employment relationship itself, while other have to do with more general changes in the outlooks and orientations of employees.

Unions in Europe have been attempting to come to terms with these changes, but often in locked-in national perspectives. The structures of unions, of employment legislation, of labour market institutions and of the labour market more generally is perceived as so nationally unique in each country that this makes the transfer of knowledge relatively difficult, something which clearly puts unionism at a disadvantage vis-à-vis employers, especially as regard multi-national corporations.

Therefore, one may point to the following issues for cross-national investigation, issues which express trends that appear as common to European trade unions.

1. The end of the union pay mark-up? Since the companies that union members work in are embedded in increasingly competitive environments, and since outsourcing and outplacement are increasingly a fact of life, the possibility of the union pay mark-up would appear as minimized. The same follows from the decentralization, if not direct deregulation of pay formation that has taken place in most European countries. This means that unions must change their focus as to pay bargaining. Are they doing this, and what does the membership want in this connection? Similar discussion might arise concerning working hours, overtime etc.
2. The era of choice? Management styles are no doubt becoming more individualized in many companies, and in the political discourse (both right and left), free choice in several areas of life is becoming progressively more important (Rosenthal 2006). Union reactions to this have been ambiguous, to say the least, since individualism and choice in the employment relationship is often perceived as running contrary to collectivism and solidarity. Nevertheless, some unions in some countries (Denmark and Sweden have several examples of this) have taken up the issue of choice, underscoring that solidarity means giving the

individual member the options of choice embedded in the collective agreement (recent renewals of collective agreements in manufacturing contain aspects where members may choose how parts of the increase is spent: higher pay, more days off from work, larger pension contributions etc.). While some unions embrace this trend, others are violently opposed. The issue here is this: to what extent does the membership (and the potential membership) desire more free choice in the collective agreements? Can free choice in the collective agreements become a motivating factor for employees to request collective agreements at their workplace and thus enforcing both collective union representation and union density? One may term this 'embedded flexibility' or 'embedded free choice'.

3. Broadening the bargaining agenda? More generally, when some issues are disappearing or becoming weakened in collective agreements (as with pay bargaining or working time regulation), unions must think about how they may broaden the bargaining agenda, making collective agreements more attractive to employees. The 'services agenda' is not – in this connection – perceived of as an improvement in the unions' own services (while that might certainly also be needed), but more in terms of how unions via the collective agreements may enable a broader bargaining agenda and more employee formal rights vis-à-vis the employer. While this might appear as unrealistic in view of union membership losses, unions still have a power base and collective bargaining coverage certainly has not been declining to the same extent as union density (Traxler 1994, 1998). Thus, unions need to think of how to enter novel aspects of the employment relationship into these agreements, such as:
 - a. The right to an annual personnel career interview (or an annual individual pay review).
 - b. The right to an annual one or two week's vocational training or course participation.
 - c. Funds to pay for this training or courses.
 - d. The right to collective labour market pensions (supplementary to general societal pensions provisions) with employer and employee contributions (cf. Due & Madsen 2003, and also 2006)
 - e. The right to take leave on your child's first day of illness.
 - f. The right to move from full time to part time and vice versa.
 - g. The right to extra days of holiday (that can be traded to so many days' extra pay).
4. Weakening old rigidities in collective agreements. If working time regulations etc. are weakened anyway and if unions wish to broaden their agendas, they might as well trade in some of the left-overs from old unionism: if unions are weakened already, why not trade in what you are going to lose anyway, in order to cover novel aspects that would attract employees in the private service sector and in the 'new economy' where unions in many countries are too conspicuously absent.

Needless to say, the issues mentioned also have the aim of presenting solutions to the perennial collective actor problem. Rights of choice and rights to training funds or extra holidays (point 2 and 3) may spill over into non-unionized companies and sectors, but exactly since they are individual rights, this 'risk' is not high, and there are going to be substantial sectors of the economy where they do not exist or only exist in shadow

forms. Therefore, these kinds of strategies solve more problems at once. The question is, finally, if unions are willing to ponder this kind of strategy, and, especially, whether they can find mechanisms that enable them to investigate members' preferences concerning areas of rights and free choice that are important today.

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