Theme 3: The company level social dialogue - New developments

Yellow unions and non-organized in cooperation committees
- the case of Denmark

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Introduction
While the Nordic countries in general have quite high union densities, the union density in Denmark has eroded slightly over the last decade. In Denmark the union density was 73.1 per cent in 1995, dropping to 67.4 per cent in 2005, but increasing to 69.6 per cent in 2013 (Ibsen et al, 2013). On the surface this seems like a positive development over the last years, but the numbers are deceiving: while 2.1 per cent of all union members in 1995 were members of a yellow union, that number had increased to 8.7 per cent in 2013 (‘yellow’ colleagues). Hence, while 71.0 per cent were members of a traditional union in 1995 that number had dropped to 60.9 in 2013 (Ibid).

Hence, while yellow unions and their members were insignificant in numbers in the 1980’s and 1990’s, today they are a factor the traditional unions have to reckon with whether they like it or not. This is also the case at workplace level. In 1998 only 32 per cent of the shop stewards within LO (The Danish Confederation of Trade Unions) had yellow or non-union colleagues, this share had increased to 64 per cent in 2010 (Navrbjerg et al 2010: 76). Empirical studies show that the sheer presence of ‘yellow’ and non-union colleagues constitutes a challenge to some shop stewards. 51 per cent of shop stewards with such colleagues do not seem to have problems with ‘yellow’ and/or non-union; however 28 per cent claim that it complicates local negotiations, 24 per cent that it makes it difficult to coordinate demands towards management and 14 per cent claim that the presences of ‘yellow’ and/or non-union colleagues creates conflicts at the workplace (Larsen et al. 2010:102). On top of that the shop stewards find that they constantly have to argue for membership and loyalty towards their union (Navrbjerg et al. 2010:83ff).

While union members as well as unorganized and ‘yellow’ colleagues are covered by collective agreements, the cooperative system is supposed to only service union members (typically shop stewards) as representatives for the employees. The first cooperative agreement (for the industrial sector) was closed by The Danish Confederation of Trade Unions (LO) and The Confederation of Danish Employers (DA). It is from 1947 and prevailed practically unchanged for the next 50 years.

Cooperation committees are important arenas for information and co-influence as the employee representatives are entitled to information about the company’s economy, staffing plans and prospective for the workplace and to be heard about restructuring (Samarbejdsaftalen 2006). Furthermore it is a central part of the cooperative system, created by unions and employers to enhance well-being and productivity at workplace level.

However, changes in the Working Environment Act (WEA) in the start of the 1990 have made possible the introduction of new options in the cooperative agreements regarding cooperative structures. Unions have always had an interest in improving health and safety, and found that especially the work on the psychosocial working environment could be improved by merging the health and safety organisation and the cooperation committee. In 1997, the cooperative agreement in the public sector followed up on the changes in the WEA and opened up for the possibility to integrate the health and safety organization with
the cooperation committees at workplace level. By 2014 most municipalities and all regions have integrated their cooperation committees and health and safety organisations into one merged committee.

In 1998, it became optional in manufacturing to integrate cooperative committees with the health and safety organisation. Contrary to the situation in the public sector, relatively few workplaces (12 per cent) in manufacturing have made use of the opportunity to merge the cooperation committee with the health and safety organisation (Felbo-Kolding and Navrbjerg 2014).

As the health and safety organisation is mandatory according to legislation and as such covers all employees with no regards to union affiliation, all employees are eligible for these merged committees. This opens up for non-union members to be members of the merged cooperation committees and as such also ‘yellow’ colleagues could infiltrate the cooperation committees. However, it has never really been an issue in the public sector as the union density is very high and it is quite easy for unions to nominate union members and have them elected. The situation is different in the private sector. At some workplaces the merged committees have actually become a problem as it is now possible to be part of the cooperative committee without being affiliated to a traditional union. When this happens, it constitutes a major problem to the unions as they consider the cooperation committees part of the organised system to get influence – if you are a union member, that is. Using Lysgaards concepts of the workers collective and infiltration and the distinction between direct and indirect involvement we analyze the challenges to be met at workplace level and the possible consequences of this infiltration.

The paper draws upon data from an extensive shop steward survey conducted in 2010, a quantitative and qualitative project on cooperation in manufacturing in 2012 and qualitative interviews from 2014. We start out by introducing the regulative framework of legislation and collective agreements that make up the background for the potential problem of infiltration. We then present the concepts of the workers collective, infiltration and direct and indirect involvement. Next we analyze how the workers collective at the workplace has been influenced by the infiltration of ‘yellow’ colleagues and how they have coped with this infiltration. Finally we discuss the consequences of the merging of an arena mainly regulated by legislation with an arena mainly regulated through (collective) agreements.

The overarching structure of the analysis in this paper revolves around two concepts: Structure and agency. While legislation, collective agreements and cooperation agreements are setting the frame for possible formal forms of structure for cooperation, the kind of cooperation actually taking place at workplace level is decided – and carried out – by the actors there: Management and employee representatives. Hence, the analysis is on the formal structure as is described in legislation, collective agreements and cooperation agreements as well as the formal and informal structures for cooperation at workplace level – including an analysis of the cooperation between shop stewards and health and safety representatives.
Legislations on health and safety, collective agreements and cooperation agreements

The structure - the formal regulation
The health and safety system is formally regulated by legislation – Arbejdsmiljøloven (the Working Environment Act (WEA)). By definition the WEA covers all workplaces and all employees, irrespective of whether the workplace is covered by a collective agreement and/or if employees are members of a union – the WEA stipulates individual civil rights. It states that all workplaces have to have an ongoing and systematic discussion on health and safety issues – if a workplace has 10 or more employees it has to elect a working environment representative and establish a formal health and safety organisation.

As oppose to legislation, a collective agreement only covers workplaces that have a collective agreement – the collective agreements stipulate collective rights. Furthermore, collective agreements are between an employer or an employers’ organisation and employees or a union. Hence, enterprises or individuals that are not part of an organisation have no influence on the agreement; non-organized employees working on an enterprise covered by a collective agreement do however enjoy the same rights and protection as union members.

The cooperation agreements stipulate that an employer is obliged to inform the employees about the enterprise’s financial position, future financial prospects, major changes, proposed restructuring and employment prospects (Samarbejdsaftalen DA-LO). The agreement in the private sector states that enterprises employing 35 persons or more within the same geographical area shall establish a cooperation committee if proposed by either the employer or a majority of the employees. State institutions employing 25 persons or more are obliged to establish a cooperation committee. Overall, the agreements encourage management and employees to cooperate – and if there is no formal cooperation committee, systems for informal cooperation should be created. Compared to collective agreements stipulating specific rights of negotiation the Cooperation Agreement mostly encourage management and employees and their representatives to cooperate without granting specific rights.

In the 1990s initiatives were taken to establish a framework for merging the health and safety system and the cooperation system at workplace level. Public employers and unions for employees in the national governmental sector were frontrunners in experimenting with alternative organisation of working environment activities. Most importantly, new collective agreements opened the possibility for a unified participative structure through a merger of the health and safety and cooperation committees. To legalize this, the Danish Working Environment Authority granted exemptions from the general legal requirements. The organisational reforms proved to have a positive effect on working environment activities in public workplaces (Hasle and Petersen, 2004; Mathiesen and Hvenegaard, 2001).

Following the initial positive experiences, the organisations representing employers and employees in the counties and municipalities renegotiated the Cooperative Agreement in 1996, and established MED-aftalen (Agreement on Co-influence and Co-determination), a framework agreement that emphasized the options of (1) combining the cooperative system with the working environment system, (2) decentralization of
responsibilities and (3) increasing employee participation. In the private sector, a few large corporations were granted similar exemptions from the standard working environment organisation required by the law.

The Danish developments were followed by a legislative change in 1997 and it became legal to tailor working environment organisations to the needs of the particular workplaces. To ensure that the law would not be misused, legislators and social partners defined a number of mandatory preconditions: (1) a framework agreement has to be established between the social partners in each sector before (2) the employer and the employees in particular workplaces can negotiate local agreements; (3) a new merged cooperative organisation based on the local agreement shall maintain or surpass the quality of the legally specified working environment organisation; (4) the local agreement has to be formally documented; and (5) procedures to evaluate the outcome established. Both employees and employers have the right to terminate the local agreement, in which case the working environment organisation then reverts to the standard requirements of the law (Sørensen et al. 2009).

- As of 2010, 39 per cent of all workplaces in the private sector have a cooperative organisation of some form; of these 12 per cent are merged cooperative organisations. However, the bigger the workplace the more likely it is to have a cooperation committee:
  - 7 per cent of workplaces with 5-9 employees have a cooperative organisation, of these 3 per cent are merged cooperative organisations
  - 21 per cent of workplaces with 10-24 employees have a cooperative organisation, of these 9 per cent are merged cooperative organisations
  - 40 per cent of workplaces with 25-49 employees have a cooperative organisation, of these 13 per cent are merged cooperative organisations
  - 54 per cent of workplaces with 50-249 employees have a cooperative organisation, of these 11 per cent are merged cooperative organisations
  - 72 per cent of workplaces with 250-499 employees have a cooperative organisation, of these 10 per cent are merged cooperative organisations
  - 65 per cent of workplaces with 500-4999 employees have a cooperative organisation, of these 14 per cent are merged cooperative organisations
  - 65 per cent of workplaces with 5000 or more employees have a cooperative organisation, of these 13 per cent are merged cooperative organisations
- In the public sector, almost every workplace has a cooperation committee and a health & safety committee or a merged cooperative organisation.
- As of 2010, 63 per cent of all workplaces in the private sector have a health and safety committee.

It should be kept in mind that workplaces with less than 10 employees are not obliged to have a health and safety committee. Most of the workplaces in Denmark are rather small, and 80 per cent of workplaces with 5 to 9 employees do not have a health and safety committee. Likewise, only if a workplace has 35 or more employees (in the state 25 or more) are they obliged to set up a cooperation committee and only then if either the employees or management requests it. Nevertheless, 7 per cent of workplaces with less than 10 employees have a cooperation committee.
The agents - employee representatives

The WEA and the collective agreements also place demands on the election of specific actors in relation to the working environment organisation and the cooperation committee respectively. The actors are the ones to implement the intentions of cooperative agreements, collective agreements and the WEA.

In most cases only members of a union that are part of collective agreements are eligible for the cooperation committee. Also shop stewards have precedence.

Shop stewards are elected among members of a union. Any employee, irrespective of union affiliation has a vote. The shop stewards have the formal right to negotiate with management on behalf the employees on local issues within the framework of the collective agreement. The shop stewards however have no special formal rights when it comes to involvement regarding the cooperation committees.

According to the WEA any workplace with 10 or more employees have to have a health and safety organisation as well as (at least one) working environment representative (WER). All employees are eligible. Enterprises with less than 10 employees are not obliged to elect a working environment representative.

- As of 2010, the shop stewards density on Danish workplaces is 52 per cent (for workplaces with five or more employees)
- 82 per cent of the workplaces have a WER (for workplaces with five or more employees).
- 7 per cent of the shop stewards in the private sector have a yellow/non-union working environment representative
- 6 per cent of the shop stewards in the public sector have a yellow/non-union working environment representative

Theory

The theories applied in this study are based on two approaches. On the one hand we draw on Herman Knudsen’s studies of cooperation and specifically the concepts of direct and indirect involvement. Knudsen focuses primarily on structural forms of participation and influence. As such, his approach is mostly structural.

On the other hand we draw on the Norwegian sociologist Sverre Lysgaard’s theory of the workers collective and his concept of infiltration when analyzing the potential consequences of ‘yellow’ colleagues becoming a part of the cooperation committees. While Lysgaard’s approach most often is described as structural-functionalism, agency is not without significance in his approach as agents in different systems are competing for employee’s loyalty.

Direct and indirect representation

Knudsen distinguishes between two different types of employee participation; direct and indirect participation. Direct participation refers to situations where individual employees or groups of employees cooperate directly with management, whereas indirect participation on the other hand refers to situations
where employee representatives cooperate with management without the direct participation of individual employees.

Knudsen indicates that the intensity, timing and the form of participation are key dimensions in relation to the cooperation formal form (1995). With the concept of intensity Knudsen distinguish between the degrees of influence on the one hand and on the other hand the importance of the issues employees and management cooperate. In relation to the degree of influence Knudsen maps out a spectrum ranging from low to high levels of employee participation. According to Knudsen employees experience the lowest levels of participation in cases where management only informs employees or their representatives about decisions after they are made, whereby they have no effect on the actual decisions. A larger degree of influence is granted in cases where management not only informs the employees but instead consults the employees prior to making their decision. Consultation involves no formal decision-making power, but gives the employees or their representatives the chance to express their views on a given topic. An even greater degree of influence can be said to be awarded in cases in which the employees and management codetermine in specific areas. This shared management in one degree or another extends decision-making powers to certain employees or their representatives. The highest level of influence employees can achieve is in cases where the management assigns them unilateral decision making power.

As mentioned above, not only the degree of influence defines the intensity of cooperation, but also very much the importance of the issues employees and management cooperate on. Knudsen distinguishes between four levels of decisions in business: 1) strategic decisions, where decisions are made in relation to the enterprise’s objectives, structure and main activities 2) tactical decisions, where decisions are made in relation to the definition of the means to be used to achieve the objectives 3) operational decisions, where decisions are made in terms of how work should be organized within a given technical and organizational framework 4) welfare decisions, where decisions are taken in relation to specific welfare schemes within the workplace, such as collective lunch scheme. There is, according to Knudsen a hierarchy of decisions in which the strategic level is the most important, while the welfare level is the least important. The hierarchy rests on the assumption that decisions on the strategic level are most important for the company as a whole and for the employees as these decisions potentially have a direct impact on business success and survival, and thus on their individual employment prospects. The decisions on the welfare level in comparison can only be said to have a very indirect impact on the company’s survival and success as a whole. This means that both management and employees seek to maximize their influence on the highest levels. As the relation between management and employees due to the managerial prerogative basically is an unequal power relation, it is ultimately management’s decision whether employees have an influence on the different levels and, if so, the degree of that influence. Knudsen states that there is a clear connection between the different levels of decisions and the degree of involvement. Employees are far more likely to be consulted or even to be invited to decide together with management in decisions regarding welfare issues than when it comes to strategic decisions where they are often only informed about management’s decisions.

In order to understand the relationship between the degree of influence and the levels of decision, it is important here to establish Knudsen’s distinction between direct and indirect employee participation. Knudsen argues that the greater degree of influence on the lower levels of decisions is more likely to assume a more direct form. Thus, the greater influence on the welfare and operational level often takes the
form of direct involvement of certain employees, for example in teams, where the main goal is that the team should be autonomous. Another example is when specific tasks are organized in projects where employees become project managers with a high level of participation in relation to the project design and implementation. As opposed to the direct influence of employees on the lower levels of decisions the influence of employees take on a more different form when it comes to the levels of tactical and strategic decisions. Here cooperation is more often indirect, where employees are represented by the shop steward in formalized cooperation bodies such as works councils. In these settings the employee representatives are mostly informed about decisions or at the most consulted on selected issues.

For the purpose of this paper, Knudsen's concepts are relevant to analyze shed light on different forms of participation at workplace level. However, the analysis will also show that there informal forms of indirect influence, and that the ways to influence changes, depending on the relations at the work place – especially if infiltration of the workers collective it taking place.

Infiltration of the workers collective

In 1961 the Norwegian sociologist Sverre Lysgaard published a study on workers collective in an enterprise (Lysgaard, 1961). He found that informal norms to a very high degree dictate what acceptable behavior among employees is. Not acceptable is behavior that may jeopardize the workers collective because a common understanding of solidarity is the only defense the workers have against the technical-economics (i.e. managements) ‘insatiable and inexorable demands’. In Lysgaard’s analysis every worker is part of the workers collective, the collective system as well as of the technical-economic system. An ongoing competition takes place between the two systems about each employee’s affiliation, and there is a clear demarcation line between ‘us’ (the workers) and ‘them’ (management). It is not a conflict, but an ongoing and constantly contested balance between the two systems.

Internally the collective system constantly controls the employees’ behavior to assure that it is in accordance with the collective system. They have to show solidarity. Employees not obeying the informal rule system in the workers collective or in other ways not showing solidarity will be sanctioned. They could be ignored by the others, or the collective will in other ways show its disapproval.

Externally the biggest threat is infiltration. Infiltration is when the technical-economic system makes changes that might blur the line between ‘us’ and ‘them’. When the workers collective perceive an initiative from management as a threat to the coherence of the collective, it is defined as infiltration. The technical-economic system invades areas that the collective system tries to control, thereby trying to obtain the workers affiliation to the technical-economic system. This potentially weakens the workers collective and the protection of the workers against the technical-economic system. Over the years a system of rules develops, and any ‘collective-relevant’ initiative from management will be evaluated according to this informal, but very present collective system. Is it defined as infiltration, and then there is a conflict, a fight about the employees’ affiliation.

Lysgaard’s approach is obviously a functionalistic system-theory; in his analysis there are hardly any actors as such, it is more or less the systems that dictate people to do things. Management is so much a part of the technical-economic system that in Lysgaard’s analysis they are not even to hold responsible. But at the
same time it is obvious that actors do make a difference; which is why the workers collective is so alert about any individual deviating behavior.

Moreover, Lysgaard’s analysis was on a ‘closed system’. There is no mentioning of trade unions, employers organisations, or legislation. The workers collective is not union, but a spontaneously erupted and necessary bulwark against the technical-economic system. If there was no insatiable and inexorable technical-economic system, then there would be no need of a collective system. However, it is very tempting to think of trade unions as workers collectives, though it was not Lysgaard’s intention.

For the purpose of this paper, we will make use of the concept of infiltration in a different way. The analysis is not on infiltration on behalf of the technical-economic system – but from the yellow unions or individuals outside the cooperative system. The presence of employees representing yellow unions in the cooperative committee could be considered infiltration. The question is how they are coped with by the workers collective.

Hypothesis
When the collective agreement and/or the cooperative agreement opens up for integration of the cooperative committee and the working environment organisation, it also opens up for potential inclusion of ‘yellow’ union members or unorganized labor in the cooperative committees. This might undermine the legitimacy of the cooperative system.

Data
The paper is based on data from three sources:

- A survey from 2011 based on questionnaires from 226 HR-responsible managers and 614 shop-stewards and other employee representatives at Danish workplaces in the manufacturing industry. The selected companies had a minimum of 25 employees. This quantitative study was supplemented by a qualitative study of eight workplaces. The focus of the study was on cooperation at the workplace-level.
- A survey from 2010 based on questionnaires from 7,877 shop stewards, 3,117 working environment representative with union affiliation and 1,618 managers at Danish workplaces in public and private sector within the Confederation of Danish Unions (skilled and unskilled workers). In this paper we focus on the private sector; that is 4,083 shop stewards and 2,070 WERs. It should be mentioned that the WERs in this survey are members of traditional unions – that is, the survey has no data on yellow or unorganized WERs.
- Two interviews with shop stewards at workplaces with ‘yellow’ or unorganized health & safety representatives or with ‘yellow’ in the cooperation committees.

We use data from the surveys to supply back-ground data on the prevalence of cooperation committees; merged committees; shop stewards; WERs; and yellow and unorganized employee representatives. We
also use the data to analyze the cooperation in the cooperation committees and to give an impression of
the relations between shop stewards and WERs.

We use the interviews to explain and understand qualitative aspects of the cooperative culture at
workplaces with yellow/unorganized employee representatives.

Analysis
In continuation of the twofold approach of the paper the analysis first focuses on structure and the
importance of the infiltration of yellow/non-union WERs of the formal cooperation structure of
cooperation committee and merged cooperative organisations. Subsequently we focus on the agents
importance of infiltration of the role as WER. In that connection we focus on the shop stewards view on
WERs at their workplace and the relation between themselves and the WER dependent on whether the
role of WER has been infiltrated by a yellow or non-union employee or not.

Analysis I: How important is structure?
As stated in the introduction shop stewards find that the sheer presence of yellow or non-union employees
complicate cooperation with management in different ways. As also noted above, legislation on working
environment opens a way into the cooperative structure at workplace level for yellow or non-union
employees through merged cooperation committees and working environment committees. Table 1 below
compares shop stewards’ evaluation of the general effect on cooperation of yellow and non-union
employees’ presence at workplaces within a cooperation committee or a merged cooperative organisation
respectively. The table shows that only a third of all shop stewards find that the presence of yellow and
non-union employees has no effect on cooperation, whereas the remaining point to conflicts; difficulties
regarding coordination of demands; and that their presence jeopardize local negotiations. 8 per cent of the
shop stewards find that their presence even puts pressure on wages and working conditions. However,
there are no significant differences between shop stewards’ evaluation depending on the specific formal
structure at the workplace even though the merged cooperative organisation in principle opens for yellow
or non-union employees.

Table 1. How does the presence of yellow and/or non-union employees at the workplace affect cooperation
with management? (Only shop stewards) (percentage)

<table>
<thead>
<tr>
<th></th>
<th>CC*</th>
<th>MCO**</th>
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<tbody>
<tr>
<td>No effect</td>
<td>33 %</td>
<td>35 %</td>
</tr>
<tr>
<td>Creates conflicts</td>
<td>11 %</td>
<td>9 %</td>
</tr>
<tr>
<td>Makes it difficult to coordinate employee demands towards management</td>
<td>18 %</td>
<td>15 %</td>
</tr>
<tr>
<td>Complicates local negotiations</td>
<td>18 %</td>
<td>17 %</td>
</tr>
<tr>
<td>Puts pressure on wages and working conditions</td>
<td>8 %</td>
<td>8 %</td>
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N: 2737 shop stewards at workplaces with a cooperation committee, 491 shop stewards at workplaces with a merged
cooperative organisation
* Cooperation committee, ** Merged cooperative organisation
At least 7 per cent of all private workplaces the working environment representative is either yellow or non-union. This potential infiltration of the cooperative structure of the traditional trade unions however does not translate into overall differences in regard to the general cooperation between shop stewards and management. Table 2 below illustrates that there are no significant differences between the evaluation of shop stewards of the quality of cooperation with management between workplaces with a cooperation committee and a merged cooperative organisation respectively. To the extent that there are differences, shop stewards at workplaces with a merged organisation on average find cooperation to be better.

Table 2. Shop stewards evaluation of general cooperation with management (percentage)

<table>
<thead>
<tr>
<th></th>
<th>Very good</th>
<th>Good</th>
<th>Neither good nor bad</th>
<th>Bad</th>
<th>Very bad</th>
<th>Undecided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperation committee</td>
<td>16%</td>
<td>49%</td>
<td>27%</td>
<td>5%</td>
<td>3%</td>
<td>0%</td>
</tr>
<tr>
<td>Merged cooperative organisation</td>
<td>24%</td>
<td>49%</td>
<td>23%</td>
<td>2%</td>
<td>2%</td>
<td>0%</td>
</tr>
</tbody>
</table>

While 16 per cent of the shop stewards at workplaces with a cooperation committee find cooperation with management to be very good, the same goes for 24 per cent of the shop stewards at workplaces with a merged cooperative organisation. As noted above 7 per cent of all private workplaces have a yellow or non-union working environment representative; if we further split data according to whether the workplaces have a cooperation committee or a merged cooperative organisation, we find that the same is only true for 3 per cent of all private workplaces with a merged cooperative organisation. It seems that the potential structural problem created by legislation of infiltration of the cooperative structure of merged cooperative organisations only concerns a relatively small number of workplaces.

If we in spite of this concentrate on the shop stewards’ evaluation of the quality of cooperation with management on the 3 per cent of the workplaces where the WERs are yellow or non-union, we find no significant difference compared to workplaces with organized WERs. We are, however, unable to conclude on the basis of the statistical data that the presence of a yellow or non-union WER in the cooperative structure does not affect the overall cooperation between shop stewards and management. This is due to the fact that we only have statistical data on the presence of a yellow or non-union WER at the workplace and not on whether they are actually part of the merged cooperative organisation.

In order to investigate the specific effects of yellow or non-union employees on cooperation in the formal structures we did two follow up interviews with shop stewards at workplaces where one or more yellow employees were part of the cooperative organisation. These interviews specifically revolved around the effects of their presence on cooperation with management. At the first workplace yellow WERs had previously been part of a merged cooperative organisation. The other workplace had a cooperation committee in which two yellow employees were members even though they as stated above formally according to the cooperation agreement are not eligible. They were elected among the employees regardless of their membership of a yellow union, simply because the shop steward was unaware that only union members were eligible. This indicates that the potential infiltration of cooperative structures in
practice is not limited to just workplaces with a merged cooperative organisation in spite the formal rules of legislation and collective agreements. Hence, the potential problem of infiltration of the formal structures of cooperation may also concern workplaces with a cooperation committee and a yellow or non-union WER.

The shop steward at the workplace with a merged cooperative organisation notes that the potential problem of yellow or non-union WERs primarily relates to the salaried employees were the union density is lower than among the hourly workers.

“The salaried group has always found it difficult to find employee representatives. We [the group of hourly workers] have always had organized representatives in the cooperation committee at company level. However, the salaried group could well be represented by a yellow or non-union employee. We could not do anything about. Among the hourly workers we have a tradition to be organized - it goes without saying because we have merged the roles of shop steward and WER. Being organized has been one of the criteria for being eligible as a spokesperson. But no one thought of whether the representatives were organized or not when the structure was made.” (Shop steward, workplace I)

The quote above illustrates that the problem at this workplace is isolated to the group of salaried employees, because the shop stewards have made sure that no yellow or non-union employee can represent the hourly workers by merging the roles of shop steward and WER into one ‘spokesperson’. Since only union members are eligible for the role of shop steward they thereby effectively exclude yellow or non-union hourly workers from the merged cooperative organisation and close the gap opened by legislation.

Given the lower union density among salaried employees, the fact that our data primarily include hourly workers and the fact that both hourly workers and salaried employees are normally represented in the formal cooperative organisation regardless whether there is a cooperation committee or a merged cooperative organisation, we might be underestimating the extent of structural infiltration.

The shop steward in case II with a cooperation committee with two yellow members makes clear that he does not see their presences on the committee as a problem. This is due to the way the shop steward generally cooperates with management and the way the cooperation committee works. The formal structures of the cooperation committee do not enjoy any privileged position compared to other more informal fora; if anything on the contrary. To the question of how he cooperates with management he states:

“If I have a problem I take it up with management then and there. I don’t wait for a meeting in the cooperation committee.” (Shop steward, workplace II)

As a consequence the shop steward places emphasis on the importance of the informal day-to-day cooperation with management. In this form of cooperation the yellow members of the cooperation committee are not involved. The cooperation committee is mainly used as a formal representative forum where every division of the company is represented, and where the members mutually inform each other. This is clearly illustrated by the fact that more than 40 percent of both managers and shop stewards in the statistical data from our study on cooperation at workplace level find that the majority of the agenda is the
same at all meetings. This seems to reflect that the formal cooperation taking place in the cooperation committees mainly aims to fulfill formal requirements and exchange information. However at most well-functioning workplaces managers and employee representatives meet regularly and exchange information regardless of whether there is a formal meeting or not. The cooperation in the cooperation committee ensures that employees are involved on the strategic and tactical level. The degree of influence on these levels, however, mainly takes the form of information. At workplaces with a cooperation committee it ensures the employees information about the workplace. However, the shop stewards in our study note that it is largely information that they would be able to obtain through other channels.

It seems that the potential problem of yellow or non-union employees infiltrating the formal structure is relatively limited. On the one hand because of the relatively low number of yellow or non-union WERs, on the other hand because the shop stewards at workplace level find ways to get around the problem. These ways include cooperating with management in more informal ways. At one of the workplaces we studied they had merged not only the formal structures of the cooperation committee and the work environment organisation but also the roles of shop steward and WER, thereby effectively excluding yellow or non-union employees. All this does points to the fact that there does not seem to be a large problem of infiltration of the formal cooperation structures. This however does not mean that having a yellow or non-union WER does not constitute a problem for the shop stewards at workplace level.

**Analysis II: The importance of agents**

The fact that yellow or non-union WERs does constitute a problem at workplace level is clearly illustrated by one of our case studies where the shop steward did not find that cooperation with management was affected by the two yellow members of the cooperation committee. When asked about the potential consequences of having a yellow WER at the workplace, the shop steward says:

“Well, I’d rather not work with them. I have a close cooperation as it is with the WERs on professional issues and matters relating to the union. However, if they have chosen that side [joined a yellow union or non-union], then I won’t cooperate with them.” (Shop steward, workplace II)

The quote clearly illustrates that the presence of yellow or non-union WERs does constitute a problem. However, the problem relates to agency and not structures. The shop steward can easily cope with the potential infiltration problem in the formal structures by working around it in informal ways without any major consequences. Formally he can do the same when it comes to the direct cooperation with a yellow or non-union WER. However, because of his close cooperation with the WER on professional issues relating to working environment issues and union matters this will have extensive consequences for his day-to-day cooperation. Among other things this is due to the fact that the shop steward is the only formal representative of union matters at the workplace. The potential consequences of this infiltration of the role of WER is also illustrated by the fact that the shop steward made an effort to make sure that a union member was elected WER in the latest election. As legislation dictates that all employees are eligible in the elections he had to be creative in securing the election of a union member. With the acceptance of management the notice announcing the election was made out in a way so that only union members could stand for election.
The shop stewards’ view on yellow or non-union WERs is by no means limited to this specific workplace. The statistical data from the comprehensive shop steward survey show that shop stewards’ view on WERs at their workplace and the relation between themselves and the WER is highly dependent on whether the WER is a union member or yellow/non-union member.

Table 3. Shop stewards on their cooperation with WERs dependent on WERs’ affiliation (only private sector)

<table>
<thead>
<tr>
<th></th>
<th>Union member</th>
<th>Yellow/non-union</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do not cooperate</td>
<td>3 %</td>
<td>12 %</td>
</tr>
<tr>
<td>Poor</td>
<td>2 %</td>
<td>6 %</td>
</tr>
<tr>
<td>Less than good</td>
<td>3 %</td>
<td>3 %</td>
</tr>
<tr>
<td>Decent</td>
<td>12 %</td>
<td>23 %</td>
</tr>
<tr>
<td>Good</td>
<td>37 %</td>
<td>30 %</td>
</tr>
<tr>
<td>Very good</td>
<td>42 %</td>
<td>23 %</td>
</tr>
</tbody>
</table>

N: 3348 shop stewards

As table 3 clearly illustrates the WER’s union affiliation extensively affects the cooperation between shop steward and WER. While 12 per cent of all shop stewards in the private sector reports not to cooperate with the WER at their workplace when WER is yellow or non-union, the same is true for just 3 per cent at workplaces where WER is a union member. At the other end of the spectrum 42 per cent of the shop stewards with a union member WER reports on a very good cooperation, whereas the same is true for 23 per cent with a yellow or non-union WER. The statistical data thus clearly show that a large share of the shop stewards find the yellow/non-organized infiltration of the role of WER to be a problem. It is worth noting that it is impossible from our data to see whether there are one or more WERs at the workplace; at workplaces were shop stewards report that their cooperation with the WER is very good you could have more than one WER, which would mean that their report on cooperation could be related to cooperation with a union member even though there is a yellow or non-union WER at the workplace.

As the quote above noted shop stewards and WERs cooperate closely at many workplaces, and on certain issues related primarily to psychosocial work environment both shop stewards and WERs find that the responsibilities of the two roles are blurred or overlapping. As table 4 below illustrates the shop stewards’ view on their responsibilities vis-à-vis WERs is highly dependent on the WERs’ union affiliation.

Table 4. Who is responsible for the following issues?

<table>
<thead>
<tr>
<th></th>
<th>SS</th>
<th>SS and WER</th>
<th>WER</th>
<th>Neither</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stress-related problems</td>
<td>UM</td>
<td>10 %</td>
<td>68 %</td>
<td>18 %</td>
</tr>
</tbody>
</table>
It is clear from the table that shop stewards at workplaces with yellow or non-union WERs are more inclined to regard borderline cases as their responsibility than shop stewards with union member WERs. This is especially the case when it comes to propagating the views and ideology of the union and organising and retaining union members. It follows naturally that the shop stewards do not see yellow or non-union WERs as natural allies in union matters. This is clearly illustrated by the fact that 68 per cent regard these issues as solely being the responsibility of the shop steward at workplaces where a yellow or non-union employee is WER. However, the same tendency, though not as notable, can be observed in relation to issues not directly related to union matters. While 10 per cent of shop stewards with a union WER regard stress-related problems to be the sole responsibility of the shop steward, the same goes for 15 per cent if WER is yellow or non-union. The share of shop stewards regarding it the sole responsibility of the WER is correspondingly lower. Seeing as not all shop stewards regard it as a problem it seems that the shop stewards’ general perception of their own role and the role of the WER respectively might play a decisive role when it comes to whether they perceived their presence as a problem.

From this it seems that it would be wrong to jump to the conclusion that the presence of yellow or non-union WERs at the workplace does not constitute a problem. Following the views of the shop stewards on the cooperation and relation with a yellow or non-union WER above it seems more appropriate to differentiate structure and agency when assessing the effect.

As already noted in the introduction, shop stewards and WERs derive their legitimacy from two fundamentally different sources - the collective agreements and legislation. This has implications for both their prevalence at workplace level and their mutual relations. The data showed that 82 per cent of all workplaces with five or more employees have one or more WERs whereas in comparison only 52 per cent have one or more shop stewards. While WERs might be primarily elected to represent employees in matters regarding working environment issues, at quite a few, primarily small workplaces a WER is in reality the only formal representative of the employees. As such, the legislation requiring working environment representation at workplace level not only opens a gap for infiltration of the formal cooperative structures and the role of employee representative; it also ensures some kind of representation, even when there is no shop steward.
Finally, our data show that it is not at all clear what and who exactly the WER is representing – and it depends to a very high degree on the eye of the beholder:

- **Legislation** is color-blind as far as anyone is eligible for WER. Basically, the WER is supposed to control that legislation is followed at the workplace.
- To a vast majority of the **unions** – 77 per cent - the WER is considered a representative of the union at the workplace, and 63 per cent of union representatives expect shop stewards and WERs to spread the ideology of the union at the workplace.
- **Shop stewards** do not to the same degree share the unions’ view of WERs as an active union representative at the workplace. Only 25 per cent expect WERs to spread the ideology of the union in cooperation with the shop steward.

These data indicate quite different views of the role of the WERs. While legislation perceive the WER as a neutral watch dog making sure legislation is followed, the union and some shop stewards see the WER as a much more political employee representative, affiliated to the union. The fact that at quite a few workplaces the WER is the only employee representative only emphasizes the role conflict that the single WER might experience. And this is even more pronounced when one or more WERs are yellow or non-union. To further complicate this it might be added that only one out of ten managers perceive WERs as union representatives.

**Conclusion and discussion**

This paper started out with the hypothesis that merging cooperation committees and working environment organisations entailed a problem as it potentially could give non-organized or yellow employees access to the cooperation system. This is due to the fact that according to legislation, any employee is eligible as working environmental representative (WER).

Firstly, the analysis showed that relatively few workplaces – only 7 per cent in the private sector – have WERs that are yellow or non-organized. Furthermore, 3 per cent of all workplaces have merged cooperation committees and one or more yellow/non-organized WERs. Based on the statistical data we are not able to say in how many cases the yellow/non-organized is actually member of the cooperation committee.

However, the data tell us that in general, two-thirds of shop stewards at workplaces with yellow and/or non-union labor feel that they in one way or another complicate cooperation and affects negotiations negatively. That is with no consideration as to whether the yellow/non-organized are WERs or not.

Furthermore, the interviews with shop stewards from workplaces with experiences of yellow/unorganized labor in the merged committees illustrate what might be hiding under the surface. The interviews show that

- The existence of yellow/unorganized labor in the cooperation system does annoy the shop stewards as it symbolically legitimizes their presence at the workplace. As such the shop stewards do define their presence as infiltration.
• There are cases where yellow employees are part of the cooperative committee, even though they in principle are not eligible.
• In such cases, the shop steward locally finds strategies to cope with the challenge of yellow/non-union infiltration, engaging in informal face-to-face communication with management outside the formal representative system and thereby effectively emptying the formal merged cooperative organisation as the prime forum for influence.
• In the case here, the shop stewards do not ask for more than information from management in the cooperation committee. However, when more serious decisions are to be made where the shop steward wants influence it happens outside the cooperation committee.

This raises some important practical and theoretical questions. Firstly, regarding the importance that unions and employers organisations ascribe to the formal part of the cooperation system; if possible infiltration of the cooperation committees in effect entails that shop stewards do not consider the committee as the prime forum for information and influence then there is a potential hollowing out of the formal structure of the cooperation system. There might be a discrepancy between the value ascribed by the partners at the central level and the practical value it has to shop stewards at the local workplace – especially those challenged by yellow/non-union labor. The case study showed that in practice shop stewards might have to deal with local challenges in different ways than anticipated by the unions and the cooperative agreement. In practice the workers collective just might be too weak to enforce an exclusion of yellow or non-organized labor, not only from the workers collective but also from the cooperation committee. While the structural demands might be precise, in reality at workplace level the agents are not always able to enforce the rules.

However, we should be careful not to abandon the cooperative committees. While cooperation committees might seem kind of redundant at workplaces with an ongoing and positive cooperative culture, at workplaces with a less cooperative culture the Cooperation Agreement ensures the employees a minimum of information and influence. This they might not have obtained without a cooperation committee if the agreement was not there. This is confirmed by the fact that some 83 per cent of shop stewards at workplaces with a cooperation committee assess that they would be worse off if they did not have a cooperation committee. Also, the cooperation committees might be an important vehicle for information and knowledge transfer between otherwise separated divisions in an enterprise (Felbo-Kolding and Mailand, 2012).

It should also be kept in mind that cooperation is dynamic and will inevitably change over time. Members may be replaced on both management and employee side, which may change the cooperative culture. And if the cooperation committee is all you’ve got as a vehicle for information and co-influence, then the presence of yellow or unorganized labor may constitute a problem as the shop steward will have nowhere ‘private’ to talk to management. The yellow or non-organized labor changes the power balance and may make it very difficult to discuss matters that shop stewards feel are not for the uninitiated, i.e. those who are not a member of the workers collective. Furthermore, the shop steward as a union representative loses out on the exclusive access to management.

This brings us to the discussion on the different forms of representation as presented by Knudsen. In Knudsen’s approach the more tactical and strategic decisions are often taken in formal forums with indirect
representation – like the cooperation committee. However, when shop stewards experience infiltration from yellow or non-union labor in the formal cooperative system, they tend to choose alternatives in the form of more direct and informal cooperation with management. Though the shop steward is still an indirect representative, he or she is - by employing informal and more direct communication - effectively bypassing the cooperation committee. This only goes to show that a dynamic perspective could fruitfully be added to Knudsen’s frame for analysis of participation and influence.

The analysis also reveals some interesting issues regarding the structure versus agency discussion in general and Lysgaard’s approach in particular: While structure is important, the analysis shows that the agents have a lot of latitude locally and have to use this to deal with a weak workers’ collective. Furthermore, the shop steward might him- or herself define yellow and non-organized labor as infiltration, but if the workers collective is not large, coherent and in agreement about what is infiltration, he or she has limited powers to enforce sanctions on individuals and groups not following the workers collective’s norms for good behavior. In practice the shop steward as a single agent has to find his or her way in a jungle of conflicting collective and individual interests and norms.

This leads us to the discussion of agents and their relations – especially the shop steward and the WER and the shop steward and the yellow or non-organized employee representative.

The analysis also shows that

- The shop stewards do consider the WER as an important sparring partner when it comes to working conditions and often also union related matters.
- However, the statistical data shows that the cooperation between the shop steward and the WER is less successful at workplaces where the WER is yellow or unorganized. And the shop steward tends to a lesser degree to leave issues in the gray area between health & safety and working conditions to a yellow or unorganized WER.

Hence, the shop steward will lose an important sparring partner if the WER is yellow or unorganized.

Finally, the role of the WER is perceived quite different, depending on whom you ask. Legislation is the basis for the working environment organization, and here there is made no difference between employees, when it comes to who could be WER; all are eligible, no matter if they are union members or not. Quite differently when unions are asked; a majority of union representatives consider the WER a union representative. This illustrates a conflict between the ideas of legislation and the aim of the unions when it comes to the role of the WER, and the role of the WER is not at all clear when it comes to his or her political role at the work place.

Now, why are we at all interested in the potential infiltration of yellow or non-union in merged cooperative organisations – when it turns out that only 7 per cent of workplaces has merged cooperation committees and at only 3 per cent are having yellow or non-organized employees in combination with merged committees?

Firstly, the statistical data as well as the interviews show that yellow and non-union labor do constitute a problem to shop stewards – merged committees or not. This, combined with the fact that in 2013 9 per
One cent of all organized workers are members of yellow unions (up from 2 per cent in 1995), indicates that this is a challenge that will only grow bigger in the future.

Second, the interviews show that it is not the formal structure of merged committees and yellow and non-organized labor that constitutes a problem. Rather, it is the weak workers collective and individual interests that open gaps in the cooperative system. This forces the shop steward to find other routes for influence and participation than the formal cooperation committees when the WER is yellow or non-organized.

Thirdly, we have analyzed hourly workers in the private sector only. This segment of employees traditionally has a high union density and a tradition for strong workers collectives – compared to salaried workers where the workers collective traditionally is much weaker. We can only expect that the challenges analyzed in this paper in sectors with a preponderance of salaried workers will be much more pronounced – which is also indicated in one of the cases in this study:

“Do you have a problem [with yellow WERs]?”

“Not among hourly workers - but the salaried workers have a problem. Some of the spokespersons are yellow. The salaried workers just have a problem finding spokespersons that are not yellow or non-union.” (Shop steward, case I)

Finally, the prevalence of WERs is way higher than the prevalence of shop steward (82 per cent of workplaces have a WER, while only 52 per cent have a shop steward. This, combined with the fact that all employees are eligible WERs, entail that a) at many workplaces the only formal employee representative is a WER and b) there is a probability that in some cases this WER is a yellow or non-organized employee.
References


DA and LO 2006: Samarbejdsaftalen.