Corporate cartels and challenges to European labour market models

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Abstract: *We propose that one of the main causes of shortcomings in European labour markets is the existence of corporate cartels, through which the state has delegated various forms of regulatory power to employers and employees that act as cartels. Analysis indicates that these cartel arrangements are not in the interest of labour because they are hard to combine with the demands of a modern and knowledge-based economy. Hence, a modernization of European labour market models is needed.*

Keywords: *labour market models, corporatism, cartels, job creation*

Resumen: *Proponemos que una de las principales causas de las deficiencias que presentan los mercados de trabajo europeos es la existencia de cárteles corporativos, a través de los cuales el estado ha delegado varias maneras de regular el poder para empleados y empleadores que actúan como cárteles. El análisis indica que estos cárteles no actúan en interés del empleo ya que son difíciles de encajar con las demandas de una economía moderna basada en el conocimiento. Por tanto, una modernización de los modelos de mercado de trabajo Europeos se hace necesaria.*

Palabras clave: *Modelos de mercado de trabajo, corporativismo, cárteles, creación de empleo.*

1. Introduction

European labour market models are at a crossroads. In many European countries, job creation, productivity and growth have lagged behind the goals set by leading politicians and policy makers in Europe and they have now fallen behind the economic achievements of the United States and many other parts of the world. Almost all Western European countries have experienced an overall lack of employment, but the problem is most serious for specific groups such as the young, immigrants and the disabled. When combined with challenges caused by an ageing population, the problem of unemployment will have severe effects on welfare, particularly on public welfare systems in the long term.

The developing unemployment problem is underscored by fundamental changes in how the world's economy works, resulting in economic restructuring of both companies and countries. In our view, labour market institutions, including systems of wage formation, play a key role in determining Europe's ability to meet these challenges. A modern, competitive, and knowledge-based economy also needs modern laws and regulations for its labour markets.

In this paper, we propose that one of the main causes of the current shortcomings in European labour markets is the existence of what we shall call *corporate cartels*. We define this term as corporate arrangements by which the state has directly or indirectly delegated various forms of regulatory power to certain organizations of employers and employees, which act as cartels with the goal of affecting labour demand and supply.

In Scandinavia and continental Europe, forms of these corporate cartels have existed for at least the past hundred years. Forms of corporate cartels differ considerably across countries and European labour market models.

2. European labour market models

Several labour market scholars have argued that there are three different European labour market models (Sapir, 2005; Boeri, 2002). In fact, although each European country has its own specific traits, at least four different labour market models can be distinguished in Europe (Karlson and Lindberg 2008): the *Continental, Latin, Scandinavian* and *Anglo-Saxon* models. Some, such as Esping-Andersen (1999), would also argue that different welfare state regimes and models of industrial relations are interconnected and clustered together with numerous institutional path dependencies, concerning labour market regulations, systems of social insurance and management of unemployment, among others.

These models have evolved over time and are characterized by a number of elements governing the organization of industrial relations and wage-setting systems and the regulation of employment conditions such as employment protection.

The first group of countries belongs to the Continental model, which is the dominant model for explaining labour market relationships in continental Europe. This model has also strongly influenced the European Union's legislation on labour market issues. In this model, the state plays a large role, and legislation is the most prominent regulatory instrument. However, bargaining between the parties and collective agreements are still important features. Thus, a distinctive feature of the Continental model is tripartism, meaning that social partners *and* the state govern industrial relations together.

The Continental model's emphasis on regulation is based on a view that labour differs fundamentally from other commodities. This view has descended from Romano-Germanic legal systems and also puts forth a moral basis on which the relationship between employer and employee should rest. Legislation is thus predominantly aimed at protecting employees from market forces (Hepple and Veneziani, 2009).

By law, collective agreements are binding for the bargaining parties (unions and employers organizations) and can be enforced as such. The system often includes extension mechanisms, whereby collective agreements can be extended to non-members of both bargaining party sides by government decree. Through this mechanism, the level of coverage of collective agreements is very high. Countries with this model also have high levels of employment protection legislation (EPL) and co-determination. These rights are predominantly based on the rights of the individual employee, which are enforced legally by public authorities or work councils, but not by unions.

In terms of flexicurity, this group of countries has a high level of industrial regulation, including strict rules for job protection and the provision of generous unemployment benefits The need to improve labour market flexibility is often emphasized in this labour market model.

The second model is the Latin or South European model, which is also based on Romano-Germanic legal systems and emphasizes that labour is different from a normal commodity. As in the Continental model, the state plays an important role, perhaps even more so due to the fact that the bargaining parties have less coverage and are more divided. In these countries, commonplace features of relations between bargaining include high levels of industrial conflict and highly politicized, internally divided labour unions. Bargaining agreement coverage is upheld by employers' associations as well as legal extensions of collective agreements to non-union workers and firms (Karamessini, 2007).

Labour market policies in these counties are distinguished by rigid EPLs and frequent efforts to reduce unemployment through early retirement policies. In part due to rigid EPLs, but also due to partial deregulation of EPLs covering temporary employees, labour market segmentation develops between protected workers (often male, prime age and older) and less-protected labour force participants (young and predominantly female). The former have comparative job stability and experience relatively low unemployment rates, while the latter have high unemployment rates and face employment instability (Skedinger, 2009).

These countries are farthest from the flexicurity model because their labour markets generally have low levels of flexibility, and social protection mechanisms are not as strong as employment protection provisions. These welfare systems are not aimed at labour force participation for all workers, but instead emphasize early retirement and non-participation for women.

The third model is the Nordic or Scandinavian model, which provides a high degree of self-regulation for bargaining parties. The role of the state is more limited; traditionally, bargaining parties have been given the right to make their own rules for governing the labour market. Hence, legislation provides only a framework for regulations and rules arbitrated by collective agreements. However, since the 1970s, there have been exceptions to this pattern. Collective agreements are now legally binding for organizations and their members. Employers are also legally obligated to apply the provisions of collective bargaining agreements to non-member employees.

In this model, unions and employers' associations play an important role by signing and upholding collective agreements. Moreover, unions protect their employees' rights to co-determination and employment protection. Therefore, this model relies on a high level of participatory membership in both unions and employers' associations. To achieve the anticipated level of coverage for their collective agreements, labour unions have been given extraordinary rights of conflict through blockades of unorganized or unofficial firms, as well as firms that do not employ union members. In some countries, this model also provides relatively strong legal regulations for *insiders* on the labour market through a rigid EPL. Combined with high minimum wages stipulated by collective bargaining agreements, this EPL generates a segmented labour market, with widespread unemployment within the young and immigrant labour force pools (Skedinger, 2009).

In this model, flexicurity is based on an active labour market policy, strong mechanisms of safety and security in public welfare systems and flexibility within collective agreements that are easily adjustable based on different industries' dividing needs. According to some researchers, flexicurity in the Nordic countries represents a level of benchmark flexicurity when contrasted with the other three models (Hinst, 2011; Sapir et al, 2003).

The fourth model is the Anglo-Saxon model, which presents a more market-based view of the labour market. This model is based on a classical liberal philosophy of small government and employs less comprehensive welfare policies than those in northern and continental Europe. There are low levels of labour force coverage under collective agreements, just as there are low levels of membership in unions and employers' organizations. Moreover, this model is founded on common law rather than legislation, and the notion of a flexible labour market ruled by price mechanisms, along with a small amount of regulation. Greater freedom is provided to individual employers to hire and fire personnel, to set pay and define terms of employment and to determine working conditions, which allows for higher business efficiency and higher productivity. In addition, greater flexibility avoids the problem identified in the other three models, in which permanent pools of unemployed workers are unable to enter the labour market because existing regulations protect the current labour force participants. Overall, this model differs significantly from the three other models in several important respects.

This model has more flexibility than security, particularly with respect to Continental and Southern European countries. The difference in flexibility presented between this model and these countries is striking. Because bargaining has been more strongly de-collectivised, this model presents greater opportunities for flexibility in wages and work conditions. According to Eamets et al (2009), the liberal Anglo-Saxon labour market model comes close to flexicurity, although it provides lower compensation rates for unemployment.

3. Corporate cartels in European labour markets

Despite differences in their form and specific details, the first three European labour market models (the Continental, Latin, and Scandinavian) share a number of features.

First, over time, the bargaining parties have been given legislative functions. The state has directly or indirectly delegated various forms of regulatory power to certain organizations of employers and employees. To facilitate the delegation of these powers, the state has established forms of legal support for collective organization and collective bargaining. In this way, collective bargaining has become the main method of determining employment conditions (Jacobs, 2009). In particular, these corporate arrangements contain a formal extension mechanism for collective agreements, which exists only in the Continental and Latin models. In the Scandinavian model, a similarly high level of coverage is achieved instead through union oversight of the extension.

Second, in these labour market models, the bargaining parties (unions and the employers' associations) act openly as cartels, with ambitions to affect the supply and demand of labour and, thereby, the wage levels within the labour market. As shown above, these cartels are supported by various forms of legislation and institutions such as special labour courts, in which representatives from these organizations act as judges. In general, employers' and workers' organizations have developed symbiotic methods of close mutual collaboration in exercising these functions. In many cases, these cartels also have the right to administer some portions of the country's social security system. In the Scandinavian countries (and Belgium), labour unions administer heavily subsidized unemployment insurance through an arrangement known as the Ghent system (Karlson and Lindberg, 2008; Scruggs, 2001).

As mentioned above, the Anglo-Saxon model differs dramatically from the other three models. Most importantly, this model does not include corporate cartels. Generally, the labour market is not viewed differently from any other market.

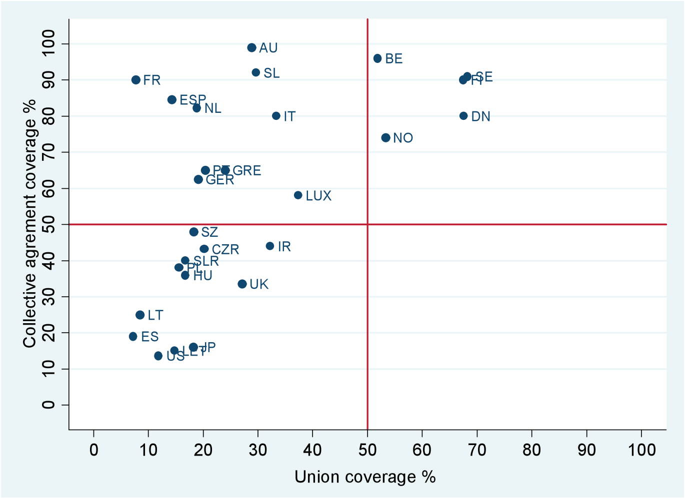
4. Labour interest and the corporate cartels

In our opinion, the existence of these corporate cartels, which we shall call cartels, is one of the main causes of shortcomings in the European labour markets. It is challenging to combine the existence of corporate arrangements through which the state has directly or indirectly delegated various forms of regulatory power to certain organizations of employers and employees, which act as cartels with the goal of affecting the supply and demand of labour, with the demands of a modern, competitive, and knowledge-based economy, where incentives, flexibility and decentralisation often serve as prerequisites to job creation, business dynamics and welfare.

The legitimacy of these corporate cartels is often based on the notion that labour is not a commodity, meaning that its value should not be determined solely by market exchange. However, legal cartels also often benefit existing industries, restricting entry, entrepreneurship and competition, which restricts industrial restructuring and job creation. In fact, at least in certain cases, employers rather than unions have been the main advocates for these kinds of labour market arrangements (Swenson, 2002). Moreover, they benefited *insiders* in the labour market, at the expense of *outsiders*, such as young people and immigrants. The consequence of this distribution of benefits had high social costs. This can occur when corporate cartels are combined with a strong EPL.

The tables below show the relationship between coverage and membership in labour unions and employers' organizations.

Table 1

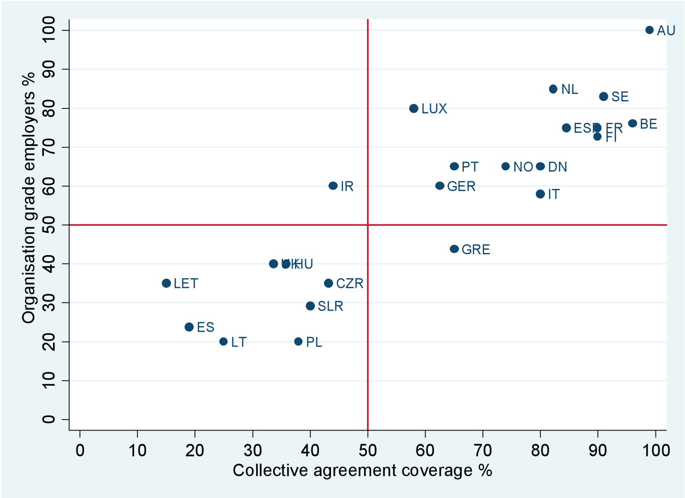


Source: Visser, J. (2011) ICTWSS-database. Data for 2008 are used.

It should be noted that in many Continental and Latin countries, coverage of collective agreements is very high, despite low or very low levels of labour union membership. As shown above, this indicates the use of various forms of extension mechanisms. Only in the Scandinavian countries does union membership remain relatively high.

In contrast, almost entirely the opposite relationship holds when we study membership in employers' organizations.

Table 2

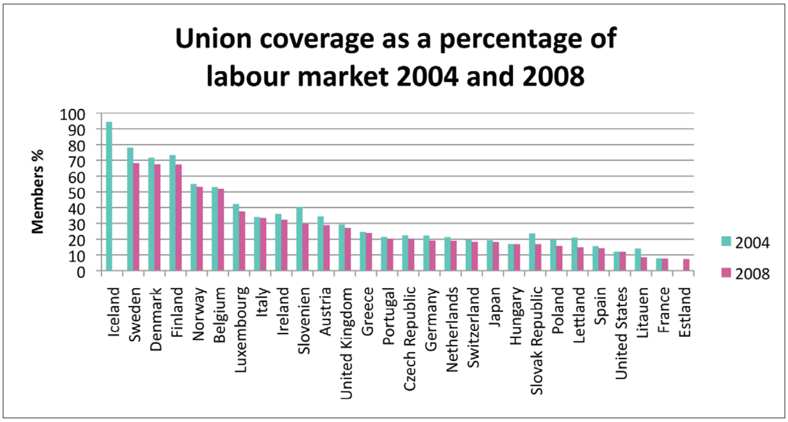


Source: Visser, J. (2011) ICTWSS-database. Data for 2008 are used.

In general, the level of organization of employers' associations is much higher than the level of organization of employees in labour unions. In particular, in many of the Continental and Latin countries, where labour union membership levels are low or very low, the employers' associations are very well organized.

In the tables below, changes in union coverage are shown for several countries.

Table 3



Source: Visser, J. (2011) ICTWSS-database. Data for 2008 are used for this plot.

Table 4

Country	*2008*	*2004*	*Change*
Austria	28.9	34.4	-5.5
Belgium	51.9	53.1	-1.2
Czech Republic	20.2	22.3	-2.1
Denmark	67.6	71.7	-4.1
Estonia	7.3		
Finland	67.5	73.3	-5.8
France	7.7	7.8	-0.1
Germany	19.1	22.2	-3.1
Greece	24	24.5	-0.5
Hungary	16.8	16.9	-0.1
Iceland		94.3	
Ireland	32.3	35.9	-3.6
Italy	33.4	34.1	-0.7
Japan	18.2	19.3	-1.1
Latvia	14.8	21	-6.2
Lithuania	8.5	14	-5.5
Luxembourg	37.4	42.3	-4.9
Netherlands	18.9	21.3	-2.4
Norway	53.3	55	-1.7
Poland	15.6	19.7	-4.1
Portugal	20.4	21.4	-1
Slovak Republic	16.8	23.6	-6.8
Slovenia	29.7	40.3	-10.6
Spain	14.3	15.5	-1.2
Sweden	68.3	78.1	-9.8
Switzerland	18.3	19.6	-1.3
United Kingdom	27.1	29.4	-2.3
United States	11.9	12	-0.1

Source: Visser, J. (2011) ICTWSS-database. Data for 2008 are used for this plot.

As shown above, union coverage is decreasing in almost all countries, but perhaps most in the Scandinavian countries This may indicate that corporate cartels are not in the best interest of labour.

5. The causes of change

Today, all four European labour market models are under strong pressure to change. In particular, this is true for the models that are based on various forms of corporate cartels. Many common forces are driving this development. Unions have been weakened both by declining membership and by their decreasing role in facilitating collective bargaining. Collective bargaining coverage has eroded, while more regulatory rights and legal powers have been transferred to firms. Where collective bargaining exists, it takes place at a more decentralized level, closer to the firm or workplace (Karlson and Lindberg, 2011).

First and foremost, globalisation has placed increasing importance on multinational enterprises, international trade and capital flow, and global competition in an increasing number of sectors, and it has generated a shift towards globally integrated production systems. Because many enterprises have the option to move production or investment abroad, this restricts both policymakers and bargaining parties, including each side's decision to undertake industrial action.

We have also seen that hierarchically structured enterprises are able to transform into more flexibly organized entities. Fordist organizations have been replaced with so-called integrated production systems. This means that a far-reaching, horizontal division of labour and principles of specialization for certain production process operations have been replaced with more decentralized work organizations and autonomous teams with job rotation, among others. As a consequence, more decentralized decision-making within workplaces may increase job satisfaction and efficiency.

Moreover, there has been a major shift towards a service-based economy. The long-term transition in the economy, from industrial production to service production, seems to have occurred at the same time as globalization. Among other things, this means that the proportion of employees who have completed higher education has risen considerably, whereas the share of traditional blue-collar workers has declined. In addition, in the service-based economy, investments in workers' competence and knowledge may be just as important as investments in physical capital.

A final fundamental factor affecting labour market conditions is the de-collectivization of industrial relations across Europe and the industrialized world. In most OECD countries, levels of unionization reached a peak around 1980, but have decreased substantially since then. In France, unionization decreased from 19 to 8 percent between 1980 and 2008; in Great Britain, unionization decreased from 54 to 29 percent; and in the US, unionization decreased from

23 to 12 percent. According to the Visser database (2009) on union density, the unweighted average unionization rate has declined by 0.35 percent each year between 1974 and 2007. The slowest decline has been in the Nordic countries, where the process of de-collectivization started later; however, it is nevertheless visible (Bacarro and Howell, 2010).

This trend is partly explained by structural changes in the economy. The growth of smaller businesses and enterprises in the service sector has shifted the economy towards jobs that have traditionally been harder for unions to penetrate. Moreover, the existence of typical full-time, permanent jobs is also shrinking. Permanent jobs are being steadily replaced by non-standard contracts such as part-time jobs, fixed-term contracts or temporary workers. Crumbling organization membership also has an effect of individualism; collective solutions in general have declined since the 1980s.

The de-collectivization of industrial relations can also be seen as an effect of increasing human capital, which generated new requirements for greater employee competence in industrial and service production sectors. New techniques and organizational ideas shifted focus from employee collectives to the individual employee. Standardized solutions for working conditions and wages were therefore replaced with differentiated solutions and contracts.

The figures for industrial action show a similar pattern. Between 1974 and 2007, there was a strong declining trend in the number of strikes and number of working days lost in European countries. The natural interpretation of this trend is that union strength was weakening, as indicated by Bacarro and Howell (2010). In some countries, such as Great Britain, this decline was caused by reforms that outlawed some forms of industrial action. However, these legislative changes did not occur throughout Europe. The decline may have been an effect of globalization and increasing competition, as the few strikes and lockouts that did occur appear to take place in more sheltered industries, according to Lindberg (2007).

6. At the crossroads: four scenarios

These challenges are common to all European labour market models. Institutional change is indeed taking place in most countries. However, we believe the models characterized by corporate cartels may have to change the most if the problems of unemployment, job creation and growth are to be successfully managed.

However, this does not imply that these four labour market models, or the corresponding national systems of industrial relations, are necessarily converging in their institutional forms (Wailes, Bamber and Lansbury, 2010). Instead, different institutional forms have been reshaped to fit the common imperative of liberalization (Bacarro and Howell, 2010).

Ever since the convergence thesis was formulated by Kerr et al (1960), on the grounds that «the logic of industrialism» would make systems of industrial relations alike across many countries, there is a critique that path dependencies, institutional complementarities, and national features would resist these drivers of change.

It is no exaggeration to say that scholars of industrial relations have been hostile to the notion of convergence, and a predominant portion of this field has instead held the view of enduring diversity, including a range of mostly distinct national systems (Streeck, 2009). Within this perspective, an influential school of thought in comparative employment relations research is the so-called Varieties of Capitalism (Hall and Soskice, 2001; Hall and Thelen, 2009).

Other scholars, for example Ohmae (1995), claimed that globalization and other factors, which will be described later in this chapter, would create a common pressure across all countries to introduce similar systems of industrial relations outcomes. This line of thought has been described as the «simple globalization approach.» The argument by Streeck and Thelen (2005) that increasing competition via globalization may exert pressure on existing institutions to change incrementally is somewhat more popular.

In other words, it is not as easy as saying that European labour market models are moving in the direction of the *Anglo-Saxon model*. There is no determinism involved, and the models still differ. Both legislators and the social partners themselves have several policy options available.

In the following paragraphs, we will briefly present four different scenarios for the future of European labour markets, depending on which path is chosen at this crossroads (Karlson and Lindberg 2008). Hopefully, these scenarios may serve as frameworks for future discussion.

Disruption

Disruptiom, the first scenario, involves developments that may occur if nothing is changed. In this case, there is a risk that several of the European labour markets models will be disrupted and break apart. The causes discussed above show that the Latin, Continental and Scandinavian models are not stable, at least not in the long run. Increasing globalization and competition contribute to this scenario by making capital less tied to its country of origin. When union participation rates continue to diminish, cartels may therefore not be able to uphold their functions any longer. In order to stay competitive, coordinated wage bargaining will be hard to maintain, as the corporate cartels continue to lose membership and legitimacy. However, the need for substantial reform may be blocked by vested interests that seek to protect their power and resources through legislation and support from influential groups. The recent case of public and state employees blocking reforms in Southern Europe, most notably in Spain, Portugal and Greece, during the 2010–2011 European sovereign debt crisis, is an example of this phenomenon.

Re-regulation

The second scenario, re-regulation, is the ongoing process of harmonising rules and regulations concerning labour markets and social agendas within the European Union. This is an attempt to protect workers from possible exploitation with the help of legislation. In the Nordic or Anglo-Saxon countries, this legislation is less frequent at the national level, which means that this scenario will increase regulations for many countries. This implies increasing regulation at the EU-level and indicates an implicit agenda of harmonisation of labour laws throughout the EU. On the one hand, as the EU is actively promoting the concept and agenda of flexicurity, this could contribute to more labour market flexibility and security for employees against labour market risks (Pedersini, 2008). On the other hand, both the Nordic and Anglo-Saxon countries may enforce more direct state regulation of labour markets, which may not be in the interest of labour.

De-regulation

Another possible path for the European counties would be to follow the direction of the Anglo-Saxon model's market-based view of the labour market. As corporate cartels have lost influence as a result of membership decline and globalization, many economists have argued for a more de-regulated labour market. In this outcome, corporate cartels on both sides will lose influence because their privileged position was formerly based on corporate arrangements. These bargaining parties had been given legislative functions to control low-wage competition or to prevent workers from being exploited.

In this scenario, labour market institutions would be restructured in an Anglo-Saxon fashion by reducing the level and duration of unemployment benefits, by lowering employment protection, and by de-collectivizing wage bargaining, with the goal of making wages more adaptable to the free market (Nickell, 1997). The de-collectivization and decreasing role of collective bargaining is already apparent in many parts of Europe and is a possible outcome of current economic trends.

Modernization

Finally, there is a fourth possible way of modernising the European labour market models. This alternative builds on a common understanding of the challenges confronting the labour market and addresses these challenges by reforming collective agreements and their supporting legislation, which would require involvement from both the bargaining parties and governments. This modernisation may take different forms in different parts of Europe, as each labour market model to some degree faces different challenges.

The goals of most legislation that codifies collective bargaining, such as strike rules, employment protection, and employment participation, were established in a time of vastly different production conditions. Modernisation must therefore reflect the reality that the erosion of bargaining coverage and the transfer of regulatory power to firms is largely due to a new business logic of enterprises. Collective bargaining takes place at a more decentralised level, closer to the firm or workplace, because organizations and workplaces have changed fundamentally over the past few decades. Knowledge-based enterprises and employees need more flexicurity in labour market dynamics, but this does not have to occur outside collective bargaining arrangements, if they are able to adapt to the service-based economy.

In conclusion, we believe this modernization of European labour market models may be a prerequisite to job creation, productivity and growth.

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