

Misunderstanding the Swedish Model

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Abstract: Labour historians and labour law researchers tend to neglect the fact that Swedish industrial relations developed in a situation of “collective laissez faire”, that prevailed between 1864 and the 1970s. The political background of the Swedish labour law and employer-union relations has often been distorted. The reshaping of labour legislation that took place in the 1970s was fundamental. Researchers have seen this sharp turn of policy as an effect of trade union influence, but contemporary documents tell another story. The paper is based on the author’s recent work “Makten över arbetsmarknaden. Ett perspektiv på Sveriges 1900-tal. (The Power over the Labour Market. A perspective on Sweden’s 20th Century. SNS Förlag, Stockholm 2002.)

Economic laissez-faire was introduced in Sweden in 1864, year zero in the development of modern Swedish industrial relations. In the labour market, the predominant doctrine became “the free employment contract”; the few remaining regulations were soon disregarded and in general seen as obsolete. Trade unions, strikes, lockouts and collective bargaining were left to the free play of economic and social forces. Neither the government nor the courts tried to enforce free competition and individual contracts in the labour market, as in Great Britain and America. Few labour disputes came before the courts.¹

Jörgen Westerståhl, Sweden’s foremost political scientist, wrote in 1945 that the incipient trade union movement “acted within a sphere that the existing legislation left almost totally unregulated”. He made an extensive survey of the Swedish Parliament’s legislative activity in this field until the late 1930s and concluded that this was in the main a negative story, a story about proposals that had been rejected. Official commissions, cabinets and members of Parliament had proposed various kinds of regulation of employment, industrial conflicts and union activities, but only a few provisions of a compelling character had been added to the statute book (in the the Collective Agreements Act in 1928 and the Freedom of Association and Right to Negotiate Act in 1936). These provisions reflected principles that the Swedish Employers’ Confederation (SAF) and the Swedish Trade Union Confederation (LO) already endorsed.²

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¹ Adlercreutz (1954), p 384. Adlercreutz (1958), p 22.

² Westerståhl, p 10 *et seq.*, 158, 417 *et seq.*.

The LO-historian Ragnar Casparsson wrote in the 1940s that a strike in 1879 in Sundsvall, where troops were used to control sawmill workers, was the only marked exception from the rule that the state had remained neutral in labour disputes.³

Sweden was an example of what Otto Kahn-Freund called “collective laissez faire”, more purely so than England or, in fact, any other western country. Government intervention in industrial relations was minimal. A system of bargaining and collective agreements developed step by step from the late 1860s, at first and for a long time only at the plant level. In the absence of legislation the two sides in industry eventually agreed on mutually acceptable rules, a *modus vivendi*, about the handling of the strike and lockout weapons and the settlement of disputes. In 1905 the employers in the metal industry, after a conflict of five months, accepted the right of workers to organise and to bargain collectively. The freedom of organisation was established more generally the following year in the so called December Compromise between the SAF and LO. In the same compromise LO accepted that the employer “has a right to supervise and distribute work, to freely engage and dismiss workers and to employ workers irrespective of whether they are organised or not”. This agreement, which was inspired by a similar compromise between employers and trade unions in Denmark 1899, had far-reaching and long term effects. The right of workers to organise and bargain collectively soon became firmly established, and in practice the agreement also protected the negative right of association, the right not to be a union member, as SAF prohibited its member enterprises to apply the closed shop.⁴

After 1906 the employers actively promoted collective bargaining. The employers were ready to use broad lockouts against what they sometimes called guerrilla warfare in the labour market. They preferred centralised bargaining and put pressure on the national unions and LO to control the local unions. One issue that had not been settled in 1906 was the use of sympathetic action. SAF favoured the right of each side to take sympathetic action also when there was a valid agreement, as an exception to the peace obligation, as lockouts were an important part of the employers’ strategy. LO disagreed but stated in 1907 that it would not oppose the acceptance of the right to sympathetic action in national agreements between the employers and the national unions.⁵

The early collective agreements were considered “extra-legal”. An official commission said in 1901 that their influence belonged to the sphere of moral rather than legal obligations. As

³ Casparsson, p 479.

⁴ Nycander (2002), p. 17 *et seq.* Bruun, p.13.

⁵ Nycander (2002), p 23 *et seq.*

the system expanded and became more stable both sides tended to see the agreements as binding. The distinction between “disputes of right” and “disputes of interest” was recognised long before the adoption of legislation on industrial relations. In 1915 the Supreme Court ruled that collective agreements were legally binding.⁶

In the period from the late 1890s to the middle of the 1930s Sweden had perhaps the most turbulent labour market in Europe, with a record number of industrial conflicts. Industrial peace was a major issue in the public mind and the object of an almost constant political discussion, but the prevailing doctrine was that the state should stay neutral. Several public investigations of how to forestall particularly damaging labour conflicts did not yield any proposal for legislation. Collective *laissez-faire* prevailed, the shaping of industrial relations remained in the hands of the industrial partners. Of all workers in manufacturing industry about 80 per cent were covered by collective agreements in 1930.⁷

In the middle of the 1930s the social democratic government wanted to appoint a commission with representatives of the state, the employers and the unions to promote industrial peace. SAF and LO rejected the proposal, instead they negotiated on a number of controversial issues that had been discussed for many years in Parliament. In 1938, they reached a Basic Agreement, often called the Saltsjöbaden agreement. SAF and LO established procedures and institutions for the peaceful settlement of disputes at all industrial levels and introduced rules designed to make conflicts in the future more civilised. The employers accepted, not formally but in practice, to abstain from using strike breakers. There were rules to protect neutral third parties, rules about vital functions that must be protected during a conflict and a procedure to prevent conflicts thought to be particularly harmful to the public interest. The right of employers to dismiss workers at will was restricted.⁸

While SAF and LO negotiated the Basic Agreement, President Franklin D. Roosevelt requested a commission to study labour-employer relations in Sweden. The commission's report was published with an introductory statement by the President. SAF and LO supplied the commission with an agreed joint statement of employer-worker relations, and the commission met with several representatives of the two sides, who were said in the report to be “outspoken in their respect for each other”. In a joint meeting, the principle officers and representatives of the employers' association and the trade unions had “a very frank discussion of the subject, during which all the questions we had to ask were answered without

⁶ Adlercreutz (1954), p 385. Nycander (2002), p. 18.

⁷ Åmark, p. 33. Nycander (2002), p. 71.

⁸ Nycander (2002), p 30, 65 *et seq.*

hesitation”. Both employers and workers preferred voluntary negotiations to any kind of compulsion on the part of the Government, or even to arbitration. The commission remarked that the closed shop was “not a significant issue in Sweden, because of the very large proportion of workers who are union members and because the employers no longer try to break down union organization, preferring to deal with their workers through strong trade-unions.” On the other hand, “the employers are not asked by the unions to exercise, and they do not exercise, pressure upon their employees to make them join the unions”. The commission also reported that discrimination of workers because of union activity was “not a significant problem”.

The commission concluded: “Although strikes and lock-outs still occur in Sweden, they occur within the framework of a voluntary system of collective bargaining in which the settlement of differences by methods of persuasion rather than by force has become the order of the day. The endeavour of the representatives of both workers and employers is to bring about, by objective factual consideration, an understanding of the problems, with respect for each others motives and the adoption of policies and agencies which make for peaceful solutions.”

The commission was obviously impressed. The report rightly emphasised the legal background: the absence of legislation restricting concerted action of trade unions and employers and the fact that “labor-union activity is substantially free from regulations so long as it does not violate the ordinary police regulations that apply to all citizens”.⁹

The connection between collective laissez-faire and “the Saltsjöbaden model” was not incidental. In countries where the state intervened substantially in employer-union relations (as a rule to curb union activity), no such advanced pattern of mutual understanding and cooperation developed. With the state as an ally in the labour market employers had weaker incentives than in Sweden to recognise the unions. Resisted by the employers and repressed, more or less, by the state the unions often became politically extreme and militant. In Sweden in 1938, both sides in industry were aware of the historical importance of government non-intervention. Collective laissez faire and state neutrality were essential elements in the shaping of industrial relations.

“The Swedish Model” has been given several and sometimes contradictory definitions, but all commentators agree that the Basic Agreement and “the spirit of Saltsjöbaden” are important. The fact that the employers and the trade unions established constructive, mutually

⁹ Report of the Commission on Industrial Relations in Sweden with appendices.

respectful relationships, that paved the way for a détente between the business community and the socialist government, made Sweden more stable from a political point of view than it would otherwise have been. There was a consensus that facilitated many difficult decisions. To understand Sweden's political character in the 20th century it is essential to follow the chain of events that led to the Basic Agreement in 1938.

The proportion of union members among Swedish workers reached a peak in 1906-1907. After an unsuccessful general strike in 1909 the unions lost almost half of their members, but in the middle of the 1930s the unions were stronger than in any other country, as they still are. Since 1909 it is LO's policy to organise workers in industry-based unions rather than craft unions.

Why was there so little state intervention, why was Sweden so different from other countries (outside Scandinavia)? The answer is rather easy to find. There was no shortage of political initiatives to regulate industrial relations, as Jörgen Westerståhl has shown, but there was a decisive resistance from the political group that held the balance. Non-intervention was the effect of the influence and character of Swedish liberalism.¹⁰

After the deregulation of the economy in the 1860s, the reform-minded left had a well-coming attitude to workers' organisations, which was crucial in many ways. When the trade unions grew in membership and militancy during the 1890s, the foremost defender of union rights was the young lawyer Karl Staaff, future leader of the Liberal party and twice prime minister (1905-06 and 1911-14). In 1894, some sheet-metal workers in Stockholm were prosecuted for, allegedly, having intimidated other workers during a strike and for some other offences (the *Lothigiuss* case). The proceedings in the local court and the regional court were extensively reported in the newspapers, and the case was concluded only after four years with a ruling by the Supreme Court. Karl Staaff was the attorney for the defence, and he won in all three courts. His written statement about intimidation, where he drew a line between legitimate moral pressure on workers to obey a union boycott and, on the other hand, acts of violence, or threat of violence, was an important step in establishing union rights. Workers had, according to Staaff, a right to tell disloyal workers that they would be excluded from the normal benefits of comradeship, such as being recommended for jobs, and that other workers would refuse to work together with them. That three courts accepted the argument tells something about the liberal climate in Sweden at the time. In similar court cases elsewhere, as

¹⁰ Westerståhl, pp. 31, 267 *et seq.*

in America and England, during the same period “intimidation” or “coercion” often included a lot more than the threat of violence, for instance picketing.

Hjalmar Branting, the leader of the Social Democrats, wrote in 1896: “... only with Karl Staaff did the workers in Stockholm get an attorney in legal matters of a class character who stands uncompromisingly on their side and at the same time understands how to represent them with all possible legal sharpness and insight”.¹¹

The major conflicts about workers’ right to organise took place in the period around 1900. Sawmill workers in the Sundsvall district were dismissed and in many cases evicted from their homes in 1899, when they refused to abandon their union. Strike breakers were recruited, the union had little money, and the resistance of the workers was broken. But public opinion, in particular the liberal newspapers, supported the workers. Even conservative Svenska Dagbladet criticised the mill owners for being short-sighted. A famous conservative professor of history, Harald Hjärne, ridiculed the mill owners before an enthusiastic audience of students in Uppsala. A group of well-known members of the liberal intelligentsia, among others Karl Staaff and the publisher Karl Otto Bonnier, made a public statement in support of the workers.

From 1905 the Liberal party, with Karl Staaff as its leader, dominated the directly elected lower house of the Parliament, while the Conservatives were in control in the indirectly elected and more plutocratic upper house. No legislation could be passed against the votes of the Liberals and the (much fewer) Social Democrats. In a debate about an anti-labour Government Bill in 1905 Staaff regretted that the workers had only a few representatives in the Parliament and said that legislation about trade unions should wait until the workers were fully integrated into the political life. In the following years many Government and Members’ Bills were supported by the upper house and the conservative minority in the lower house but were struck down by the left-wing majority in the lower house. Some of the proposals would have severely restricted the unions. A law about voluntary mediation, proposed by the Liberal government, was adopted in 1906.

That the employers changed their attitude and policy towards the unions in 1905-06 had an obvious connection with the fact that the Liberals and the Social Democrats were in a position to veto all new legislation. SAF was influential in conservative politics and actively supported legislation to restrain the unions but had, in practice, to rely on its own resources as a highly centralised employer organisation with a strong internal discipline.

¹¹ Kihlberg, pp. 142, 175 *et seq.* Proceedings of the Swedish Supreme Court.

LO proclaimed a general strike in August 1909. About 300 000 workers took part, an extremely high proportion of the Swedish working class. The government did not intervene, and the strike came to an end gradually during the autumn without an agreement between the two sides. The conflict caused tensions between the Liberals and the Social Democrats. Karl Staaff reacted against anarchistic tendencies in the unions and in particular against the closing of the newspapers, which was a breach of collective agreements considered to be binding. In 1910 the conservative government introduced several law proposals with an anti-union tendency, confident that the non-socialist public opinion would now support measures thought to promote industrial peace. Again, the two houses of Parliament were unable to reach a compromise, all the proposals were rejected. Hjalmar Branting said that the Liberal party had “stood the test with honour”. The government tried again in 1911, but the Liberals still resisted legislation that was deemed unacceptable to the unions.¹²

The Liberals had been “thrown out of the trade unions”, in Branting’s words, already in the 1880s, and the unions had become close allies of the Social Democrats, the very basis of the party. What made many non-socialists in Sweden so friendly with the unions, even under the impact of the general strike? The socialist politician and writer Fredrik Ström pointed out, in a book in 1944, that one cannot understand the reception of social democracy in Sweden without knowing that an active, energetic left wing opposition for more than fifty years had shaped a large part of the public opinion, demanding civil and political rights, constitutional and cultural reforms and social justice. The Liberals were successful largely because they had the sympathy of authors, poets, journalists and artists.

“This liberal heritage had been imbibed and taken over by country folks, workers, petit bourgeois and a large part of the intelligentsia, when social democracy and socialism began to be preached in Sweden. When the Social Democrats demanded freedom and justice for the people and attacked tyranny and repression, clericalism and the royal court, military and feudalism, this was actually an old and well-known melody, sung by the social democratic agitators in a more rebellious tone and expressed in a more robust language.”¹³

The middle class was important, but it was a tiny group, and most of the liberal voters were small farmers, workers, shop-owners, craftsmen – people who were closer to the proletariat than to the capitalists.

¹² Nycander (2002), p. 28 *et seq.* Westerståhl, p. 326.

¹³ Ström, p 102 *et seq.*.

The Liberals lost heavily in elections 1914 and was in the 20s a rather small party, but still they held the balance. In 1928 a liberal minority government introduced legislation about a Labour Court and collective agreements. The Bill was fiercely attacked by the unions and the Social Democrats. LO proclaimed a short general strike in protest. The government had, however, avoided issues that had, during decades of discussion, been particularly sensitive and controversial. The proposals were, in fact, evenly balanced. They were approved by the non-socialist majority, and the trade unions and the Social Democrats soon accepted the new rules of the game. LO nominated members of the Labour Court and rejected demands from the Communists for a withdrawal of the union support of the system. The court compelled employers to respect collective agreements, looked severely on attempts to discriminate against workers who were active in the unions and in general made industrial relations more stable. Axel Adlercreutz, Sweden's leading expert on the rise and development of collective agreements, comments: "Our Swedish legislation of 1928 concerning collective agreements was based upon established usage and proved to be viable as demonstrated by the development that has taken place in the Labour Court." The autonomy of the system of collective agreements was preserved.¹⁴

Gustav Möller was the Minister of Social Affairs after the Social Democratic success in the parliamentary elections in 1932. His strategy for improving industrial relations was to build an alliance of the government, the employers and the unions. In 1936, the prime minister, Per Albin Hansson, and Möller agreed with the trade union leadership to form a three-party commission to promote industrial peace. SAF refused to take part in such a group and convinced LO that it would be better handle the problems between themselves. Möller was upset, and he could not hide his disappointment.

The Saltsjöbaden model was an arrangement between the social partners. The role of the state was negative, the arrangement presupposed that the state respected the independence of employers and unions in all matters covered by collective agreements, in particular those included in the Saltsjöbaden Basic Agreement. From 1938 collective laissez faire, government non-intervention, became not only an actual situation but a predominant ideology. Only the Communists were opposed. They saw the agreement as a betrayal of the working class.¹⁵

Swedish industrial relations, as they were described in the report to President Roosevelt, was very close to the vision of the Liberals: cooperation and mutual understanding instead of class warfare, stable collective agreements in accordance with the act of 1928, respect for the

¹⁴ Westerståhl, p. 359 *et seq.* Adlercreutz (1986), p 72.

¹⁵ Nycander (2002), p. 65 *et seq.*

right to organise and also for the choice of individuals not to organise (an effect of the absence of the closed shop), and a minimum of state regulation. It was also the Liberals, in the Parliament and in public opinion, that had made this kind of relationship possible, through their resistance to anti-union legislation and moral support for the right of workers to organise and bargain collectively. The vision of the Social Democracy had been different, as the party did not admit any legitimate role of private owners and had no objections, in principle, to state intervention. They advocated cooperation between employers and unions under government supervision. The Swedish Model was invented by the Social Democrats only after it had been established.

The Basic Agreement did not exclude state intervention in the labour market in matters outside the scope of industrial relations. Legislation about two weeks paid vacation, introduced in 1938, did not touch the relationship between employer and union, it was seen as a protection of workers as individuals. The gradual build-up of the welfare state was neither a part of the Saltsjöbaden model nor an obstacle to its functioning. The idea behind the Basic Agreement was that the two spheres, industrial relations and politics, should be kept separate and not become mixed into some corporatist, collectivist porridge.

The Saltsjöbaden model, that was well described for the first time in the American report, was important during World War II. SAF and LO were the major supporters outside the political sector of the wartime four party coalition government, and they took an active part in the mobilisation of the Swedish economy for the national defence. They agreed on moderate pay increases, that made it possible to control inflation – in contrast to the situation during World War I.

During the 1940s SAF and LO made four agreements covering vocational training, working environment, workers participation through works' councils and technical rationalisation at the workplace. Most important was the open intellectual communication between management and workers, between the leaders of SAF and LO and between experts and officials on the two sides. The common ground was the mutual interest in peace in the labour market and economic growth. Both sides were influenced. The trade unions became more aware of the need for structural change and the necessity to accept the disappearance of thousands of jobs in the process. Together SAF and LO, late in the 1930s, developed the principles of an active labour market policy that were applied during the war years and then on a large scale from the late 1950s.

All was not harmonious. In the elections 1944 the Social Democrats and the Communists got 57 per cent of votes, and in the same year the Social Democrats and LO published a

detailed political programme for a planned, socialist economy, that became the centre of political and ideological controversy during the next four years. SAF and LO stood firmly against each other. In 1957-59 Swedish politics was overshadowed by a dispute about pensions, again with the employers and the unions in the opposite corners. The Saltsjöbaden tradition survived and yielded many of its most important results during these two periods of seemingly irreconcilable differences. The participants discerned both where their interests coincided and where they differed.

From the late 1950s SAF and LO coordinated wage negotiations in order to control inflation. Wage coordination at a national level was not a part of the Saltsjöbaden model, which aimed at industrial peace rather than price stability, but SAF-LO-bargaining soon became a symbol of the constructive relationship between employers and unions.¹⁶

In Sweden as elsewhere the late 1960s were turbulent. Radical protest and a general drift to the left did not respect the division of responsibility between the state and the organisations in the labour market. Unequal conditions, unhealthy environment and the absence of co-determination in working life caused discontent among workers and generated a competition between the political parties. In 1969 the Parliament unanimously approved a social democratic Private Members' Bill about a broad reform of the law on working environment, to be prepared by a government commission. The same year the government, with Olof Palme as the new prime minister, appointed a commission with the explicit task to propose a law against unfair dismissals. This was a matter that had until then been handled by the industrial partners.

In the years 1971-76 there was a surge of new legislation that fundamentally changed the character of Swedish industrial relations. Trade unions were given a minority representation on the boards of the companies, only the smallest ones excepted. Union representatives in the working place became entitled to devote an unspecified amount of time to union business during normal working hours at the cost of the employer; in case of a dispute the employer had to turn to the Labour Court for a final decision. Union representatives supervising the working environment were authorised, in some situations, to stop the production. Workers got the right to time off for education of their own choice. A law on the protection of employment regulated both dismissals of a disciplinary character and lay offs due to shortage of work. The Co-determination Act 1976 regulated negotiations, industrial action and collective agreements much more in detail than the previous legislation. All the new legislation was meant to change

¹⁶ Nycander (2002), p. 116 *et seq.*

the balance of power in favour of the unions and to make working life more democratic. Most of it was adopted by broad majorities in the Parliament. The employers at first reacted cautiously, trying to preserve the spirit of Saltsjöbaden and hoping for moderation in the political process, but became more and more desperate at the turn of events.

The new legislation was a breach of the division of responsibility between the state and the industrial partners agreed upon in 1938. The state now invaded the sphere that SAF and LO had controlled between themselves. There were additional problems, such as a general lack of respect for central agreements, resulting in wage drift and wild-cat strikes, an effect of lenient economic policies and high inflation in the 1970s. But it was the legislative intervention that destroyed the Saltsjöbaden model.

The public opinion for reforms in working life had increased gradually, but the actual change of policy took place in the years 1969-1971. After the LO-congress in autumn 1971 a new course of events was inevitable; important commission reports about working environment, employment protection and democracy in the workplace were on their way, the political parties were committed. Until then, however, LO was less than enthusiastic. For a long time LO had said that there was nothing wrong with the law on working environment, the problem was instead insufficient resources to make the law effective. There was, as LO saw it, no need for a law on employment protection. SAF and LO had made an agreement on this sensitive problem in 1964, and there was no strong discontent among workers with the way dismissals and lay offs were handled by the organisations. In the summer of 1971 LO made it clear that a law in this field was not in the interest of the workers; disputes ought to be handled between the industrial partners in accordance with the SAF-LO-agreement and should not be brought before the Labour Court.

LO had never wanted the trade unions to become involved in the running of enterprises. The policy of unions since the 1920s has been to avoid a division of loyalties. The union should not shoulder the responsibilities of a company board or management. The right of management to supervise and distribute work had never been raised by LO as a problem from a democratic point of view. In the late 1960s LO remained cautious and tried to handle the rising demands for industrial democracy in a way that would be compatible with the Saltsjöbaden tradition. There was however a strong pressure from public opinion and from the politicians, with the Liberal party and the (traditionally agrarian) Center party pushing for co-determination reforms. In 1971, LO's president Arne Geijer and other trade union members of Parliament proposed a commission on industrial democracy. The idea was that workers' influence should be based on the right to negotiate rather than on joint employer-union

committees. The duality of the system should be preserved; the unions must not be an integrated part of management.

During 1971 the attitude of the trade unions changed, as it became clear that legislation was on its way. The unions crossed the bridge and found the soil more fertile on the other side. They became maximalist, made more and more radical demands, and soon forgot their earlier reservations. The LO congress 1976 adopted a programme for the gradual collectivisation of the ownership in the private sector under the label “wage earner funds”, a scheme to eliminate private capitalism in Sweden.¹⁷

In the period from the early 1970s to the middle of the 1990s economic growth in Sweden was among the smallest among western countries. According to the OECD National Accounts Sweden's GDP per capita was 115 per cent of the OECD average in 1970. In 1995 it was only 95 per cent.¹⁸ There is a broad agreement among economists and social scientists that this poor performance had much to do with inflexibility in the labour market, rigid legislation, corporatist tendencies and inability of the industrial partners to find constructive solutions. In particular, a permanent controversy about the Employment Protection Act of 1974 has poisoned the relationship between employers and unions and between socialist and non-socialist political parties. Most of the disputes brought to the Labour Court are about the interpretation of this piece of legislation. Four successive government commissions, appointed to find better solutions, have been unable to complete their task because of the opposed views of employers and unions. The Saltsjöbaden model had ceased to function. In the early 1990s SAF made a final decision not to take part in coordinated wage negotiations and to withdraw its representatives from all government bodies (except the Labour Court). A few years later SAF outlined proposals for a labour law reform clearly influenced by anti-union policies in Great Britain and America in the 1980s. Sympathetic action should be prohibited, a collective agreement should regulate working conditions only for union members, and the basis of labour law should be individual rights, not collective rights. The strategy was to de-legitimise the unions, in particular LO as the symbol of centralism and collectivism. In 2001 SAF merged with another organisation and changed its name to the Confederation of Swedish Enterprise (Svenskt Näringsliv), de-emphasising the employer-union relationship.¹⁹

¹⁷ Nycander (2002), Chapters 10-13.

¹⁸ Lindbeck p. 33.

¹⁹ Nycander (2002), p. 413 *et seq.*

The history of Swedish trade unions, industrial relations and labour law has been the subject of extensive research. Since the 1930's Sweden has been recognised as a special case, and many books and papers have been published on the subject for the international readership. The picture of the Swedish Model, as it has been presented both at home and abroad, is however less than accurate, not only in details but in a more general way:

1. The importance of collective *laissez faire* in the development of employer-union relationships and the Swedish society in general since the late 19th century has not been pointed out. Where labour law has been emphasised, the authors often have overlooked what was most characteristic of Sweden.
2. The political background of Swedish labour law and industrial relations has often been distorted.
3. The role of the trade unions in the sharp turn around 1970 has been misunderstood.

What made Sweden such a fertile soil for trade unions? A good account is the key to Sweden's political and social history in the 20th century, as the unions were from the very beginning the basis of the Social Democratic party. A final answer can be founded only on a comparative study of many countries with different economic, legal and social traditions with regard to the labour market, and no such study has been undertaken. Tentative, intuitive explanations often reflect the researcher's academic subject: an economist, a sociologist and a lawyer will probably not present the same picture. Actually, only a few researchers have explicitly asked the question why the labour movement became more powerful in Sweden than anywhere else.

Walter Korpi, a sociologist, has pointed at "structural and historical elements": the ethnical and racial homogeneity of the Swedish working class made it relatively easy to organise; the influence of the church was relatively weak; the fact that Sweden became industrialised rather late facilitated a socialist dominance within the labour movement and promoted the organising of the workers along industrial lines rather than craft lines; the conflict between reformists and revolutionaries became less serious than in many other countries. On each of these points Korpi contrasts Sweden to other countries where the working class has been less successful.²⁰

Göran Therborn, also a sociologist, has asked why class politics and class parties became so strong in Sweden. In his view a centralised state with a well-functioning bureaucracy, a state church, safe state borders, and a population without ethnic divisions created a situation

²⁰ Korpi (1978), p. 88 *et seq.*

where few other things besides class interests, such as nationalist or religious conflicts, could mobilise the masses. Therborn emphasises that there was a tradition of voluntary organisations in Sweden. The capitalist companies were not as big as in America and Germany, they lacked the power resources that could have broken the resistance of the workers.²¹

Clearly, what Korpi and Therborn tell is not the full story. They do not mention the great freedom that workers' organisations enjoyed in Sweden, the relative absence of state intervention. Korpi compares Swedish and American labour organisations without giving attention to the difference in the legal and political conditions. In a comment on the weakness of the unions and the absence of a socialist party in America Korpi puts all the emphasis on the ethnical element. Organisation along ethnical lines, he writes, competed with class organisation and eroded the very basis of the labour movement.²²

That labour historians tend to overlook the importance of labour law and employment law has often been observed. There is in many works an implicit belief that, in a capitalist society, "the law necessarily and uniformly reflects capital's dominance".²³ The writers tend to be "legal realists", believing that the law only mirrors the economic structure and the class divisions.²⁴

Some researchers have pointed out that anti-union and anti-socialist repression was less severe in the Scandinavian countries than in many other places parts of the world. In his work on Scandinavian social democracy Gösta Esping-Andersen remarks that "serious political repression was rare, and there was no Scandinavian parallel to the German *Socialistengesetz*".²⁵ It might be added there was no parallel either to the *loi Chapelier* in France, the "labor injunction" in America, the use of common law against the unions in Great Britain, the police regulations in pre-World War II Japan, the general anti-union policies in southern and eastern Europe or interventions to the same effect in countries around the world. Researchers who recognise the relative absence of anti-union policies in Sweden do not seem to see the importance of this distinctive feature in their analysis of the roots of the Swedish Model.

There was of course *some* state repression in Sweden. The police sometimes cracked down on socialist agitators, violence in strike situations was on occasion punished beyond normal

²¹ Therborn (1994), p. 65 *et seq.*

²² Korpi 1994, p. 17.

²³ Woodiwiss, p. 382.

²⁴ Forbath, p. 13 *et seq.* Nycander (1998), p. 28 *et seq.*

²⁵ Bruun, p 22. Esping-Andersen, p 72.

standards, a law (called Åkarpslagen) was adopted in 1899, against the opposition of the Liberals, in order to make even an attempt to coerce someone to participate in a strike a criminal offence. Labour historians stress these facts. At the same time they emphasise the anti-union activities of the employers, in particular their forceful lockouts and their refusal, in the early period, to recognise right of workers to organise and to bargain collectively. The distinction between the state and the employers is blurred; trade unions were repressed by “the bourgeois society”. Some authors have a marxist perspective and tend to see the capital owners and the working class as the real actors of history, political parties being little more than a reflection of class interests. The fact that many members of the social and economic elite sympathised with the unions and supported the right of workers to organise and to take industrial action is either not mentioned or reported only as a split in the ranks of the capitalist class.²⁶ The *Lothigius* case, which was an important victory for the workers and a proof of tolerance among the Swedish judges, has not been included in the history of the Swedish labour movement. Most of the relevant facts about the labour law policy of the Liberal party are available since 1945 in Westerståhl’s work, but their significance for the understanding of the Swedish Model has not been acknowledged. That the Liberals defended union rights and paved the way for the recognition of the unions by the employers has hardly ever been recognised by labour historians.

In “The Rise and Development of Collective Labour Law” (2000), edited by Marcel van der Linden and Richard Price, a Swedish legal researcher, Susanne Fransson, describes “the intellectual climate” in Sweden, as it was shaped (in her view) by liberal economists, in the late 19th century:

“Strikes and collective action were regarded as violations of the contract of employment and therefore illegal. Alternatively, collective action by workers could be seen as rebellion and an instigation to revolt against the established order. - - - There was repressive legislation in the form of statutes that forbade workers to urge other workers to strike. These could be used to protect strike-breakers and take strike-leaders into custody.

²⁶ See for instance Kjellberg, p 215 *et seq.* and Korpi (1982), p 131. Esping-Andersen, p. 71, writes that in the period 1870-1914 the traditional class-party model reigned in the Scandinavian countries. He points out that the socialists and “the farmers” (a reference to the Liberal party) worked together in the struggle for democracy. He holds, p. 82, that the Swedish society did not give rise to a large and liberal-minded class of farmers and urban bourgeoisie. In the crucial period 1905-1914, however, the Liberal party had the broadest social base of all the parties. The farmers were not as a class engaged in the struggle for democracy. The Liberal Party was a mixture of social groups, not a class-party (or a coalition of two classes). In matters that concerned in particular the workers the policies of the Liberal party hardly reflect the views of the farmers.

The legislation and means of enforcement targeted workers as individuals and had a disruptive effect on the mobilization of the working class.”²⁷

This is misleading, to say the least. The intellectual climate was not in general anti-trade union, not even among economists believing in the free market. A recognition of free associations as a means to improve social conditions was an important element in Swedish liberalism. For instance, the liberal economist J. V. Arnberg, who later became the president of the Swedish National Bank, wrote in 1870 that trade unionism could be valuable and that the right to strike must be recognised.²⁸ The idea that a strike is a breach of contract and therefore illegal had little support in the prevailing system of free and informal labour contracts. No law forbade workers to urge other workers to strike. In the *Lothigius* case (see above) the prosecution did not claim that the strike in itself was illegal. The amendment of the criminal law in 1899 (*Åkarpsslagen*) about coercion in labour conflicts was clearly anti-union and seen by the Social Democrats and the Liberals as a class law, but its effect was rather small; it did not restrain workers from establishing organisations or from taking non-violent industrial action. It did not disrupt the mobilisation of the working class. Membership in the unions almost exploded in the period following the adoption of the law.

The unions became strong in Sweden, in Susannes Fransson’s view, as an effect of the collectivisation of work in a period of industrialisation:

“The stabilization of the organizational body brought about rules for the workers’ right of association. - - - The right of association and the right of the trade unions to negotiate with employers enabled the trade unions to achieve a strong position and legitimacy within society.”

This version passes over everything that made Sweden a special case; work became collectivised in all industrial countries. Susanne Fransson points out that, throughout these early decades, “relations between the collective parties were the subject of collective self-regulation, never of formal legislation”. Labour law “remained primitive”. Yes, in spite of the high level of industrial unrest in Sweden, labour relations remained unregulated in law, but this fact has a political explanation and can not be understood in terms of the collectivisation of work. The importance of this “primitive” Swedish system was well understood in the American report.²⁹

²⁷ Fransson, p. 232 *et seq.*

²⁸ Tingsten, p. 45 *et seq.*

²⁹ Fransson, p. 237.

In an impressive new anthology on Nordic labour law, Danish scholar Ole Hasselbalch writes that the legal system in Sweden was applied in a way that was hostile to the growing union movement. “In contrast to the liberal Danish interpretation of the formal rules, these rules were actually applied in Sweden.” It was difficult in Sweden, according to Hasselbalch, “to launch a strike since this might easily lead to breach of the individual employment contracts (their terms of notice).”³⁰

The fact is that the employers found that it was, in connection with strikes, impossible to uphold terms of notice in employment contracts. As a remedy, an official commission in 1901 proposed a law about employment contracts, making it a criminal offence to strike in some situations, but the proposal was rejected. The real problem of the unions was that the employers often refused to take workers back after a strike, not that the courts punished workers’ breach of contract.³¹ The law did not make it difficult to strike.

In 1977, Folke Schmidt published “Law and Industrial Relations in Sweden”, an impressive work by Sweden’s most influential labor law scholar.³² It is a systematic description of the existing law with an emphasis on the Co-determination Act in 1976, that had replaced earlier legislation about collective agreements, Labour Court and the right to organise. The historical background is sketched rather briefly. In the 1970s legislation had become extensive and complicated, and any systematic description of modern Swedish labour law will tend to give the impression that employer-union relations are shaped by the law. The fact that the most important rights and obligations of the social partners were established through voluntary agreements, without the legislator’s intervention, can be made clear only in a historical account.

Folke Schmidt wrote about the Saltsjöbaden agreement:

“For a long time trade unions and employers had as their goal the self-government of their common affairs, so that the involvement of the State could be kept to a minimum, and it was with this in mind that, on 20th December 1938, the Swedish Employers’ Confederation and the Swedish Confederation of Trade Unions entered into the ‘Huvudavtal’ (Basic Agreement).”³³

However, at that point of time, the common policy of SAF and LO to keep state intervention to a minimum had come about quite recently. Until the middle of the 1930s the employers had

³⁰ Hasselbalch, p. 19.

³¹ Nycander, (2002), p. 28.

³² The author writes in the preface that the book may be seen as a second edition of “The Law of Labour Relations in Sweden”, 1962.

³³ Schmidt, p. 13.

lobbied for a legislation to restrain the unions. The LO leadership had sometimes advocated legislation about freedom of association and about arbitration in disputes of right and was under pressure from the Social Democrats to accept legislation in the interest of industrial peace. The absence of state intervention was an effect of the attitude of the Liberal party in combination with the bicameral parliamentary system; the two houses had for a long time been unable to agree on employer-union related matters. The common SAF-LO resistance to legislation became important only as a part of the Saltsjöbaden tradition.

In “The Nordic Labour Relations Model” (1992) Niklas Bruun, an expert in labour law, wrote that there were numerous examples in the 19th century in the Nordic countries of the use of law as a repressive instrument against the labour movement. Many tended to see the law as an expression of the will of the ruling class. However, in Bruun’s view, the unions later became more positive towards legislation as an effect of welfare legislation together with the fact that the unions became recognised by the employers and able to appropriate some rights for themselves:

“As it was primarily the trade unions that needed legal remedies to cope with obstinate employers, legal measures and the new legislative organs could not merely be regarded antagonistic towards the employees. Thus, the trade union movement clearly benefited from legislation within the orderly framework of the capitalistic system. This generated a positive conception of the law and a general reliance on the capacity of legislation to bring about reform.”

At the same time the unions defended their independence and their collective rights against legislative intrusion, writes Niklas Bruun. The conclusion is that “the trade unions in the Nordic countries have had an ambivalent, but a very pragmatic, attitude towards the need for legal regulation”.³⁴

Treating the four Nordic countries as one single model is practical and helpful in some respects, but it does not facilitate the understanding of the particular dynamics that shaped employer-union relations in Sweden, as described by the American commission. The attitude of both employers and trade unions towards legislation in this field may perhaps be called pragmatic until the middle of the 1930s, but during the Saltsjöbaden period (1938-1970) this was a matter of principle and ideology – both sides wanted to keep legislation at a minimum. The trade unions in LO much preferred collective agreements to legislation in matters like workers’ co-influence, unfair dismissals, lay offs, prevention of particularly damaging

³⁴ Bruun, p 22 *et seq.*

industrial action etc., although union demands had a great chance to be accepted by the political majority. Then, around 1970, everything changed again.

Before the Saltsjöbaden period, there were few legislative matters in the sphere of industrial relations on which the employers and the trade unions agreed, and the policy that was actually followed was an outflow of philosophies in the political sphere, with the Liberals holding the balance. Focusing on the unions' positive conception of the law tends to conceal the historical importance of collective *laissez-faire* in Sweden. "For the trade union movement", Niklas Bruun writes, "legal regulation has provided, above all, a means of achieving a series of goals", such as certain rights and a certain basic security. He does not dwell on what the *absence* of legal regulation provided in the first place.

The image of Swedish labour law as essentially interventionist is reflected by international commentators. Lord Wedderburn has written that "there were, and are, many systems where extensive legal regulation was the very basis of collective bargaining – in Sweden, for example, which came to be the object of such intense interest for both the Donovan Commission and Bullock Committee alike".³⁵ Looking at matters historically, this is turning the Swedish Model upside down. There were collective agreements for about sixty years before there was a law on collective agreements. Legal regulation occurred at a moment (in 1928) when already around 80 per cent of the workers in manufacturing industry were covered by such agreements.

Collective *laissez faire* was abandoned in Sweden in the 1970s, with the introduction of an extensive industrial relations legislation. The most important initiatives came from the political side (see above). In the literature, however, there has long been total agreement that the new legislation was an effect of trade union influence. I quote a few examples of texts written in English for the international readership. Folke Schmidt wrote in 1977: "In the period 1970-76 LO did not hesitate to make use of its political influence, if its goals could be attained more quickly and more effectively through legislation."³⁶ Walter Korpi maintained in 1982 that LO around 1970 abandoned its previous position that the state should stay neutral:

"Instead LO now wished to use the political power controlled by the Social Democrats in government and the Riksdag in order to obtain by legislation what could not be obtained by negotiation. As a response to these demands from the wage-earners and LO,

³⁵ Wedderburn, p 10. The Donovan Commission reported in the 1960s, the Bullock Committee in the 1970s.

³⁶ Schmidt, p 14.

the Social Democratic Party in the early 1970s initiated a series of laws which strengthened the position of wage-earners in the workplace.”³⁷

Economist Assar Lindbeck wrote in 1997: ”In the early 1970s, unions succeeded in pushing through important labor market legislation in their favor when they could not get what they wanted through centralized bargaining with employers. Important examples are legislation concerning job security (Åmanlagarna) and union influence on the organization of work within firms (MBL).”³⁸ Ole Hasselbalch writes (2002) about the political influence of the organisations: “Even the explosion of labour legislation which took place in Sweden in the 1970s has this basis – the Swedish LO simply decided to further their interests via the political system instead of the negotiation table.”³⁹ None of these writers make any references to sources, and there is very little research to support their contention.

A government commission reporting on power relationships in Sweden (Maktutredningen) maintained in 1990 that working life in Sweden during the first half of the 1970s was reformed mainly through legislation, not through collective agreements. “The trade unions used the state, controlled by the Social Democrats, as an instrument.”⁴⁰

Contemporary documents, easily available, tell another story. The most important laws during the first half of the 1970s were about union representation on the boards of enterprises, about working environment and about employment protection. In all these reforms were initiated by the politicians. When the shift from collective agreements to legislation took place, the trade union movement was a moderating force, trying to preserve the Saltsjöbaden tradition.⁴¹

SAF understood LO:s dilemma when the political parties competed in appearing the greatest supporters of working life reforms. SAF initially tried to be cooperative and even accepted parts of the new legislation, in the vain hope of maintaining the friendly relationship.

The collective agreement remained the main instrument of the regulation of wages, working hours and other aspects of working conditions, but the independence of the industrial partners was harmed by the new legislation. Resistance to government intervention, that united employers and unions in the Saltsjöbaden period, was undermined. There is a tendency now-a-days to believe that every problem in the labour market has a political solution.

³⁷ Korpi (1982), p. 138.

³⁸ Lindbeck, p 17.

³⁹ Hasselbalch, p. 33.

⁴⁰ SOU 1990:44, p. 391.

⁴¹ Nycander 2002, chapters 11 and 13.

The significance of the sharp turn around 1970 was little understood at the time, and the origin of the new legislation was not evident in the media. The myth that the change of policy was an effect of trade union influence was probably first launched in the political rhetoric, and it was easy to believe that legislative reforms about workers influence, working environment and employment protection reflected the wishes of the wage earners and their organisations. Nevertheless, it is remarkable that so many prominent researchers have asserted, without looking into the facts, that the politicians were only the instruments of the unions.

What actually happened is of great interest not only as a matter of historical truth. The self-image of the unions has been deeply influenced by the belief that the labour legislation of the 1970s was an effect of union demands at the time. An older generation of union leaders were proud of the fact that the recognition of the unions, the impressive system of collective agreements and the influence of organised labour in general in Sweden were achieved by the workers and the unions themselves, not the products of legislation. Today the protection of workers' interests tends to be seen as belonging to the political sphere rather than the trade union sphere.

The attitudes of employers, too, have been influenced by a one-sided, incorrect historical version of what happened in the 1970s. The belief that the union leadership willingly destroyed the model of industrial relations that both sides had valued so much is fertile soil for anti-union sentiment.

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