

Jon Erik Dølvik

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# **Strengthening the Nordic working life model – a precondition for successful transition to the future of work**

Background paper for Nordic  
Labour Minister meeting,  
22 November 2022



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## Abbreviations frequently used in the report:

- CB = collective bargaining
- CAs = collective agreements
- CB-coverage = collective bargaining coverage

# Preface

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This paper is written as part of a project initiated by the Norwegian Ministry of Labour and Inclusion with support from the Nordic Council of Ministers. The aim was to provide knowledge relevant for Nordic policy discussions on how to strengthen the Nordic working life models. The paper emanates from a seminar organized together with the Labour Law Committee of the Nordic Council of Ministers in Bergen 5 May 2022, where central Nordic scholars in the field were invited to share their insights and thoughts on the issue.

Based on the fruitful and inspiring seminar discussions, my attempt to piece together a background note for the Minister meeting has grown exceedingly along the way. It has therefore not become as accessible as intended, but the Executive Summary –perhaps combined with the synthesizing final section – should suffice to get a view of the main points for busy politicians.

As I soon realized that my knowledge was insufficient to provide a proper description of the differences in institutional frameworks and practices, organization rates, and collective bargaining coverage in the Nordic countries, a number of Nordic colleagues came to help. Many thanks to Anders Kjellberg, Laust Høgedal, Christian Ibsen, Stefan Ólafsson, Kathrin Ólafsdóttir, Markku Sippola, Tapio Bergholm, Niklas Bruun, Stein Evju, Kristin Alsos and Kristine Nergaard who have contributed with useful information, comments, and correction of misunderstandings about how things work in the different countries. Kristine Nergaard deserves a special thank for her invaluable, continuous work on updating comparable data on Nordic organization rates and collective bargaining coverage, which I have drawn on extensively. A special thank also to Stein Evju for generously sharing his lexical knowledge of Nordic collective labour law and for extensive comments on early drafts. That said, as author I am solely responsible for the outcome and for any failures or misleading simplifications.

Lastly, a big thank to Mona Næss and her colleagues in the Norwegian Ministry of Labour and Inclusion, who initiated the project and prodded me to write this paper, for useful discussions and comments along the way.

Jon Erik Dølvik  
Oslo 4 November 2022

# Executive Summary

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**Objectives and methods:** In accordance with the conclusions in the *Nordic Future of Work* project, and the *Joint Nordic Declaration on Policy Responses to Changing Labour Relations* discussed by the Nordic Council of Ministers for Labour in Oslo 22 November 2022, the aim of this paper is to provide knowledge that can be useful in public debates about how to strengthen the Nordic models of working life regulation and collective bargaining (CB). Focusing on measures to narrow the differences in CB-coverage and organization rates in the Nordic countries, the paper underscores that the state can also bolster the bargaining systems indirectly through flanking regulation countering the gaps opened in labour law by new business concepts and staffing strategies. Associated with a rise in triangular employment relationships and other non-standard contracts, the fragmentation of labour relations is causing grey zones in labour law, blurring or evasion of employer responsibility and more fuzzy boundaries between employees and self-employed (Hotvedt et al., 2020). Such developments have generated demand for clarification of the employee concept in labour law, triggering political controversy at both national and EU levels.

Remedying the gaps opening in the Nordic models requires adequate, shared diagnoses of their main causes and connections. In this vein, a central question is whether the Nordic differences in the levels of and degree of erosion in CB-coverage are mainly driven by irresistible structural changes or are stemming from institutional-regulative differences that can be subject to political or organizational choice? Although the Nordic labour market models share many commonalities, they also show some important differences, especially as regards the state's role in wage floor regulation, extension mechanisms, and enforcement. The analysis focuses on what national actors can learn from the salient differences in Nordic CB-coverage, organization rates, and institutionalized collective bargaining practices. Contrasting the “best” and “worst” cases in these respects and discussing the reasons for these contrasts, the intention is to identify tools and strategies the actors can invoke to narrow the gaps and promote upward convergence in the Nordic CB-coverage rates.

**Key observations and challenges:** Since 2000, the CB-coverage rates have turned downwards in most Nordic countries and industries, implying that a declining share of the Nordic labour forces in *private sector* work for employers with CAs (see Appendix Figure 4.1).

- Apart from Iceland, where more than 90% in private sector work for employers with CAs, this rate is lowest in Norway (46%), and largest in Sweden (85%), with Denmark (73%) and Finland (65%) in between (Nergaard, 2022). Including also workers covered by generally applied CAs, the Finnish coverage rate rises to 84%.
- While the employer organization rates have shown some increase, the decline in trade union density has been substantial, largely mirroring institutional reforms in the Nordic Ghent-systems (UI-funds/“A-kasser”). The fall in union density varies from 21 points in Finland, 18 in Sweden and 15 in Denmark to 5 points in

- Norway, causing a downward convergence in union density around 50-65% -- still high in comparative perspective.
- As union density remains high and stable in groups with higher education, the decline has mostly come among manual workers especially in parts of the labour market with many atypical jobs and workers with low skills/pay and minority background.

This means that increasing shares of vulnerable labour fall outside the Nordic model and the protection of CAs and union representation. Besides growing inequalities and dualization between the core and periphery, the increase in low-wage firms without CAs distorts competition and is a threat to bona fide companies. In a context with increased cross-border flows, strategies to strengthen wage floors, enforcement, and state action against work life criminality has thus become crucial to protect organized working life.

**Multiple causes and consequences:** There is a specter of interconnected factors that contribute to erosion of CB, ranging from political reforms in the Ghent systems to structural change driven by global market integration and technological digitalization. Combined with new business concepts, contractual forms and more diversity in attitudes and socio-demographic composition of the workforce, all this exerts pressure on the CB systems, hamper collective action, and represents a particular challenge to the Nordic systems built on the standard wage-earner relationship and collective bargaining. Unless the organized actors and the states find ways to close the gaps and counter the decline in CB-coverage and unionization, there is a risk that the erosion of the Nordic models will accelerate as the reach of multiemployer CB in several branches is approaching tipping points where its capacity to regulate labour market competition dwindles.

**Institutional differences, a source for learning:** Keeping the unique Icelandic case apart, one of the main Nordic differences stem, *first*, from the historically strong -- but now declining -- unionization effect of the Nordic Ghent systems, except in Norway. *Second*, there are marked differences in the employer organization rates in private sector. Ranging from 82% of the workforce in Sweden to 52% in Denmark, these reflect associational differences that have little to do with structural change. Most striking are as mentioned, *third*, the large differences in *direct* CBC in private sector, varying from 46% in Norway to 85% in Sweden. Showing little correlation with union density, this has partly to do with variations in the employer associations' internal obligations to apply their CAs, partly with differences in national law and union capacity to force CAs with unorganized employers, which add markedly more to the coverage in Denmark and Sweden than elsewhere. In Finland, broad use of extension mechanisms adds substantially (18 points) to the high private sector CB-coverage (84%). In Norway, including the 11% protected by the partial extension regime there would increase CB-coverage to 57% in private sector, still 28 points below Sweden.

As none of these Nordic differences can be explained by structural change, they are mostly due to national differences in institutions, rules and custom. Institutional obstacles hampering spread of CB can be reduced through political choice. Illustratively, if the share of organized companies without CAs in Norway was reduced to the Swedish level, the Norwegian CB-coverage in private sector would have risen from 46% to above 70%. There is no automatism implying that abolishing institutional obstacles – e.g. the 10% union membership threshold for claiming CA in organized Norwegian firms – will eliminate the Nordic gaps in CB-coverage. Yet, such moves may



help preventing further decline and, if combined with other measures, possibly also contribute to reverse the trend. Contrary to the Nordic differences shown above, the downward trend in CB-coverage and organization rates in many branches is associated with structural changes in working life but they have e.g. not accounted for more than 2-3 percentage points of the decline in union membership in Sweden in recent years (Calmfors et al., 2019: 18).

**State tools to strengthen the CB-coverage:** International research shows that state support is essential to uphold strong coordinated CB systems. The paper describes a range of tools the Nordic governments can apply to support the organized actors' efforts to reinvigorate their CB systems, amongst other, by more proactive and concerted use of the following means:

- social clauses in public tenders;
- recognition and licencing schemes;
- semi-dispositive legislation allowing more flexibility for companies bound by CAs; tripartite branch programmes on restructuring, innovation, skill formation, codes of conduct, enforcement, and countering wage dumping and work-life criminality.
- restructuring schemes, where e.g. employees in Swedish firms with CAs receive tailored public support for re/upskilling, job search, coaching, and so forth;
- strengthen and renew tax incentives so that they, besides organizing, are targeted on spreading collective agreements, perhaps including also extra services/benefits provided through CAs, which to our knowledge has not yet been tried in the Nordics.
- A further tool at hand in Finland and Norway is to adjust the criteria for general application of CAs, easing the access to their extension mechanisms.

**More comprehensive strategies and tax incentives promoting CB as a “collective good”:** Rather than copying single policy tools from other Nordic countries, the paper has emphasized that cooperation between the organized actors and the state in developing more comprehensive, *multipronged strategies* is key to strengthen the CB systems. Linking traditional approaches ‘from below’ with complementary measures ‘from above’ might unleash mutually reinforcing interaction effects, strengthening both CB-coverage, organization rates, and the local tiers of industrial relations. One can e.g. envisage concerted policy packages combining elements in the tool-kit referred above, with creation of new, targeted tax incentive schemes promoting CAs as a “collective good”.

The effects of such incentives can be amplified if the tax reliefs – in addition to individual firms and workers – are shared with their respective organizations. Contrary to previous schemes, where solely the individual affiliates have benefitted from tax deductions – whether their associations contribute to CB or not – the *crux here is to link the incentives directly to the collective good the associations generate to the benefit of the broader working life and society*. If linked to pay-roll taxes on the employer side, it could also give incentives to increase in-house staff and negotiate CAs with formerly uncovered employees. From the state perspective, a justification for increased investment in the CB systems could be that there is broad political appreciation that these systems generate comparative economic and social advantages for the Nordic societies, contributing to triple win-win games.

A critical question when discussing the potential merits of top-down initiatives to stimulate bottom up efforts to broaden CB, is by what kind of flanking measures central initiatives to increase CB-coverage can encourage workplace actors to develop

CB and industrial relations from below. In disorganized pockets of the job market, such efforts will probably require joint efforts of the organized actors and the state where pooling of resources and investment in targeted programs may open new avenues for organization and negotiations in uncharted terrain.

**Flanking policies, empowering casual labour:** As earlier mentioned, the state can also strengthen the CB systems indirectly, through flanking legislation countering the widening gaps in labour law and the negative CB effects of new business and staffing concepts. The blurring of employer responsibility and more fuzzy boundaries between employees and self-employed driven by growth in triangular labour relations and platform work, have come with more fictitious self-employment and demands for legal clarification of the employee concept in labour law (Hotvedt et al., 2020). As European competition law prohibits price-cartels and hence CAs for self-employed, this will have implications for the CB rights of workers in the 'grey areas'. In response to European court cases opening for bargaining rights for solo self-employed with *inter alia* high degree of subordination and dependence, the Commission has just adopted guidelines following similar lines (European Commission, 2022). As many Nordic unions and employer organizations have begun to promote membership for self-employed or platform companies – offering insurance, standard contracts, occupational pensions, and alike – such initiatives may incorporate new, non-standard groups in the old Nordic bargaining models.

**The contested EU tier of labour market regulation:** Since joining the single market in the early 1990s, all the Nordic models have been integrated in the growing multilevel EU regime of labour market regulation. Although the Nordics have supported development of the social dialogue and social dimension of EU/EEA integration, the diverse regulative traditions in Europe has caused dilemmas for Nordic actors concerning the interfaces between statutory regulation and CB when influencing and implementing EU directives. Renewed momentum in EU social regulation in recent years has also brought legislative proposals that are overly detailed and fit poorly with the Nordic tradition for framework regulation. Especially the directives on written contract, platform work, and minimum wage setting have stirred Nordic protest, highlighting the dilemmas Nordic governments face in showing solidarity with those struggling in the lower ends of the pan-European job markets and protecting the Nordic systems of labour market regulation.

The controversies around the directive on minimum wages also indicate that it has become harder to agree on common Nordic positions and strike compromises between the Nordic camp and the others. In this view it may be pertinent to discuss whether more differentiated, flexible Nordic approaches to coalition-building in EU social policy making and social dialogue might be commendable. At any rate, future strategies to strengthen the Nordic CB models will have to take into account how they can take advantage of EU policies and be framed in an EU/EEA-proof manner, coupled with initiatives ensuring that EU policies provide leeway for Nordic CB practices and traditions. Here the European Commission's new initiative to strengthen the role of EU social dialogue represents a welcome opportunity.

**Revitalized tripartite cooperation:** Successful strategies to renew the Nordic models are dependent on trust, commitment, and coordination between the organized actors and the state. Tripartite dialogue has always been important in the Nordic models, but has varied in form, institutionalization, and content – especially as regards pay and CB related issues. The state has played central roles in incomes policies, wage coordination, and wage floor regulation in Finland, Iceland and Norway.

State interference in this area has been taboo in Sweden and Denmark, but tripartite settlements have been commonplace in e.g. training, skill formation, social protection, and labour market policies. When deliberating ways to close the gaps opening in labour market regulation, it can in some instances be necessary to rethink the division of labour or inter-relations between statutory and negotiated regulation, hence also the respective actors' responsibility for enforcement. This has been accentuated by the increase in casual work and cross-border low-cost competition, demanding more effective ways to secure proper wage floors and enforcement. Accordingly, the organized actors seem at any rate to need stronger state support to be able to secure "ordning och reda" and turn the trend.

**A state third-party with clear, autonomous agendas:** Often less marked by consensus than by conflicting or competing interests, the tripartite relations between the state and its interlocutors can be viewed as an ongoing exercise in conflict partnership and compromise building. For the state, as advocate of the common good, it is therefore important to develop clear, autonomous agendas suited to build trust and prod the actors towards compromises that also take into account the interests of the broader public and the state.

Carrying special responsibility for the workers falling outside collective bargaining and the social protection systems, the state must sometimes also be prepared to use its prerogatives to conclude differently from its counterparts regarding what is the most suitable, legitimate mode of regulation and enforcement. Although the praise of the Nordic model occasionally can remind of religious rituals, it is hard to renew with too many Holy Cows or veto-points. How the state can best reconcile trust building and compromise with protection of its own integrity and interests in tripartite policy-concertation can thus be a pertinent issue for Nordic experience exchange.

# 1 Introduction

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At the outset of her Presidency in the Nordic Council of Ministers, the Norwegian labour minister announced that she would invite her peers to a discussion about ways to strengthen the Nordic working life model based on coordinated collective bargaining and tripartite social dialogue. In view of the challenges described in the Nordic Future of Work-project (Alsos & Dølvik eds., 2021), she suggested it was time for more action-oriented exchange of experiences, ideas, and strategies about how to renew and refurbish the model.

As emphasized in the Future of Work project, the megatrends reshaping the world of work – demographic change, digitalization, climate change and (de)-globalization – will increase the need for restructuring, retraining, occupational adjustment and mobility in the years to come. Rising employment rates and better inclusion are needed to boost labour supply and secure the sustainability of the Nordic welfare states. Without appropriate countervailing measures, the risk is high that we will see a more divided Nordic working life, with growing cleavages between the core and the periphery. While the megatrends challenge hallmarks of the Nordic models, the working life actors' capacity to handle these challenges rests on our ability to renew and reinvigorate the models – especially when it comes to protection of those struggling on the fringes of the labour market. The prospects of energy shortages and economic bust flowing from the Ukraine war, along with rising inflation and interest rates, underscore the need for concerted crisis management capacity. No doubt, the Nordic models are in for a real test of their resilience and adaptability.

Remedying the emerging cracks in the models requires adequate, shared diagnoses of their main causes and connections. Comparing developments and tendencies of erosion in the institutional foundations of the Nordic working life models, *this paper discusses how the growing gaps in unionization, employer organizing, and collective bargaining (CB) – mirrored in withering of local labour relations – can be reversed*. In this vein, a central question is to what extent the gaps in the Nordic models are products of irrevocable structural trends or rather result from intra-Nordic differences in national institutions and regulations that can be altered by political or organizational choice. To illuminate these issues, the paper uses the large Nordic differences in especially CB-coverage to discuss for example why Norway as the “worst case” varies so much from Sweden as the “best case”, and how variations in the cornerstones of these otherwise very similar Nordic models can be accounted for and stimulate intra-Nordic experience exchange and learning. As the paper is written for the Nordic labour ministries, special attention is paid to how the state can support the organized actors in turning the tide.

When discussing ways to strengthen CB and the organized actors' need for state support in securing orderly conditions and fair labour market competition, there are a number of contextual changes in working life that ought to be taken into account: *First*, the rising competition from foreign subcontractors and unorganized firms with lower labour costs after the 2004 EU/EEA enlargement has spurred evasion of national regulations, complicated enforcement, and skewed job competition in disfavor of lower-skilled national workers. *Second*, facilitated by new digital technologies, the

spread of new business concepts, contract forms, platform jobs, and other types of non-standard work has revealed new cracks in employment regulation and has enabled companies to escape employer responsibilities and collective agreements as seen for instance in taxi and courier services. *Third*, as more workers fall outside the organizations, rights and protections of the Nordic model, inequalities have widened and divisions between the core and periphery of the labour markets tend to undermine the Nordic credo of inclusion and equal opportunities. When searching for ways to strengthen the collective bargaining systems and develop incentives and complementary labour law for that purpose, a *fourth* factor to take into account is the increased regulative interference from the EU level, as viewed for example in the Laval and Viking cases and the recent controversies over the directives on minimum wages and platform work. Viewed together, resolution of the challenges arising from these changes in the Nordic labour market models – from below, above, and from within – is likely to accentuate the need for, *five*, tripartite cooperation and social dialogue between the states and organized actors, a matter that we will return to in the final section.

The paper is structured as follows;

- *Section 2* sketches the background, reviewing *commonalities and differences* of the Nordic working life models, some of their main challenges, and why the states and governments ought to bother.
- *Section 3*, first, reviews the main differences and developments in Nordic *trade union density*, reasons for the decline, and discusses possible measures to reverse the trend; and, second, addresses the main differences and rising levels of *employer organization rates*.
- *Section 4* reviews the large differences in *collective bargaining coverage*, addresses their main reasons, and suggests possible state tools and strategies to support the organized actors in lowering the gap between the “worst” and “best” Nordic cases in this respect.
- *Section 5* summarizes the main points and add a few reflections about the *changing context and flanking measures* the Nordic actors have to take into account when trying to protect and reinvigorate the Nordic models as part of the evolving multi-layered regime of labour market regulation at the EU/EEA level.

## 2 Background: The Nordic models – similarities, varieties, and common challenges

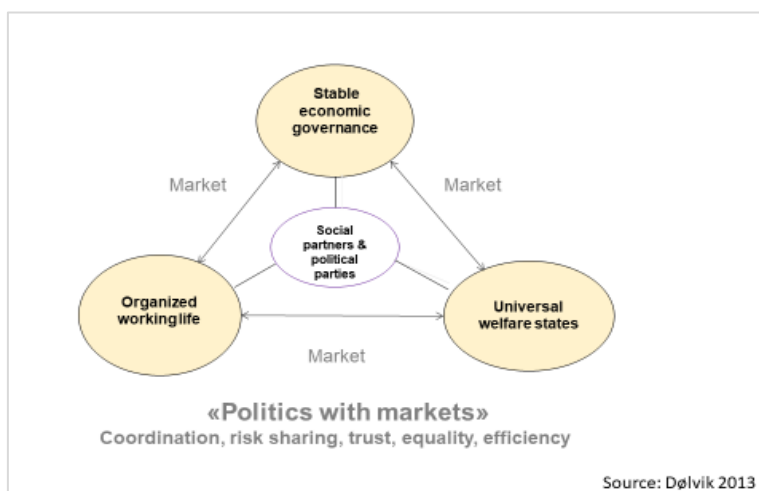
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This section highlights the main commonalities and differences of the Nordic models, central challenges facing them, and why the states and governments ought to bother.

### 2.1 Nordic commonalities

Built on well-organized working lives, universal welfare states, and stabilization oriented economic policies, the Nordic models have been renowned for their ability to combine equality, efficiency, and flexible adjustment (Katzenstein 1985; Jørgensen et al., 2009). The emphasis on broad policy coordination has granted the organized working life actors central roles in the tripartite Nordic systems of policy-making, regulation, and enforcement. In international comparison, the Nordic working life regimes have thus been distinguished by their strong employer and labour organizations, aligning encompassing wage coordination with macro-economic policies geared to foster full employment. In the *multi-tiered* Nordic collective bargaining systems, the actors in export manufacturing have set the pace in the multi-annual pay rounds at industry level, whereas the confederations on both sides have represented working life in tripartite policy concertation and dialogue with their governmental interlocutors. Complemented by bodies for consultation and negotiations at company/ workplace level, usually taking place under a peace-obligation, the Nordic pattern of labour relations and regulation has thus been marked both by more centralized coordination and decentralized flexibility than in (most) other European countries (Kjellberg 1992).

Figure 2.1 The basic foundations of the Nordic models



In such multi-tiered models, good articulation between the local and central tiers is key to enable “bottom up” voice, coordination, and democratic legitimization of corporatist policy making. Besides the importance of workplace cooperation in developing productivity, skills, restructuring and work environment, the local presence and activity of the trade unions have been crucial to recruit members, build trust, and anchor the CB systems, thereby enhancing Nordic working lives’ ability to combine high employment and labour mobility with compressed wage structures. After severe crises in the 1980-90s, most Nordic bargaining systems underwent a process of organized decentralization where multilevel CB predominantly was coordinated through pattern bargaining at sectoral level, whereas wage formation, working time and other issues to a large extent was decentralized to company level, most pronouncedly in Denmark (Andersen et al., 2014). In Finland, similar reforms were undertaken as part of the 2016 “Competitiveness pact for Finland” in wake of the financial crisis (Dølvik & Marginson, 2018).<sup>1</sup>

The third cornerstone in the Nordic model is the *universal welfare state*. Tailored to the wage earner employment relationship, the Nordic welfare states have provided the workforces with education and skills, income security, and social services over the lifecycle, thereby also enhancing the adaptability of companies. The collective risk-sharing, insurance and redistributive functions of the welfare state have contributed significantly to the trust and balancing of power relations in the labour market needed to make workers willing to engage in risky restructuring processes. Conversely, the sustainability of the tax-based welfare states in an era of fast ageing depends on increased employment rates and mobilization of untapped labour supply. Therefore the active “work line” in inclusion and social policies must entail stronger elements of long-term investment in the target groups’ vocational skills and human capital. In order to make work pay for all it is also important to uphold a solid wage floor in the labour market securing even low-skilled, unexperienced workers higher pay than the perceived “reservation wage” provided by the social benefit system.

In addition to these basic foundations, all the Nordic countries were in the early 1990s incorporated in the new layer of transnational labour market regulation and social dialogue within the EU/EEA single market regime premised on free movement of labour, services, capital and goods. Although the EU has a limited mandate in working life issues mainly related to development of worker minimum rights – precluding interference in collective labour law and wage issues – the interfaces between European and national regulation as well as between labour law and collective agreements have from early on been contested among the Nordic actors.<sup>2</sup> The issue resurfaced with the Viking and Laval cases brought for the ECJ in 2007, the latter resulting in a verdict that forced Sweden (hence also Denmark) to amend its posting regulation (Malmberg 2010).

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<sup>1</sup> At present, new conflicts have occurred in Finnish CB, after major employers in the paper and forestry industries have refused signing CAs, and re-negotiation of the agreements in technology and chemical industry broke down in October 2022 (Jokinen, 2021, 2022). As the outcome of this turmoil remains unclear, the issue will not be further explored in this paper.

<sup>2</sup> In 1993, before the Danes’ referendum over the Edinburgh agreement, they got Commissioner Flynn to write a letter confirming that the Danish way of implementing directives through collective agreements was OK. Sweden got a resembling clause written into their membership agreement in 1995 (Ahlberg ed., 2005).

## 2.2 Nordic varieties in labour market regulation

While the traits of the Nordic working life model outlined above are common to the Nordic countries, there are significant differences between them especially regarding the role of the state in labour market governance:

- As to *labour market regulation*, Denmark stands out with very little legislation, except for white-collar employees (Funktionærloven), while most regulation is laid down in collective agreements. In the other Nordic countries, there is extensive statutory regulation, which not seldom can be exempted through collective bargaining, especially in Sweden.
- Concerning *wage floor setting*, none of the Nordics has statutory minimum wages, but Finland, Norway, and Iceland have legal mechanisms for making amongst other *minimum wage clauses* in collective agreements generally binding. In Denmark and Sweden, the main actors are vigorously opposed to such arrangements, primarily seeking to establish wage floors through high CB-coverage. To broaden the floors to unorganized firms, they trust the unions' ability to strike accords with such firms – national and foreign – if necessary by using their wide rights to industrial action (strike, boycott & sympathy action) in such instances.<sup>3</sup>
- *State intervention* in CB through incomes policies, government offering tax deductions, extra social benefits or alike, has been common in Finland, Norway, and Iceland. In Denmark and Norway, stalled conflicts are sometimes resolved through compulsory arbitration or similar arrangements, something that is unheard of in Sweden where the autonomy of CB is virtually sacrosanct.
- Except in Norway and Iceland, *unemployment insurance funds* have been administered by the trade unions (so-called *Ghent systems*) and co-financed by the state, serving as an effective recruitment mechanism for the trade unions.
- *Ballots* on approval of bargaining outcomes are nowadays only practiced in Norway and Denmark. In the latter, even linkage of the results across industries is not uncommon.

In view of such variations, the Nordic working life model can hardly be defined by a given set of policy tools; it can better be viewed as a common approach or method for joint problemsolving, adjustment, and continuous renewal of policy tools and strategies (Dølvik, 2013).

## 2.3 Challenges arising

Given the prominence of autonomous self-regulation in the labour market, the prospect of declining workforce shares being covered by the collective institutions is a challenge to the legacy of equality and flexicurity marking Nordic working lives. Taking into account that many goods producing industries with high organization rates are expected to decline further in the years to come, much of the job growth is expected to occur in sectors with patchy organizations and uneven coverage rates. In such a view, one can easily envisage that continued withering of organized industrial relations “from below” can unleash cumulative dynamics of fragmentation, division, and disempowerment even in Nordic working lives (Andersen et al., 2014; Dølvik & Marginson, 2018). Without appropriate countervailing measures, such dynamics can

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<sup>3</sup> The Laval case coming for the ECJ in 2007, restrained these rights vis-à-vis foreign EU-firms (Malmberg 2010).



lead onto a scenario with growing dualization of industrial relations as witnessed in Germany in recent decades (Carlin et al., 2017) or, less likely, a scenario of broad, dis-organized decentralization as observed in the UK from the 1980s (Traxler, 1995; Baccaro & Howell, 2018).

The challenge has certainly not been diminished by the Covid-crisis and the Ukraine war, and is likely to be magnified by the transition to the future of work. While digitalization, climate change, and greening of the economy will imply new cleavages and sweeping restructuring, the actors' (joint) capacity to handle these changes will depend on the robustness and adapt-ability of the collective Nordic institutions. Given the state's responsibility for maintaining a well-functioning labour market, a likely consequence of such a scenario with further weakening of the CB-system is that the state will have to assume greater responsibility for labour market governance and regulation. This pertains especially to the provision of skills, decent labour standards, and protection for the vulnerable workers struggling on the fringes of the Nordic model in the lower ends of the labour market.

As it takes "two to tango", plus shared norms for how to move and a pianist, efforts to strengthen the foundations of the Nordic collective bargaining system require broad-based involvement from the organized actors as well as the state. The ensuing sections will go further into how the widened gaps in the Nordic organization rates and CB-coverage can be explained and possibly narrowed. As the relationships between CB-coverage and the organization rates of unions and employers differ remarkably across countries (Traxler ed., 2001), it is important that the state and its counterparts not only look for tools that can boost organizing on both sides, but also consider adjustment in regulations, institutions and tax incentives that can influence the actors' interest in and ability to develop CB. Such ability depends indeed also on the organizational resources, structures, and degree of coordination or competition among the industrial actors, where untapped potentials might be harnessed by pooling of resources and organizational adjustment – as was for instance central motives when two of the Danish trade union confederations (LO & FTF) merged into one (FHI) a few years ago (Jørgensen & Høgedal, 2018). With scarcer resources, especially in branches with falling membership and patchy CB-coverage, especially the trade unions will face hard choices over whether and how to concentrate and share resources on developing CB in areas with low or diminishing CB-coverage.

## 2.4 Why should governments bother?

As questions related to collective bargaining primarily are a prerogative and responsibility of the social partners, it is in political arenas sometimes asked why Nordic governments and state authorities should be concerned about these issues. The answer is threefold: First, state support has (as elaborated below, in section 4.1 p.28) proven essential to maintain strong, encompassing CB systems and organized actors, which comparative research has shown is associated with a host of economic and social advantages (OECD 2006; 2019). This is also part of the reason why the freedom of association and collective bargaining in international law is defined as a fundamental human right that all UN and EU states are obliged to protect and promote. Further, given the supremacy that is granted to CB in Nordic labour market regulation, the Nordic governments have all the more reason to secure that the collective actors are able to fulfill the regulative functions they are ascribed. Considering also that a growing part of the problems in working life – often raising welfare state expenditure – cannot be resolved by public rule-making or decisions alone, the

state/government's ability 'to deliver' has become increasingly dependent on civil society organizations capable of contributing to joint problem-solving.

Second, the negative consequences of weakened collective institutions have become more salient all the more integrated the Nordic and European labour markets have become. Until Eastward enlargement, when EU/EEA labour migrants predominantly came from other Nordic countries, and third-country labour migrants needed CA wages to obtain work permit, the wage gaps between workers bound by CAs and unbound workers were relatively minor. To attract and retain labour most employers felt compelled to offer pay in line with the CAs. In the ensuing years, with rising immigrant populations and free movement of labour and services in the extended EU/EFTA area – housing more than 520 million inhabitants with huge differences in wages and living conditions – the number of jobs with inferior pay and conditions in the Nordic countries increased considerably. The lower the CB-coverage and the more migrant/posted labour that are hired at such substandard conditions, the larger tends the wage gap between workers covered and uncovered by CAs to be – and the more tempting does it become for companies to organize activities outside the scope of CAs (Dølvik et al., 2014).

Accordingly, in Norway, where CB-coverage has been lowest and the share of labour migrants from the accession states highest in recent years, the wage gap between those covered by CAs and those not has, *ceteris paribus*, increased significantly the past 20 years (Alsos et al., 2021).<sup>4</sup> This reflects that the least paid groups in Norway has lagged further behind, showing that the contagion effect of CAs to uncovered firms and workers has been weakened (Jordfald & Nymoen, 2016; Jordfald mfl, 2021). Given that the Norwegian case can be viewed as a forerunner for what may happen if the erosion of other Nordic CB systems are allowed to continue along a similar trajectory, it is striking that the rise in wage inequality in recent decades has been markedly stronger in Norway than in the other Nordic countries (Dølvik & Marginson, 2018). These developments have been accompanied by social partner controversies and court cases – involving also the state – over how mechanisms for extension of minimum wages in CAs can be used to broaden the wage floor and curb low wage competition without breaching EU law. Associated also with a strong rise in working life criminality – especially in fluid branches with low CB-coverage – these developments have instigated a surge in public resources spent on investigation and enforcement of rules related to crime at work (Arbeids- og Inkluderingsdepartementet, 2022).

Third, the recently adopted EU directive on minimum wages has instigated renewed attention to the Nordic ways to establish wage floors. Although the directive reassures that member states without statutory minimum wages will not have to introduce such legislation, it does suggest that the member states should aim for a CB-coverage of at least 80%, including workers covered by CAs made generally applicable (EU directive, 4 October 2022).<sup>5</sup> If a member state does not reach the threshold for CB-coverage, the government is – in cooperation with the social partners – obliged

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<sup>4</sup> No similar wage gap is seen in Sweden according to Hällberg & Kjellström (2020).

<sup>5</sup> Only extension regimes such as those in Finland and Iceland “without any discretion as to the content of the applicable provisions” (article 3, point 2) can be included in the measure of CBC, while the partial extension regime in Norway apparently cannot. The “framework of enabling conditions for CB” and the “action plan” to promote CB shaped through social dialogue must have a “clear time-line and concrete measures to progressively increase CBC”, and be reviewed regularly and at least every five years.

to develop an action plan to increase CB-coverage to the stipulated 80% objective.<sup>6</sup> The fact that some of the Nordic countries will not necessarily meet the threshold has stirred tension and uncertainty in the Nordic countries. As shown below, coverage in four of five Nordic countries appears at present well above 80%, whereas Norway clearly is below. Given that results emerging from new and better data may deviate from the present figures, it cannot be precluded that also other Nordic countries may fall below the threshold in the future. With the experience from the ECJ verdict in the Laval case as backdrop, such prospects have caused concern about the what the term ‘action plan’ and ‘monitoring and data collection’ may actually come to mean in different political and judicial contexts in the future.

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<sup>6</sup> According to the Directive, article 10, point 2.c.(i), member states shall every second year report to the Commission statistics about the lowest pay rates set in CAs for low-wage earners (in sectoral, geographical and other multiemployer CAs, including those declared universally applicable); and (point 2.c (ii)) inform about the level of wages paid to workers not covered by CAs and its relation to wage level of workers covered by CA.

# 3 Changing organization rates of Nordic trade unions and employers

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In this section, 3.1 gives an overview of the decline and differences in Nordic trade union density rates. 3.2 reviews the variations and rise in employer organization rates. Both sections address factors affecting the propensity to organize and finally discuss how the state can facilitate and stimulate organizing on the respective sides.

## 3.1 Trade union density: Can the trend be turned upwards?

Trade union density in the Nordic countries is for historical-institutional reasons higher than in other European countries, but the difference has decreased in the past decades. In 2000, the weighted average of national density in the Nordic countries was well above 70% compared with circa 25% in the other EU/EFTA-countries (OECD.stat). In 2019, average density in other western EU/EFTA-countries had dropped further 3 percentage points, whereas the Nordic average had dropped ca 10 points down towards 60%. In this respect, the Nordics have become a little more similar to other western countries, but the overall Nordic density level is still almost 3 times higher than among the western EU/EFTA peers.

Within the Nordic region there has always been differences in unionization rates, but apart from Iceland where union density has grown above 90%, the Danish, Finnish and Swedish unions have in recent decades seen large membership losses (Appendix Figure 3.1, Table 3.1). This has brought them closer to the Norwegian level, implying that Nordic union density in 2019 according to the OECD varied from ca 50% in Norway, 59% in Finland, 67% in Denmark<sup>7</sup> and 69% in Sweden to 92% in Iceland. The downward trend in recent decades is mostly due to membership losses among blue-collar workers, whereas the organization rate among white-collar and highly educated employees in particular has tended to rise (Kjellberg & Nergaard, 2022; Kjellberg & Ibsen, 2016; Bergholm & Sippola, 2022).

### Explanatory factors: Institutions, individual choice, custom or structure?

Traditionally, the comparatively very high Nordic levels of trade union density could to a large extent be attributed to two major institutional factors: The *first* was the *Ghent system* of trade union administered funds for unemployment insurance (“*A-kassene*”) present only in the Nordic countries, except Norway and Iceland, and in Belgium.<sup>8</sup> Although such insurance has entailed no obligation to join the union, most

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<sup>7</sup> Worth noting in Denmark is the strong rise in membership in ‘alternative’ unions (to 12-13%), without which the Danish density would almost have been down to Norwegian level (Høgedal, 2014).

<sup>8</sup> Belgium has thus also had high union density, presently slightly under 50%.<sup>9</sup> Nordic rules on tax deduction for union fees have been subject to frequent changes. At present, Sweden and Iceland have no such tax incentives. In Finland, the entire fee can be deducted from taxable income, in Denmark there is a cap at 6000DKK, and in Norway the cap is just doubled from 3850 to 7700 NOK.

of the workers did so until government reform of the funds in Denmark (2001) and Sweden (2006) and establishment of an independent fund in Finland (1992) eventually brought a dive in union membership in these countries after the millennium turn. The *second* factor was the Nordic trade unions' strong ability to organize white collar and highly educated employees in private sector in particular. This has, except in Norway, been enhanced by the distinct division of labour, recruitment domains, and bargaining areas, between the associations of blue-collar workers and white collar and professional employees. A typical illustration is the segmentation between LO, TCO and SACO in Sweden.

Contrary to in most other countries, the density of white-collar and professional groups has in the Nordic countries been markedly higher than in the workforces as a whole (Kjellberg, 1992; Ebbinghaus & Visser, 2000). This is explained by the strong, independent Nordic confederations for white-collar and professional employees with higher education, and widened the gap vis-a-vis other countries when the expansion of higher education took off in the 1970s. Thus, the largest Nordic trade union today is *Unionen*, which – belonging to the Swedish TCO – organizes white-collar employees in private sector industries. A *third* institutional factor, accounting for the exceptionally high Icelandic unionization rate, is their employers' obligation to withdraw union fees from workers' wage check, supplemented by CA based preferential treatment of union members (Ólafsdóttir & Ólafsson, 2014; Adalsteinsson & Gudlaugsson, 2019, from Nergaard, 2022).

While these institutional distinctions are still central in explaining the comparatively high and varied Nordic density rates, the past decades' downward halving of the gap between Sweden and Norway – with no unemployment insurance (UI) fund – mirrors that political reform of the Swedish funds in 2006 weakened their unionization effect substantially (see below). Besides such institutional factors, the literature about variations in workers' inclination to join and remain members of trade unions distinguishes between different lines of explanation:

- *social custom theories*, emphasizing the importance of social norms, expectations, and peer pressure at the workplace (Visser, 2002; Schnabel, 2013);
- *rational choice based theories* focusing on the individual workers' efforts to optimize costs and benefits of union membership – or free-riding – in view of their personal preferences, incentives, and alternative social protection (Olson, 1965; Calmfors et al., 2021);
- changing *values and attitudes* re-shaping preferences in more individualist direction (Allvin & Sverke, 2000); having pulled down union density in many countries – especially among youth – such factors tend to shift with social fads and economic cycles, as indicated during the pandemic (Kjellberg & Nergaard, 2022).
- a range of studies show that the decline in unionization since the 1980-90s has been influenced also by *structural or compositional changes* in the labour market, related to shifts in *employment* from industries with traditionally high rates of unionization to branches and occupational groups with lower rates (Ebbinghaus & Visser, 2000).

The effects of structural change are typically illustrated by the shift in employment from manufacturing industries to private services, and, within industries, from well-organized, skilled manual work to less organized occupations in the top and bottom of the labour market. Associated with changes in the *nature of workplaces* – for instance from large, concentrated industrial factories with homogenous conditions towards smaller, dispatched and diverse workplaces with more fluid labour in atypical

contracts – the effects of such shifts on density can be accentuated by shifts in the workforce composition, e.g. as to the share of males, youth, and ethnic minorities which tend to pull density down. Still, recent studies indicate that the impact of structural factors on unionization in the past decades have been modest, accounting only for 2 percentage points in Sweden according to Calmfors et al. (2021).

### **Interplay between multiple factors – no quick fix**

In practice, explanations drawing on institutional reasoning, social custom or rational choice are seldom mutually exclusive. In a recent study of why Swedish employees are members of trade unions or not, Calmfors et al. (2021) analyze various motives and background factors influencing the likelihood of being union member. In addition to the impact of structural factors – associated with lower union density in private than public sector, and in production of services than goods – the likelihood varies with social norms or custom among colleagues, family, friends, and, not least, the employer.

Yet, the highest ranked motive is in line with many former international studies (Waddington & Whitston, 1997), getting “help in grievances with the employer”. This was followed by motives related to insurance or protection against workplace related risks, such as loss of income, job, or pay rises, whereas services unrelated to work, e.g. bank loans or car insurance were considered less important (Calmfors et al., 2021: 68-72). Among non-members, the highest ranked reason was that “trade unions pursue political aims I don’t sympathize with”, followed by more instrumental explanations why membership would not bring any individual gains pertaining to UI, pay or alike – conforming with a free-rider logic (ibid.:82). Another high-ranking reason for not joining was “high membership fee”, whereas various accessibility factors, such as “I have not been contacted”, got low scores. “Lower membership fee” is also a central reason cited by former members in Danish LO who have shifted to “alternative unions” in a study by Høgedal (2014: 108-109), which also shows that the propensity to organize is strongly influenced by institutional factors such as CA and shop steward presence at the workplace (see also FH, 2022: 7).

In the same vein, a recent comparative study of unionization in Sweden and Norway (Kjellberg & Nergaard, 2022) indicates that the effects of institutions, incentives and social custom tend to amplify when they interact. The study shows how government changes in the fees in the Swedish unemployment insurance funds (UI) in parallel with abolishment of tax deductions for union fees,<sup>9</sup> contributed to massive membership losses both in the funds and in the trade unions 2007-2008 – especially for groups with low pay and high unemployment risk. The large membership losses among low-skilled, manual workers were clearly triggered by new rules differentiating UI costs according to unemployment risk, causing many-doubled insurance fees for many low-paid groups coming on top of their loss of tax deduction for union fees. In comparison there was very little change in unionization and fund membership among employees with high education and pay, whose risk of job loss was low and whose fund fees were reduced accordingly (Kjellberg, 2021: 224-25).

Whereas the institutionalized incentive effects of the UI-funds on unionization remained largely unchanged among white-collar employees in the aftermath, they

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<sup>9</sup> Nordic rules on tax deduction for union fees have been subject to frequent changes. At present, Sweden and Iceland have no such tax incentives. In Finland, the entire fee can be deducted from taxable income, in Denmark there is a cap at 6000DKK, and in Norway the cap is just doubled from 3850 to 7700 NOK.

were significantly weakened among blue-collar workers because of the large increase in their total costs for fund and union membership. The massive, simultaneous union exit among manual workers probably also implied a break in social custom on many workplaces, being part of the reason why their density rates did not stabilize when eventually the fund fees and tax deduction for union fees (temporarily) in 2014 were reversed to previous levels.

While no parallel effects were seen in Norway where UI is run by the state, the deregulatory changes in the Ghent-systems in Denmark in 2001 – enabling free establishment and choice of UI-fund – resulted in similar but slower falls in unionization than in Sweden, mostly among blue-collar workers (Andersen et al., 2014). In Denmark, this came together with a marked shift in union membership towards “alternative unions” who are not involved in CB – presently organizing 12-13% of employees (Høgedahl, 2014; 2022). In consequence, the density of Danish unions with bargaining functions is now down towards 50%, largely corresponding to the Norwegian density level. Conversely, at the private sector workplaces in Norway with CAs, union density is around 60% (Nergaard, 2022) which is roughly comparable with the general levels in Sweden and Finland where most workplaces are covered by CAs. Also in Denmark, CAs and union density are strongly correlated (FH, 2022) For governments and other actors that want to boost union organization rates, policy tools increasing the coverage of CAs may thus be helpful (see section 4).

### **An example that selective economic incentives can work**

Aiming to reduce the “free-rider problem” most collective associations are basking with, Nordic trade unions have tried to develop selective incentives to recruit and retain members through special member services such as rebates on insurance, bank-loans, fuel, vacations, and so on. Many studies have indicated that general member services with no connection to risks at work have little effect, whereas more specific insurance against job related risks tend to have strong incentive effects (Calmfors et al., 2021).

A good example is the marked membership rise in several white-collar unions in Sweden after they begun to offer their members highly beneficial, extra unemployment insurance (Kjellberg & Nergaard, 2022). This extra income security is especially favorable for high-paid employees as it enables them to exceed the relatively low “cap” in the Swedish UI-system and even reap certain tax advantages. By contrast, the net gains of similar schemes offered to members of some blue-collar unions with low wages and much part-time work have so far proven less attractive (ibid.).

An econometric study of changes in net tax deduction for union fees in Norway lends further support to the view that costs do matter for decisions to enter, remain or leave unions (Barth et al., 2020) – in particular for low income workers, single households, and other vulnerable groups of workers. Over the past decades, numerous surveys in the Nordic countries have indicated that younger people in particular have adopted more instrumental views of trade unions membership, weighing the costs against work risks and the perceived benefits that membership may bring in such situations (Calmfors et al., 2021; Høgedahl, 2014). Yet, there are as earlier mentioned clear indications that the preferences and calculations of younger people change when experiencing crisis, as viewed f.i. under the pandemic. In view that work-related risks are highly concentrated among low-skilled labour in segments with non-standard working conditions and low union density, governments might consider making tax deduction schemes for union fees – or supplementary

membership benefits - relatively - relatively more favourable for low-paid than high paid workers.

### **Possible government action to boost unionization**

As the factors influencing decisions about joining, leaving or remaining in trade unions are coupled with distinct theoretical approaches, it is helpful to differentiate between government initiatives to promote unionization that are supported by one or the other way of reasoning:

#### **Government action to boost unionization**

(1) In view of the *utilitarian, rational choice based theories* about unionization, an obvious strategy would be – in dialogue with the organizations -- to look for ways to strengthen economic incentives that can affect the cost-benefit assessments of specific target groups among potential “leavers” and new members. Such measures might typically include improved tax deduction schemes for membership fees, perhaps also for fees related to certain types of optional member services or benefits anchored in collective agreements (e.g. extra income insurance, training, pension funds, child care, health services, i.e. occupational welfare). One can also envisage incentives targeted at students especially in vocational training, f.i. partial fee deduction from future repayment of student loans or school levies,

2) In view of theories about the unionization effects of *social custom, norms and peer pressure at the workplace* – for instance to show solidaristic behavior, contribute to common efforts, and avoid freeriding on CAs – state measures that make it more attractive or easier to develop collective bargaining at the workplace can be relevant. Other initiatives in the same vein might be support for branch programs involving workforces in improvement of f.ex. training/skills, Health & Safety, innovation, and flexible/predictable hiring forms, targeting hard to organize branches with many low paid workers in particular. One can also envisage enactment of employment law that restricts casual, atypical contracts and favours regular, full-time jobs, which enable enough proximity and contact among the workers to develop mutual identification and communication needed for building a local union club.

(3) With a view to *institutional theory*, it is hard to imagine any new arrangements that directly can affect unionization like the Ghent system has done historically. As the most important institutions shaping labour and management behavior emerge from collective bargaining, the issue of developing functional equivalents to the Ghent systems is followed up below where possible ways to promote collective bargaining are discussed. In that vein, one cannot preclude that future welfare state retrenchment will open space for unions or the social partners to develop new institutions providing supplementary social benefits to employees who are unionized and/or covered by collective agreements, thereby also boosting union membership.

## **3.2 The employer side: Variegated but rising organization rates**

Despite the employer organizations’ key role in multi-employer collective bargaining, there has in public debates been scant attention to the large Nordic variation in employer organization rates. Such rates are calculated from the share of the wage earners that work in the affiliated companies of an employer association. With 100



percent organization among employers in public sector, the main issue of interest here is how the development in employer organization rates in private sector has influenced collective bargaining coverage in the Nordic countries. According to OECD, the organization rate of private sector employers differed in 2018/2019 from 82% in Sweden to 52% in Denmark, with Finland (59%), Iceland (70%) and Norway (73%) in between (Nergaard, 2022, see Appendix table 3.2). As the figures from different data sources vary, the figures should be viewed as rough, comparative indicators.<sup>10</sup>

Comparable figures for variation across single industries are unfortunately hard to find, but previous studies have shown that the rates in manufacturing, banking and finance are generally high, whereas the rates in other private services with many small firms and high turnover usually are lower. Given the rise in service employment in recent decades, it is interesting to note that OECD time-series for employer organization rates suggest a slight increase in Denmark, Finland and Sweden in recent years, and a sharp rise in Norway.

Employer and industry associations perform a plethora of functions, and these have in the Nordic countries usually been gathered under the same organizational roof (Strøby Jensen ed., 2000).<sup>11</sup> The tasks range from the role as employer representatives in collective bargaining and social dialogue with trade unions and state interlocutors to political agency, lobbying, industrial policy, member services, information, training, advice on legal and tax questions and so forth (Traxler, 1998, Ibsen & Navrbjerg, 2019). Membership can also be viewed as indication of good corporate responsibility (Alsos et al., 2021). As most employers represent organizations with professional staff/resources and a number of workers, it is in the literature considered much easier for employer associations to achieve a high organization rate than for trade unions (Traxler et al., 2001). Yet, also employer associations face collective action problems, as single employers may find it tempting to pursue free-rider strategies by staying unorganized and avoiding many of the obligations or costs coupled with membership (ibid.; Olson, 1965). Aimed to serve as a selective incentive, it is in the Nordic states apparently common to allow companies to write off membership fees on the running expenses.

Furthermore, even among organized employers it is not uncommon that they are not interested in all the tasks provided by their association. Hence, in some employer associations the affiliates are allowed to choose whether to subscribe to their collective agreements and employer related services or not. Such practices have long been commonplace in Norway, and are now spreading in Denmark. In Finland, more radical change may be underway as the associations of manufacturing employers in 2021 chose to transfer all CB functions to a separately established organization with voluntary membership (Jokinen 2021).<sup>12</sup>

Accordingly, there is no one-to-one relationship between employer organization rates and CB- coverage, although the link is much stronger than for union density. The other way around, it is notable that nearly half of the unorganized employers in

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<sup>10</sup> E.g. as publicly owned enterprises are counted in private sector in Norway and in public sector in Denmark, private sector figures in DK are underestimated compared to NO. However, as the Danish figures only cover fulltime employees in private sector and the share of part-timers tend to be higher in unorganized, small companies, this pulls in direction of too high figures.

<sup>11</sup> In Norway, several industry organizations and employer associations underwent mergers in the 1980s, possibly having implications for the Norwegian affiliates' relatively low rates of CB-coverage (se 4.1).

<sup>12</sup> In the Finnish forestry industry, many companies have apparently withdrawn from multi-employer CB and some of the biggest enterprises have even refused to bargain at the local level (Jokinen, 2021)

Norway – mostly small firms – in a recent survey indicated that they were likely to organize if they faced worker claims for a CA (Alsos et al., 2021: 65). Some employer federations have also reported that they are considering introducing reduced membership fees for firms with CAs.

As is elaborated below the strength of this link between employer organizing and CB-coverage varies remarkably among the Nordic countries – from Sweden on top to Norway on the bottom – indicating that there are untapped potentials for cross-national learning. As to possible state measures to stimulate employer organizing as element of broader strategies to strengthen CB, this is discussed in the final paragraph 4.2 of the ensuing section about Nordic differences in CB-coverage. Apart from possible tax incentives for signing CAs, so-called semi-dispositive legislation – e.g. on working time, staffing strategies or alike – that only can be exempted from through collective agreements may also spur employer organizing and, indirectly, perhaps even union building.

## 4 The heart of the matter: The coverage and reach of collective bargaining

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In this section, 4.1 describes the main Nordic differences and changes in CB-coverage and reviews some of their institutional reasons. With a view to employer motives for entering CAs or not, 4.2 discusses possible strategies to raise CB-coverage, pointing to a range of tools and measures the states and the organized actors can use to stimulate collective bargaining both from ‘below’ and ‘above’.

### 4.1 Nordic differences and developments in collective bargaining coverage

The key distinction of the Nordic working-life models is their encompassing, coordinated collective bargaining systems. In comparative rankings, the Nordic rates of CB-coverage – the share of wage earners covered by CA terms – are in the high end, except in Norway which is ranked low or medium in West European context (Stokke et al., 2013, Andersen et al., 2014).<sup>13</sup> According to the most recent comparable figures, the Nordic coverage rates varied from 65% in Norway to 82% in Denmark, 89% in Finland and Sweden (Nergaard, 2022: Table 5.3, see Appendix Figure 4.1).<sup>14</sup> There has been some decline since the turn of the century, ranging from 2 percentage points drop in Norway to 5 points in Sweden, with Denmark and Finland in between (ibid.) As coverage is virtually 100% in *public sector*, such changes are strongly affected by changes in the public employment share, which for instance in Sweden has decreased markedly since 2000 while it has increased steadily in Norway. The most interesting issue is thus how bargaining coverage in the *private sector* has varied across the countries, over time, and between different industries and categories of workers (see below).

#### Extension mechanisms

When comparing CB-coverage figures across countries, it is useful to distinguish between the share of workers employed in companies *directly* bound by a collective agreement, and the share *indirectly* covered through legal extension mechanisms making terms and conditions of collective agreements binding for all firms and employees in the relevant domain. Extension of CAs has long been commonplace in

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<sup>13</sup> CB-coverage is measured by the share of wage-earners working for an employer that is directly bound by a CA or indirectly bound through legal mechanisms for extension of individual terms of the CA. As data sources differ, it is hard to get reliable, comparable figures for CB-coverage (OECD 1994; Nergaard 2022.) Individual survey data often overestimate the coverage while the reliability of organizational registry data varies.

<sup>14</sup> According to OECD statistics, coverage in Iceland is 92%.

continental Europe, and has in *Finland* since the 1970s been standard practice in agreements covering 50% or more of the relevant workforce, rendering all substantial content and wage tiers in the CAs generally binding (OECD, 1994). Since the early 1980s, wages and other provisions of collective agreements in *Iceland* have according to statute become minimum working conditions on the labour market regardless of the whether the employer and workers in question are members of the signatory associations of the agreement; they are in other words generally binding (Blöndal, 2022). Prior to the EU enlargement in 2004, some trade unions in *Norway* started invoking the extension law, enacted when entering the single market, and asked the “Tarifboard”<sup>15</sup> to declare minimum wage clauses and some other minimum terms in their CAs generally applicable. Such *partial* extension requires that foreign workers evidently receive lower pay than natives, and is currently applied in 9 industries<sup>16</sup> marked by high labour inflows and low-wage competition after EU’s Eastward enlargement (Dølvik et al., 2014). Denmark and Sweden, by contrast, have no such mechanisms, which their social partners and political parties are strongly against and regard as incompatible with their legacy of voluntarist collective bargaining.

### **Private sector collective bargaining coverage: Main lines of variations**

According to the most recent overview of Nordic CB-coverage figures estimated on basis of comparable organizational registry data, the share of workers employed in private sector firms *directly* covered by CAs in 2017/18 differs from 46% in Norway and 65% in Finland to 73% in Denmark and 83% in Sweden (no Icelandic figures available, Nergaard, 2022, Appendix Figure 4.1). The Swedish rate is thus almost twice as high as the Norwegian one, underscoring the large Nordic gaps in this area. When including workers covered through legal extension mechanisms, the Finnish coverage rate in private sector increases 19 percentage points (to 84%). The ‘partial’ extension in Norway has so far not been included in CB-coverage figures. Securing 11% of private sector workers the right to minimum pay and some other terms in their industry CA (Nergaard 2022: Table 4.7), inclusion of this group would raise private sector CB-coverage to 56%, still almost 30 percentage points lower than in Sweden and Finland.

Within countries, private sector CB-coverage increases with company size<sup>17</sup> and varies substantially from industries producing tangible goods and financial services in the high end to hospitality, retail, cleaning, culture and creative trades in the lower end. While there are modest Nordic differences in goods producing industries, the Nordic coverage gaps are biggest in private services with many small firms. The Norwegian figures for direct CB-coverage thus vary from around 80% in typical industrial trades and finance to 25-40% in typical service branches where the share of non-standard work is high (Alsos et al., 2021: 35). In the same vein, several studies have shown that the lowest likelihoods of being covered by CA in private sector, *ceteris paribus*, are found among workers who are young or have low pay and skills, minority

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<sup>15</sup> Besides a minority of representatives from the social partners and the organized interests in the case at hand, the Tarifboard comprises members from civil society, working life experts and the state.

<sup>16</sup> Construction, ship & offshore yards, electrical work, agriculture, cleaning, road & bus transport, fish refining industry, hospitality (<http://www.fafop.no/temasider/allmenngjoring-og-minstelonn>)

<sup>17</sup> For example, CBC in Norwegian firms with less than 10 employees varies from 7-17% in different sectors, while in firms with above 100 employees it varies from 71-88% (Alsos et al., 2021:100).

background, short tenure, part-time jobs or other non-standard contracts (Kjellberg & Nergaard, 2022).

Conversely, the likelihood is highest in the middle and upper parts of the labour market with many well-paid/skilled jobs and full-time, open-ended contracts, except for highly paid managerial and professional groups, contributing to a bell-shaped, right-skewed curve of CB-coverage. As for union membership, it seems that the wage earners that are least likely to be covered by CAs are those with least market power and most need for protection at work. For politicians and the social partners it is thus pertinent to discuss whether or how the state can support the two sides of industry in raising the level of CB-coverage in the lower end of the labour market in particular.

Since early 2000s, the direct coverage rates in private sector had by 2017/18 decreased from 90% to 83% in Sweden, 67% to 65% in Finland, 77% to 73% in Denmark, and from 50% to 46% in Norway (Nergaard, 2022), i.e. an average decline of 4.5 percentage points. As the employer organization rates have risen, the decline in CB-coverage reflects a *decrease in the share of organized employers covered by CAs*. The “worst case” in this respect is Norway where the share of affiliates covered by CAs has dived and more than offset the strong rise in employer organization rate, resulting in a marked fall in CB-coverage. As Calmfors et al. (2019: 21) note in Sweden, the reduced Swedish union density “implies that the CB system to a higher degree than before is upheld by the employers”. Hence, CB-coverage is in no way a simple function of unionization and has over time become more affected by variations in employers’ behavior. The picture in the Denmark, Finland and Sweden, where union density fell three times more than CB-coverage in the same period<sup>18</sup> conforms with the observation in comparative research that bargaining coverage tends to correlate with variations in the employer organization rates rather than in union density (Traxler et al., 2001, Stokke et al., 2013). This partly reflects that many employer organizations have internal rules obliging affiliates to apply their CAs, partly that legal extension of CAs strengthens employers’ incentives to organize and influence decisions they anyway will have to comply with (ibid.).

While such co-variation between the direct CB-coverage rate in private sector and the employers’ organization rate (2017/18) is observed in Sweden (83% vs 82%) and Finland (66% vs 59%),<sup>19</sup> the CB-coverage rate is substantially *higher* than the employer organization rate in Denmark (73% vs 52%), whereas it, by contrast, is much *lower* in Norway (46% vs 73%). In consequence, a considerable share of Norwegian private sector employees (27%) work in organized firms that are unbound by CA. In fact, around 2/3 of all Norwegian workplaces in private sector have according to survey data no CAs – many of them small firms with less than 10 employees (Alsos et al., 2021: 36).

Finally, although CB-coverage is not a simple function of unionization, several Nordic studies show, the other way around, that trade union density is substantially higher in companies bound by CAs than in unbound companies, all else being equal (Alsos et al., 2021; Høgedal, 2014; FH, 2022). Also employers become apparently more inclined to organize if they face demand for a CA. Together, this underscores that – with different national contours – there is strong interdependence between employer organizing, collective bargaining coverage, and union density in the Nordic systems of industrial relations.

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<sup>18</sup> TU density is 21 points lower than direct CBC in Sweden, 15 in Denmark, 6 in Finland, and 15 in Norway.

<sup>19</sup> Included those indirectly covered by extension, total CBC in Finnish private sector is 84% (Nergaard 2022).

### **CB-coverage depends on employer behavior, union counter-power and collective bargaining rules**

The overview above suggests that apart from variations in employer and trade union organization rates, the Nordic discrepancies in CB-coverage are significantly influenced by differences in

- the rules and customs organized employers have to follow when deciding whether to accept worker or union claims for a CA or not;
- national law and union practices and capacities as regards strike, boycott and sympathy action to enforce claims for CA, and,
- employer organizations' internal rules, norms or customs regarding the affiliates' obligation to apply their collective agreements.

For example, when private sector CB-coverage in the Norwegian "worst case" is as low as 46% -- roughly half of the Swedish rate -- in spite of fairly high employer organization rates (73%), it reflects longstanding custom of accepting affiliates without CAs in the employer associations. Instigated by the main employer confederation NHO, this was in the late 1990s codified in rules in the basic agreements (for blue-collar workers), implying that trade unions usually must organize at least 10% of the relevant workforce to claim a CA in organized companies (Stokke et al., 2013: 65).<sup>20</sup> The actual impact of these rules are unclear, but the employers' demand for such criteria presumably reflected the more competitive, fragmented pattern of organization in Norway than elsewhere in Scandinavia (Nergaard & Stokke, 2007), and partly also that the present employer confederations emanated from mergers with industry associations without any role in CB in the 1980s.

In contrast to the thresholds for activating CAs in organized firms in Norway, the trade unions in *Sweden* can demand agreements in all organized firms provided they have at least one member, but in most employer associations there are no requirements on union members in the workplace (Kjellberg, 2020: 99). In *Denmark*, unions do not need members to claim CA, except in retail where 50% membership is required.<sup>21</sup> However, to engage in industrial action against an employer, Danish unions need a legitimate purpose, which is typically to represent workers and improve their wages and working conditions through collective bargaining. The industrial actions taken should be proportional with this purpose.<sup>22</sup> Whatever explanation, there is in effect a much lower share of the affiliates in employer associations in Norway than in the other Nordic countries that activate their associations' CAs, especially in private services. Compared with Sweden and Denmark, differences in domestic law and trade union tradition or capacity also imply that Norwegian workers apparently less often use strike, boycott and sympathy action to underpin CB claims in unorganized firms -- especially vis-a-vis foreign companies.

The institutional differences reviewed above can help us understand why the direct CB-coverage in private sector Norway is 27 percentage points *lower* than the

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<sup>20</sup> According to former President of the Labour Court, emeritus professor Stein Evju, such employer-driven threshold rules were historically often more rigorous (30-50%), especially regarding workers outside the industrial sector, and sometimes for 'competing' unions claiming agreements in domains with already existing blue-collar agreements (see Evju 1982: 162-165). For certain white-collar groups (with mostly individual wage setting), typically finance, such thresholds are usually low or non-existent. The current 10% threshold results from a compromise in revision of the main agreements in 1997 and its eventual application, where the main employer organization, NHO, initially had wanted stricter criteria especially for 'competing unions' (Stokke et al., 2013: 63, 65)

<sup>21</sup> <https://www.hk.dk/raadogstoette/overenskomst/hvad-er-50-procentsreglen>

<sup>22</sup> Thanks to Christian Ibsen and Laust Høgedal for clarifying this.

employer organization rate, whereas it is 21 percentage points *higher* in Denmark, and roughly at the same levels in Sweden and Finland. Given the low Danish employer organization rate, the relatively high CB-coverage in Denmark apparently reflects the unions' strong organizational capacity to find and force unorganized and unbound companies to sign CAs. The significantly higher CB-coverage rate in Sweden than in Denmark has to do with the Swedish employers' superior propensity to organize, but it is also compounded by internal norms in the Swedish employer associations where affiliates are expected to apply their central CAs. Doing otherwise is possible only in a few associations and will come to an end as soon as the union demands the central agreement to be applied in the company (Kjellberg, 2020: 99). By contrast, the high CB-coverage in Finland, on par with Sweden, is in view of the low Finnish employer organization rate held up by the common practice to render CAs generally binding.

### **The importance of the local tiers for the functioning of multilevel collective bargaining**

In the two-tiered Nordic models combining centrally coordinated bargaining and ancillary local negotiations, the local actors play important roles in negotiating workplace agreements, applying and enforcing sectoral CAs, and facilitating workforce representation, dialogue and voice vis-à-vis management. Hence being crucial for the articulation between the local and central levels of CB, the local actors are indispensable for the functioning and legitimacy of the CB systems. As company level CB takes place under a peace obligation and mainly is about improvements of centrally agreed conditions in favour of labour, the level of workplace conflict is much lower than in fully decentralized systems such as the UK. With core criteria for wage increases linked to productivity growth and competitiveness in export manufacturing, there are also strong incentives for participation in promotion of innovation, restructuring, skills, and productivity – so-called “productivity coalitions” (OECD 1994). Combined in many instances with opportunities to derogate from labour law rules through CB, the company tiers have indeed been key in developing the Nordic notion of negotiated or organized flexibility (Dølvik, 2013).

There are many indications that these win-win functions of local industrial relations are the first that disappear when the organizational pillars of the CB systems begin withering (Toubøl et al., 2015; Trygstad et al., 2015). When union membership at the workplace drops below a critical mass needed to elect a shop steward or uphold a workplace club, the trust, social custom, and socialization mechanisms serving as glue in local management-labour relations tend to evaporate, often reducing participation fora to more or less empty shelves. Indications that such hollowing out processes in local industrial relations are approaching tipping points where they risk losing relevance, impact, and legitimacy, have in several branches long been seen in Norway, especially in private services, but the sharp drop in unionization in the other Nordic countries in recent years has apparently unleashed similar dynamics there (see f.i. Toubøl et al., 2015; Bergholm & Sippola, 2021). Besides weakened local capacity to counter casualization of work and more skewed power relations in branches with most vulnerable workers, withering of the local tiers of labour relations will also reduce the capacity to enforce CAs and prevent low wage competition. Such arguments are central also in the Swedish and Danish skepticism of extension mechanisms (see discussion below), which in their view entail a technical, top-down way of regulation that akin to statutory legislation pre-empts local ownership and enforcement activity. On the other hand, to the extent that extension mechanisms reduce the cost advantage of operating outside CAs –thereby also strengthening the

incentives for and reducing the risk of joining CAs – the strong impact of CAs on unionization and employer organization (see 3.1) indicates that the local labour relations effects of extension mechanisms are far from unequivocal.

### **State support is essential to maintain strong, encompassing CB-systems**

In international literature, it is well established that state support is indispensable for the maintenance of well-functioning CB systems with high coverage (Traxler et al., 2001). Besides legal protection of the freedom to organize and engage in collective bargaining in accordance with the European Convention of Human Rights, ILO-conventions and other international law recognized in the EU treaties, such support often includes arrangements for dispute resolution, making CAs generally applicable, and tripartite cooperation in labour market and social policy issues. Another lever in the Nordic context is so-called semi-dispositive employment regulation allowing actors bound by CAs to negotiate exemptions from the law, typically pertaining to rules regarding working time, use of temp agencies, subcontractors or other non-standard contracts. Providing incentives for engagement in CB, this is in the Nordic context most prominently seen in Sweden, where most employment protection law can be exempted from through CAs, opening for negotiated flexibility.

The state can also support CB through various means to increase the reach or regulatory impact of CAs that are not included in the CB-coverage rate. The most well-known is legislation obliging use of *social clauses* in public tenders in accordance with ILO convention 94, where CAs or compliance with CA terms are often listed as a prerequisite for being eligible. Quotas for permanent staff, apprentices and maximum number of tiers in the subcontracting chain are also spreading, f.i. in Norway. While social clauses feature prominently in Norway, Iceland and Finland, they have apparently been less widely used in Denmark (not mandatory in the municipal sector) and Sweden who has neither ratified ILO-94. A further mechanism is state regulation of criteria for getting *licence* to perform certain kinds of activity/work requiring application of CA terms, as e.g. when Danish freight transport law obliges providers to apply wages in accordance with Danish CAs (Transport-ministeriet).<sup>23</sup> More indirect arrangements enhancing the reach of CAs are seen when e.g. the bargaining parties are taking joint responsibility for recognition schemes whereby they can influence which actors are allowed to undertake specific activities, for instance, cleaning services, temp agencies, vocational or professional certificates, and alike.<sup>24</sup>

Nordic immigration laws normally require that migrant and posted labour from outside the EU/EEA, are guaranteed wages and other terms in accordance with relevant national CAs. Similar rules were applied in the transitional arrangements for free movement from the EU accession states 2004-2009, first adopted by Denmark and swiftly followed by the other Nordics except Sweden. After implementation of the EU directive on Temporary agency work (2008/104/EC), statutory regulations demanding that agency workers are either secured equal treatment with user company workers or covered by CAs are now in place in all the Nordic countries.<sup>25</sup> Similar rules

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<sup>23</sup> Transportministeriet (2012) LBK nr 1051 af 12/11/2012 Godskørselsloven, §6, Stk. 3: «Indehaveren af en tilladelse skal følge de bestemmelser om løn- og arbejdsvilkår for chauffører, der findes i de pågældende kollektive overenskomster.»

<sup>24</sup> An example here is the Swedish social partners' recognition scheme for temp agencies, which formed basis for regulating the branch by means of CAs.

<sup>25</sup> The EU Directive's option to exempt from equal treatment if covered by CA and secured proper conditions, stemmed from the Swedish CAs covering the agency sector signed between the social partners in 2001 (Ahlberg ed., 2008).



regarding hiring of subcontractors are found in many Nordic CAs. Swedish co-determination law apparently also requires consent from the relevant workers in instances of subcontracting.

Many of these regulations and the high-tempered debates in the wake of the Laval debacle about how EU/EEA member-states can prevent wage dumping from sub/contractors from other member states, point to the fact that the effectiveness of CAs depends on how much of the actual labour and product market the actors are able and allowed to cover and enforce (Commons, 1909). If the market is extended through introduction of free movement across the borders, the relative coverage of the CAs and the actors' enforcement activities diminishes, in consequence reducing their effective impact. The strength of the de-regulative effects of such market extension depends on the national actors' ability to impose host country conditions on the foreign challengers, thereby constraining the scope for low-cost competition. This is the reason why Danish and Swedish unions seek to strike direct CAs with foreign service providers and national firms hiring foreign labour, while other Nordic unions have become more eager to use legal extension mechanisms to cover firms that reap competitive advantages by hiring under-paid labour – be they domestic or foreign.

## **4.2 Towards more comprehensive strategies to broaden collective bargaining coverage?**

Discussing why Nordic bargaining coverage has declined in recent years and how this trend can be reversed, section 4.2 draws attention to why more companies stand outside the CB system, and what the state in cooperation with the social partners can do to strengthen companies' and workers' interest in and ability to develop CB.

The previous sections have shown that there are significant Nordic varieties in CB-coverage and the organization rates of employers and labour. The shares of the Nordic workforces that are protected by CAs and represented in collective bargaining are differing profoundly. While these variations mirror very diverse organizational landscapes, it is in all instances evident that – with different national contours – there are strong inter-dependencies between the development in CB-coverage and employer and trade union organization rates. Hence, irrespective of variations in regulative constraints, and who are in the driver's seat, successful strategies to strengthen national CB systems require a comprehensive view of how intertwined and mutually dependent the organized actors and their bargaining relations are.

In contrast to many Nordic discussions about CB-coverage ending with calls for greater union efforts to raise their organization rates and renew their recruitment methods, the focus will here be turned around, shedding light on whether and how joint initiatives to raise CB-coverage can boost organization rates on both sides by setting in motion mutually reinforcing snowball or multiplier effects. Conversely, often separated discussions about ways to increase organization rates ought in this perspective to be better linked with questions about how the respective organized actors' capacity and interest in expanding CB can be reinvigorated, and what the state can do to support that.

### **Employer reasons and motives for entering or avoiding collective bargaining**

Although union decline in several private sector branches has weakened the pressure on companies to sign CAs, it is evident that important explanations for the Nordic

gaps and decline in CB-coverage are found on the employer side. Reflecting changes in the composition of employers and thereby also in the tradition for, interests in, and motives for joining or rejecting CB, the most recent shares of private sector employees that work in companies without any CAs differ from 15% in Sweden, 27% in Denmark, and 35% in Finland to 54% in Norway. Searching for ways to narrow the gap between the worst and best cases here, it can be useful to look at the motives or reasons employers cite as explanation for being bound or not being bound by CAs.

A major driver of employer organizing and participation in CB has from the very beginning been to achieve protection against the challenge and demands from organized labour, whose very *raison d'être* is to promote CB as a lever to advance worker interests. As the Nordic CB systems eventually became institutionalized, a range of factors has induced the employer side to re-negotiate, maintain and strengthen the CB relations with the trade unions. These motives are well-known from the Nordic industrial relations literature (see e.g. Calmfors et al., 2019; Elvander 1988; Due et al., 1994; Andersen et al., 2014):

- secure labour peace and avoid conflict, not least on the local level;
- save transaction costs regarding local wage setting, hiring, and HRM-related issues;
- promote coordinated wage moderation, competitiveness, and a level playing field;
- provide a regulated framework for participation and workplace cooperation in development of productivity, skills, innovation, and negotiated flexibility.

Although this kind of motives is typically cited by large employers in industrial sectors with strong union counterparts, they are not necessarily rejected by employers that for various reasons stand outside the CB system. Although these also benefit from the collective goods provided by the CB system (Olson, 1965; OECD, 1994) – e.g. reaping competitive advantage by saving on wages and labour costs – they may calculate that they can gain from such universally accessible goods without shouldering the costs of organizing, negotiating and complying with the CAs ('free-riding').<sup>26</sup>

Overrepresented among small firms and in parts of the services sector in particular, companies unbound by CA are often citing fairly practical or trivial reasons why they have refrained from CB. In recent questionnaires among Norwegian and Swedish employers, the majority of companies with CAs reply that they experience agreements as useful and positive for the company, whereas the companies without CA have a much more negative view of the effects of CAs (Alsos et al., 2021, Calmfors et al., 2019). In Sweden the negative aspect of CAs most cited among unbound companies is that CAs are "krångliga och administrations-krävande" (ibid: 117). In the unbound Norwegian companies the most cited answers why they had no CA were that "the workers haven't asked for it" (57%) and that "it is not common in their branch" (42%) (Alsos et al., 2021: 75). These answers were especially frequent in new branches with no tradition for CB, typically ICT, consultancy, and accountancy companies, but were also common in small firms in branches with low union presence – conforming with social custom theory.

A different type of answer ticked off by 20% of the unbound Norwegian firms was that "there are more disadvantages than advantages with CAs" (Alsos et al., 2021: 75). Larger unbound companies chose this answer more often than smaller firms, not

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<sup>26</sup> The notion of 'free-riding' is often propagated by trade unions, and sometimes leads to calls for a 'CA levy' or as recently proposed by the Danish FH, a labour market contribution/arbejdsmarkedsbidrag (FH, 2022).

seldom combined with the alternative “not common in our branch”. It is hard to judge to what extent this skepticism of CAs reflects more principal reasons. However, interviewed representatives of the employer organizations emphasized that perceptions of CAs as overly detailed, hampering flexibility, and imposing overly expensive pension schemes, are frequent reasons for rejecting CAs (ibid.:71-72). Such reasons are presumably most common among the 1/3 in the survey stating that if faced with a worker demand for CA they would try to convince the workforce to withdraw the claim or hinder it as far as possible. Still, as almost half of the unbound companies indicated that they would accept a demand for CA, there is at least in the Norwegian “worst case” considerable, low-hanging fruits for efforts to harness the large untapped potentials for increasing CB-coverage.<sup>27</sup> According to interviewees from the employer associations this would be easier if the agreements were made less detailed and transformed into framework regulations with more options for locally negotiated choice and adjustment.<sup>28</sup>

### **The traditional way to establish CAs has become steeper**

Irrespective of national pre-conditions it seems that the traditional way of developing CB in a company or branch – starting with organizing enough workers at the workplace to build power to pressure the employer counterpart into signing a CA and eventually managing to force enough employers to negotiate a multiemployer branch or industry agreement – has become increasingly demanding (Alsos et al., 2021). This is especially so in new or growing branches without tradition for collective organization and bargaining, such as ICT, security, platform work, and so forth. It is often hard enough to organize sufficient workers to obtain a CA in one or a few such firms, as witnessed in the triangular TWA industry or platform companies like Foodora and Hilfr (Jesnes & Oppegaard eds., 2021). Yet, it is an even steeper uphill struggle in such contexts to build a sufficiently persistent challenge to force a critical mass of employers to organize and negotiate a multiemployer agreement of classic Nordic brand (Alsos & Dølvik, 2021). Also in other, more traditional branches, increased use of nonstandard contracts, subcontractors and other forms of external labour has brought fragmentation and barriers to collective action that make it harder for workers to develop CB the old “bottom up” way and uphold the CB-coverage rate.

### **Need for complementary approaches to increase CBC from above?**

If Nordic governments and organized actors are committed to strengthen the CB systems and increase CB-coverage in such fast changing circumstances, it may seem overly optimistic to rely solely on the trade unions’ capacity to recruit workers and build CB systems ‘bottom up’. This classic approach will certainly still work in core

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<sup>27</sup> In view that 54% of the Norwegian workforce in private sector work in firms with no CA, the half of the unbound firms indicating they would accept a claim for CA represents a significant potential for increasing CBC.

<sup>28</sup> In some countries, notably Germany, some sectoral CAs do, under specific conditions, allow the local actors certain rights to negotiate derogations, premised on central consent. A similar ‘crisis option’ was introduced in the Finnish crisis agreements in 2016. While the hierarchical principle of Nordic CB systems generally inhibits deviations in disfavor of workers, one could envisage that central agreements explicitly allowing locally negotiated exemptions on certain specified issues can make CAs more flexible and offer more options for workplace adjustment. Rather than allowing downward exemptions, distinguishing between a core of the CA that is obligatory for all workplaces covered and a set of additional clauses that can be exempted from conditioned on local consent might open for more tailored exchange of burdens and benefits at the workplace (“a la carte agreements”).

areas with mostly standard labour relations. But it is reason to doubt that it will suffice to turn the tide and increase CB-coverage especially in the growing areas marked by triangular and other complex, fluid variants of labour relations. In this view it seems pertinent to discuss whether or how the conventional approach can be complemented by deliberately drawing on the various Nordic methods to boost CB-coverage from ‘above’ or outside the workplace. If so, the actors can seek to develop more *multi-pronged strategies* where traditional approaches from ‘below’ are combined with more proactive initiatives from outside or above in targeted areas. Such strategies might combine a specter of elements, such as:

- (1) Measures *encouraging and easing the conventional upward way* to CB by strengthening employer incentives to sign CAs, removing regulative barriers, and amending rules preventing formation of CB-relations e.g. for quasi self-employed and platform workers, where changing EU law may open new scope for action (see Hotvedt et al., 2020).
- (2) Supporting the organized actors in further development or diffusion of *existing methods to expand CB from outside or above through direct agreements* between unions and single employers in branches with scant union representation. An example could be the Swedish central organizations’ establishment of a recognition scheme and CAs for the *triangular temp agency industry* which has enabled full CB-coverage and more “ordning och reda” in an area that in other countries has stirred controversy and unrest about inferior, precarious conditions (Alsos & Evans, 2018). In recent years, these CAs have also been used as a framework for establishing more organized labour relations in platform companies (Söderqvist, 2017).
- 3) Measures to enhance use of *existing methods to increase the reach of CAs*, for example by more proactive use of
  - (a) *social clauses* in public tenders by requiring CAs, compliance with core terms in CAs, quotas for permanent staff/apprentices or maximum tiers of subcontractors etc reducing the scope for unfair competition and bogus companies;
  - (b) *licencing and recognition schemes* with criteria and procedures for permitting firms to undertake specific economic activities in ways that favour actors with proper labour relations and compliance with CAs (as e.g. in Danish transport legislation); and
  - (c) in countries with mechanisms for *general application of CA terms*, exploring ways to adjust *criteria and decision-making procedures* for extension of CAs, such as the 50% rule in Finland or the “lower pay for foreigners” requirement in Norway.

One might also envisage legal adjustments in the *content* that can be made generally binding in order to reduce the scope for unfair competition, especially in areas where the organized actors consider it unrealistic to achieve a level of CB-coverage that effectively can provide a floor under LM competition. A much more radical option would be to look at the Icelandic approach, where provisions in CAs by statute become mandatory minimum standards in the entire labour market.

If such initiatives from above shall work and instigate more bottom up actor efforts to build CB, they ought to be coupled to broader tripartite strategies aimed to create mutually supportive interaction effects. Both to spur horizontal diffusion of CAs within a segment of the labour market, and to strengthen the articulation between actors at local and central levels. One example could be targeted tripartite branch programs, another could be more deliberate use of conditionality, for example making licence to operate conditional on CAs as was done in the Swedish temp agency case.

### **Crowding out the real thing?**

There is considerable skepticism among Nordic organized actors against broader use of the kind of ‘from above’ strategies described afore, fitting poorly with the notion of autonomous CB built from ‘below’. This skepticism reflects the fear that more use of strategies from above can crowd out the local tiers of industrial relations, pre-empt labour counter-power at the workplace, and result in “lifeless shelves” of CB imposed by union bureaucrats from outside. Such arguments are in Denmark and Sweden in particular – formerly also in Norway – associated with the strong resistance against legal extension mechanisms, which in essence are viewed as a different form of statutory interference in autonomous bargaining serving as a “sleeping pillow” for the unions. Conversely, among Norwegian trade unions one can find skepticism against adopting the Swedish or Danish practice where external union actors negotiate CAs even at workplaces where they have very few or no members. Nonetheless, it is notable that the organized actors in all the Nordic countries have found it necessary and legitimate to supplement the classic approach to CB with one or another way to increase CB-coverage from ‘above’ – varying in accordance with historical differences in national rules and custom.

The widespread Nordic skepticism against extension mechanisms in particular, is often substantiated by reference to continental and especially the French experiences, where broad use of extension has come together with declining and very low rates of unionism. The assumption is that the latter is a necessary consequence of the former, encouraging free-riding among workers who reap the benefits of unions’ bargaining efforts without contributing. In line with theories of rational choice this appears as a plausible interpretation, but as earlier discussed labour unionization and collective action are influenced by a range of institutional and social custom-related factors. Hence, the Nordic experiences with extension mechanisms do not lend support to such single-factor interpretations of the effects of extension on unionization and CB, illustrated by Finland and Iceland, where broad – and vertically high – application of extension mechanisms for long time have coexisted with stable, encompassing CB systems and comparatively high union density. While Finland has seen a drop in unionization in recent years,<sup>29</sup> the share of the workforce directly covered by CAs has shown a certain increase (Nergaard, 2022). The impact of extension on CB thus clearly depends on the institutional context within which it is applied, in essence on how strongly anchored CB is in the national industrial relations and political systems.

Neither the effects of the partial extension applied to prevent cross-border wage dumping in Norway unequivocally support that extension crowds out unionism and CB. The rise in use of unbound subcontractors and temp agencies with foreign labour has surely come along with falling density and CB-coverage especially in the construction sector. But there are also examples that construction unions have managed to organize parts of the foreign workforce and strike CAs in such companies, using their advocacy role to obtain contact with exploited workers and secure that they receive the legal rights they are entitled to (Eldring & Arnholtz Hansen, 2009). Similar examples are found in the cleaning sector, where firms signing a CA view it as a quality label vis-a-vis customers, proving their seriousness and compliance with the CA made legally binding (Trygstad et al., 2012). Evaluating the Norwegian extension regime, Benedictow et al. (2021) thus found only minor effects on union density.

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<sup>29</sup> The decline in union density in Finland since 1995 is in the same range as in Sweden and Denmark, varying from 21 percentage points in Finland and 18 points in Sweden to 15 points in Denmark.

Apart from the deep-rooted values and norms embedded in the national industrial relations systems, an important premise when judging the merits of arguments against such practices is, *first*, that a major effect of extension and other methods to increase the reach of CAs is that the scope for unfair competition and freeriding is reduced – reinforcing the regulative effect of CA in the labour market. For employers, a central precondition for participating in multiemployer CB is that they can trust that they will not lose out in competition due to undercutting from unbound challengers, requiring that the employer association and the union counterparts are able to guarantee sufficient coverage to prevent competitive distortion. Corollary, for labour reducing the risk of being undercut in the competition for jobs is one of the key purposes of CB and a prerequisite for bargaining power. Hence, methods that heighten the reach of CB – or reduce the labour cost gap between bound and unbound actors – will *ceteris paribus* strengthen the market-related bargaining power of labour, and may in some instances even be a precondition for developing CB the conventional way. Thus, strategies to increase CB-coverage from above and below can in principle be mutually reinforcing. However, such multiplier effects require that the organized actors are ready to pool resources and invest in building organizations and bargaining relations from below in areas that become covered through strategies from above.

*Second*, to the extent that CA coverage and organizing is interrelated both on the employer and/or labour side, the effects of such targeted efforts may generate rising returns on the joint organizational investments. As earlier mentioned, CAs are in Denmark and Norway proven to correlate strongly with union density (Høgedal, 2014; Kjellberg & Nergaard, 2022), and signing of CAs seems in Norway also to encourage organizing on the employer side (Alsos et al., 2021). It would be surprising if development of direct agreements with unorganized firms in Sweden and the other countries do not have resembling effects, as joining an employer association may appear as an attractive alternative to concluding just a substitute agreement ('hängavtal') (Kjellberg, 2019: 588).

In short, the critical question when discussing the potential merits of more top-down initiatives to stimulate bottom up strengthening of the CB systems, is by what kind of flanking measures central initiatives to increase the reach of CAs can prod more companies and workplaces to take part in traditional CB and industrial relations. One way the state can contribute to such effects is by developing incentives that make CAs more attractive for single employers and their workers by means of labour law and taxation rules that benefit workplaces with CAs.

### **State measures to promote CBs as a collective good**

As emphasized above (4.1), development of viable CB and IR systems depends on third party state support. Apart from the use of *social clauses*, *licencing schemes*, *immigration law*, and in some countries *mechanisms for extension*, described above, some further remarks are added here with respect to three tools the state can utilize to strengthen employer and worker incentives to participate in CB and enhance multiemployer CB at branch/industry levels:

### Promoting collective bargaining as a collective good

1) Broader use of semi-dispositive legislation allowing employers and workers bound by CAs to negotiate exemptions from legal rules. In Nordic context, this has been most common in Sweden, where most employment protection law can be exempted from through CAs, granting leeway for negotiated flexibility.<sup>30</sup> Norway has similar rules regarding working time, and a pending government proposal restricts hiring of labour through temp agencies to companies bound by recognized national CAs. Some EU directives, e.g. regarding working time and equal treatment of agency workers, entail similar options. Semi-dispositive legislation can strengthen the incentives to strike CAs among employers in particular, but also workers can gain opportunities to engage in tailor-made exchange of benefits and burdens with the employer. Whether exemption rights are premised on nation-wide agreements, require central consent, or only requires a local CA, differ between countries, depending on the aims of the actors and the trust they have in the balance of power between the local actors.

2) State-sponsored branch programs related to industrial policy, restructuring, innovation, greening, lifelong learning & vocational training, sickness, staffing strategies (hiring/pools), recognition schemes, social dumping, and work-life criminality, and so forth, can aim to stimulate social dialogue and CB in branches with patchy organizations in particular. Examples of such initiatives are seen in a range of Norwegian branches with fluid jobs and patchy organizations.

3) Tax-based economic incentives encouraging employers and workers to participate in (multiemployer) collective bargaining. Complementing the tax deductions for membership fees granted to workers and (indirectly) employers in most Nordic countries, the tax relief for employers with CAs might e.g. be coupled with indirect labour costs (pay-roll taxes), favouring in-house employment and signing of CAs also for staff in support functions and management. As spread of CAs depends on the signatory organizations' efforts, for instance half of the gained savings may be granted to them, instigating the actors to invest in expansion of CBC and prodding organized firms without CAs to take part.<sup>31</sup> Besides the collective working life gains and social capital resulting from increased CA-coverage, a rationale for investing state money in such arrangements is to develop mechanisms that – akin to the Ghent systems' historical impact on unionization – can serve as a functional equivalent rewarding both sides for their joint efforts to broaden the collective good of CB in the Nordic models.

4) One can also envisage that additional tax benefits could be applied to fees/premiums paid into CA-based funds or schemes providing supplementary social benefits or occupational pensions, services, life-long-learning, health insurance or alike. This may not only alleviate the rising pressures on public services in such areas, but can also provide attractive means for recruitment of members on both sides. In view of the success of the optional extra unemployment benefit schemes offered by Swedish white-collar unions, one might also imagine that optional services offered through CAs could also be subject to certain tax deductions, tailored especially to benefit workers in the lower end of the wage ladder.

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<sup>30</sup> A recent example of CAs enabling more local flexibility than the corresponding law is the 2020 agreement on short-term work in Sweden, making many firms join an employer associations during the pandemic (Kjellberg, 2022)

<sup>31</sup> In the same vein, some Norwegian employer federations have reportedly granted members with CAs lower membership fees. The Danish trade union confederation FH has recently suggested that workers and companies with CAs should get tax deduction for contributions to CA-based funds, while companies without CAs should pay a "labour market contribution" (FH, 2022: 9).

If such CA-based arrangements were made open for unionized self-employed labour and organized employers in platform firms or alike, they could also give impetus to incorporation of groups that have tended to stand outside the organized part of working life thus far.<sup>32</sup> As seen in several Nordic countries, there is – as the welfare state is retrenched – a growing scope for development of innovative services through CB arrangements.

As underscored above, initiatives to widen the reach of CB from above or outside the workplace cannot replace targeted joint efforts by the organized actors to promote CB and increase membership on the ground. Still, by improving the conditions for recruiting members and negotiating CAs the traditional ‘bottom-up’ way, they can be useful elements in developing more *comprehensive, multi-pronged strategies* to reverse the decline of the encompassing organizations and bargaining systems that have distinguished the Nordic models.

As will be elaborated in the final section, the effectiveness of such strategies are likely to increase if they are linked with flanking reforms in labour law that encourage CB and prevent companies from using new business concepts and staffing strategies to circumvent agreements or hinder access to CB for new categories of non-standard workers in particular. If the actors wish to draw on some of the approaches sketched above, their progress will also depend on their ability to use the Nordic tradition of tripartite cooperation to agree on the main tools and strategies to be applied.

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<sup>32</sup> Many Nordic trade unions have begun organizing free-lancers, sometimes in own branches, offering advice, contract guidelines, access to training, social insurance, legal support and so forth, while several employer federations have begun recruiting platform companies and other firms with mainly self-employed workers, offering a variety of support services (Ilsøe & Søderqvist 2022; Jesnes & Oppegaard, 2020).



# 5 Strengthening the Nordic working life model: Summary and concluding reflections

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Besides reviewing the main findings and suggestions, this final section points to the need for flanking labour law measures preventing companies from using new business concepts and staffing strategies to circumvent employer responsibilities and CB; the Nordic dilemmas related to influencing EU regulations, and, finally, the need for tripartite cooperation and autonomous state agendas to succeed in strengthening the Nordic working life models.

## **Objectives and methods**

Focusing on differences and change in CB-coverage and organization rates among workers and employers in the Nordic countries, the aim of this paper has been to strengthen the knowledge base for public debate about how to reinvigorate the Nordic working life model. A central question is whether the observed erosion of CB in parts of Nordic working life is mainly driven by irrevocable structural changes or can be accounted for by institutional-regulative factors that can be subject to political or organizational choice. To illuminate these questions, the analysis has focused on what the actors can learn from the intra-Nordic differences in CB-coverage, organization rates, and institutional regulations of CB practices. Paying special attention to the contrasts between the “best” and “worst” cases as regards CB-coverage, and the reasons for the salient differences among otherwise similar Nordic models in this respect, the intention has been to identify tools and strategies the actors can apply to narrow the gaps and promote upward convergence in terms of CB-coverage and organization rates.

## **Key empirical observations and challenges**

Since the 1990s, the CB-coverage in the Nordic countries has stagnated and turned downwards in several of the countries, implying that a growing share of the private sector labour force work for employers without any collective agreements.

- Apart from the unique Icelandic case – where less than 10% work in firms without CA – the employee share in companies without CAs is biggest in Norway (54%), and smallest in Sweden (17%), with Denmark (27%) and Finland (35%) in between. Including those covered by generally applicable CAs, the Finnish share uncovered by CAs falls to 16%.
- While the employers’ organization rates have shown some increase, there has been substantial decline in trade union density much owing to reforms in the Nordic Ghent-systems (UI-funds). The fall varies from 21 percentage points in Finland, 18 points in Sweden, 15 points Denmark to 5 points in Norway (without Ghent

- system), causing a convergence in union density around 50-65%, which still is high in comparative perspective.
- While union density remain high and stable in groups with higher education, the decline has mostly come among manual workers especially in parts of the labour market with many atypical contracts and workers with low skills/pay and minority background. The same applies to CB-coverage.

This means that an increasing share of vulnerable workers have little or no access to the protection ensured by CAs and trade union representation, and in important respects has fallen outside the Nordic working life model. Besides growing inequality and dualization between the core and periphery in the labour market – heightening the risk of marginalization and social exclusion – the growth in low-cost challengers is a threat to organized companies and distorts competition in favour of firms without CAs. In a context with increased cross-border flows of companies and labour, joint strategies to strengthen wage floors, enforcement, labour inspectorates, and state action against work life criminality has become crucial to protect and support organized working life.

### **The erosion of collective bargaining has multiple causes and consequences**

There are a number of interconnected factors that contribute to erosion of contemporary CB systems. Structural change, internationalization, free movement in the enlarged European market, technological digitalization, new business concepts, outsourcing, and changing staffing strategies have put collective actors and agreements under pressure. Changing attitudes and growing diversity in the socio-demographic composition of the workforce have hampered collective action. While such dynamics are seen in all western countries, they represent a particular challenge to the Nordic regulatory systems built on the standard wage-earner relationship and collective bargaining. The reforms in the Nordic Ghent-systems early in the century instigated the steep decline in unionization, but the downward trend has eventually continued at a slower pace and weakened the bargaining power of vulnerable workers in particular.

Although the CB systems in the Nordic countries have proven more resilient and adaptive than in most other countries, these changes have revealed gaps and loopholes also in the Nordic models. The consequence is that more workers fall out or into gaps of the systems of CB, statutory regulation, and social protection (Hotvedt, Munkholm et al., 2020). Unless the organized actors and the states find effective measures to close these gaps and counter the decline in CB-coverage and unionization, the risk is that the weakening of the Nordic models' foundations will continue and possibly accelerate. In several branches the level of CB-coverage may approach tipping points, where the capacity to regulate labour market competition dwindles. Rather than a wholesale dismantling of the model, such a scenario is likely to generate a more dualized labour market with sharper divisions between the core of well-protected insiders and a growing crowd of outsiders struggling in the shadows of the Nordic model.

### **Institutional differences matter: A source for cross-border learning**

Searching for tools to strengthen the Nordic CB systems and practices, the paper has sought to illuminate what the actors may learn from the Nordic differences in CB-coverage, organization rates, and patterns of interaction between CB and statutory regulation. In the Nordic family of “most similar” systems in the world, it is striking

that national actors stick to rules, arrangements, and practices that are associated with highly disparate scores on key parameters distinguishing the Nordic models. Owing to historical differences in tradition, institutions, and custom, some practices that are viewed as natural in some Nordic countries are considered a no-go in other Nordic countries. Nevertheless, it can be useful to beware of different ways of doing things that have helped shoring up the systems and coverage of CB in the Nordic neighbor countries. Thereby discussion about potential gains and downsides of adjusting certain tools or methods can be weighed against each other on a more qualified basis.

Keeping the exceptional Icelandic case apart, one of the main Nordic differences stem, *first*, from the historically strong unionization effect of the Ghent systems of UI in three of the Nordic countries, except in Norway and Iceland. However, the impact of the Ghent systems has declined markedly after the changes and reforms a few decades ago, especially among manual labour (Kjellberg & Ibsen, 2017), and has brought some downward convergence in union density. *Second*, there are substantial differences in the employer organization rates (in private sector) – ranging from 52% in Denmark to 82% in Sweden – reflecting differences in associational patterns and practices that have little to do with structural change. *Third*, the most striking differences are found in *direct* CB-coverage in private sector, varying in 2020 from 46% in Norway to 85% in Sweden, with Finland (65%) and Denmark (73%) in between (Nergaard, 2022). Showing limited correlation with national union density, this has partly to do with variations in the employer associations’ internal obligations to apply their CAs, partly with differences in national labour law and trade union capacity to force CAs with unorganized employers, which adds more to the coverage in Denmark and Sweden than elsewhere.<sup>33</sup> In Finland, the broad use of extension mechanisms adds substantially (18 points) to the high private sector CB-coverage (84%) there. In Norway, including the 11% added by its partial extension regime would only increase coverage there to 57% in private sector – still 28 points lower than in Sweden.

As none of these intra-Nordic differences can be explained by the structural changes in working life, they are mostly due to institutional differences in national rules and custom. Although institutions are deeply embedded in national tradition, inherited institutional obstacles hampering actor efforts to increase CB-coverage can in principle be reduced by organizational or political choice. As an illustration, if the share of organized companies without CAs in Norway was reduced to the Swedish level, coverage in the Norwegian private sector would have risen from 46% to above 70%. There is of course no automatism implying that abolishing institutional or organizational obstacles will eliminate the Nordic gaps in CB-coverage, but such moves may *ceteris paribus* contribute to slowing or preventing further decline and, if combined with other measures, possibly also reverse the trend. Contrary to the Nordic differences in CB-coverage and organization, the downward trend in these parameters in many branches is clearly associated with the structural changes in working life. However, the discrepant national strength of these trends suggests that narrowing of the institutional differences addressed here can help slowing or halting such erosional processes.

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<sup>33</sup> In Sweden, the unions’ right to take action to force employers to sign collective agreement is important, and according to Kjellberg (2021:137, 2019:589) being the closest Swedish equivalent to extension mechanisms although very few such strikes and blockades occur per year.

### **State tools to stimulate collective bargaining and increase its coverage**

As shown in international research, state support is indispensable to maintain encompassing, coordinated CB systems. The paper has described a range of measures governments can use to complement the organized actors efforts to counter low-wage competition and strengthen the coverage of the CB systems. In Finland and Norway, a tool at hand is to broaden the access to general application of CA terms by adjusting the criteria for invoking extension mechanisms. Insofar as such mechanisms are precluded in Denmark and Sweden, where CB-coverage also has remained more stable thus far – except in pockets of the labour market – focus there will probably be on strengthening the capacity of unions and incentives for firms and workers to expand CB in areas with scant organizational presence in particular. The paper has also pointed to public measures to expand the reach of CAs that have been less developed in Denmark and Sweden than in other countries (e.g. social clauses). However, in all instances the states can contribute to strengthening of the national CB systems by, amongst other, more proactive and concerted use of:

#### **State tools to enhance the reach of collective agreements**

- social clauses in public tenders;
- recognition and licencing schemes;
- semi-dispositive legislation allowing more flexibility for companies bound by CAs;
- tripartite branch programs on restructuring, innovation, skill formation, codes of conduct, enforcement, and countering wage dumping and work-life criminality;
- restructuring schemes, where e.g. employees in Swedish firms with CAs receive tailored public support for re/upskilling, job search, coaching, and so forth;
- strengthen and renew tax incentives so that they, besides organizing, are targeted on spreading collective agreements, perhaps including also extra benefits provided through CAs, which to our knowledge has not yet been tried in the Nordics.

Also regarding this kind of policy tools there are significant differences in Nordic practices, indicating that in all cases there are untapped potentials to harness. For example, after tax deductions for union membership fees were abolished in 2007 and again in 2019, Sweden is at present, besides Iceland, the only Nordic country without such economic incentives.

### **More comprehensive strategies and incentives promoting CB as a “collective good”**

Rather than copying single policy tools from other countries or trying to harmonize the Nordic models, the paper has emphasized the need for closer cooperation between the organized actors and the state in developing more comprehensive, *multi-pronged strategies* to reinvigorate the CB systems. Linking of traditional approaches from below with complementary measures from above might engender interaction effects that are mutually reinforcing, potentially strengthening both CB-coverage, organization rates, and the local tiers of industrial relations. The overarching purpose could be to develop joint arrangements that can compensate for the deteriorating Ghent effects by strengthening the organized actors’ interest in and ability to develop CB – locally as well as centrally.

In this perspective, one might envisage concerted policy packages combining elements in the tool-kit above with creation of *new targeted incentive schemes* promoting

CAs as a “*collective good*”. The incentive effects of tax advantages granted exclusively to actors covered by CAs would be more effective if the gains are shared among all the actors involved, that is, besides the individual firms and workers also their respective organizations. Contrary to previous incentive schemes, where only the individual affiliates of the organizations have benefitted from tax deductions – irrespective of whether they contribute to CB or not – the rationale of this idea is to link the public incentives directly to the collective good the actors produce to the benefit of the broader working life and society, that is, collective labour market regulation.<sup>34</sup>

If linked to pay-roll taxes on the employer side, it would also give incentives to increase in-house staff and negotiate CAs with formerly uncovered groups. From the state perspective, this can be viewed as a premium for contributing to a triple win-win game, the effect of which might be amplified if only granting access to tripartite dialogue to organizations committed to increase the affiliates’ CBC. The incentives to promote CAs may partly replace individual tax deductions for membership fees – currently even subsidizing affiliation in associations without CAs – and partly come in addition to them. The justification for increased public investment in the CB systems could be that there is broad appreciation – also across party lines – that these systems generate comparative economic and social advantages for the Nordic societies that are important to preserve or reinvigorate.

A critical question when discussing the potential merits of top-down initiatives to stimulate bottom up efforts to broaden CB, is by what kind of measures central initiatives to increase CB-coverage can encourage workplace actors to develop CB and industrial relations from below. In emerging, disorganized pockets of the labour market, such efforts may require joint efforts of the organized actors and the state where pooling of resources and investing in targeted programs may open new avenues for organization and negotiations in uncharted terrain.

### **Flanking policies: Empowering casual labour and preventing creeping erosion**

The state can protect the CB systems also more indirectly through flanking regulative measures countering the gaps opening in labour law and detrimental effects on CB caused by new business concepts and staffing strategies associated with fragmentation of work and labour relations. This is illustrated by the proliferation of more complex corporate structures and production chains, where focus on core values is associated with increased outsourcing<sup>35</sup> and mushrooming networks of subcontractors, consultants, staffing agencies, and digital platform companies (NOU 2021:9; Munkholm, 2022). Leading to a rise in triangular employment relationships, self-employed, and contractualization of work, this is associated with growing grey zones in labour law and blurring of employer responsibility (Hotvedt and Munkholm et al., 2020). An important consequence is that the boundaries between employees and self-employed have become more fuzzy, bringing more fictitious self-employment. This

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<sup>34</sup> As earlier discussed (3.4), one could also envisage that CA linked tax incentives might include fees paid for access to supplementary social benefits or services granted through CAs, e.g. related to extra UI, occupational pensions or life-long learning – similar with deductions granted to members of the Nordic UI-funds. Accordingly, the Danish trade union confederation FH has recently suggested that workers and companies with CAs should get tax deduction for contributions to CA-based funds, while companies without CAs should pay a “labour market contribution” (FH, 2022: 9).

<sup>35</sup> In Sweden, employers must before letting someone undertake work on his/her premises without being an employee, according to MBL (Medbestemmandelagen 1977: 532) §38, on own initiative negotiate with the union with which he/she is bound by a CA regarding this kind of work (i.e. granting the union “veto-power”).

has instigated demand for legal or judicial clarification of the employee concept – e.g. related to platform workers in Uber and other companies – triggering political controversy at both national and EU levels (Jesnes & Oppegaard eds., 2021).

All the Nordic countries have initiated processes aimed to clear up these issues, which also have implications for the CB rights of workers in the 'grey areas' as European competition law prohibits price-cartels and hence CAs for self-employed.<sup>36</sup> In response to European court cases opening for bargaining rights for bogus self-employed with *inter alia* high degree of subordination and dependence, the Commission has just adopted guidelines similarly allowing bargaining rights for dependent solo self-employed (European Commission, 2022). The implementation of these guidelines in national law will have important consequences for the involved workers' access to CB and their incentives for collective organization. This pertains also to their customer companies. Many Nordic unions have begun offering membership to self-employed and employer organizations have recruited customers such as platform companies. Providing services like insurance, standard contracts, occupational pensions, welfare benefits and alike, such initiatives may incorporate new layers of non-standard actors in the old Nordic system of collective action and market regulation.

In short, in order to protect the CB systems from being undermined by new business and staffing concepts, the states have to develop countervailing labour law that, *first*, restricts companies' ability to organize production and work in ways that enable them to circumvent CAs and other employer responsibilities or exclude the workforce from access to CB; and, *second*, ensures that the binary notions of employee vs self-employed underlying Nordic labour law are clarified through legislative measures or judicially via the courts. Such measures must be supplemented by adjustments in the interfaces between competition law and collective labour law. On all these counts, the Nordic governments and courts will have to take ongoing EU legislative processes into account, including the (pending) directives regarding written contract, platform work, and probably also the new directive on minimum wages, which all aim to strengthen the rights of vulnerable, low paid groups in areas with patchy or no CA coverage.

### **The evolving EU tier of labour market regulation and the Nordic ambiguity**

Since all the Nordic countries joined the single market in the early 1990s, participation in the EU tier of worker minimum rights regulation means that the Nordic models have been incorporated in a growing multilevel European regime of labour market governance. Although the Nordics have supported EU social dialogue and the social dimension of EU/EEA integration, the diversity of regulative traditions in Europe has caused dilemmas for the Nordic actors especially as regards the interfaces between statutory regulation and CB when influencing and implementing EU directives (Dølvik 1998, 2005). While most EU directives on workers' rights have been implemented through legislation, the Danes have sought to give primacy to transposition via CB but have been compelled to complement this with ("fejerbakke") legislation for those uncovered by CAs (Andersen, 2003).

The renewed momentum in EU social regulation in recent years has brought legislative proposals that tend to be overly detailed and fit poorly with the Nordic tradition for framework regulation. Especially the directives on written contract, platform

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<sup>36</sup> Accordingly, the CA in a Danish platform company for cleaners, Hilfr, was deemed in breach with Danish competition law as it entailed a clause about minimum pay for the cleaners that had chosen to operate as self-employed (Munkholm, 2022)

work, and setting of minimum wages have stirred protest among Nordic social partners and governments. It has also accentuated the dilemmas Nordic governments face in showing solidarity with those struggling in the lower ends of European job markets, and protecting the Nordic systems of labour market regulation. The controversies around the content and legal basis of the directive on minimum wages in particular, indicate that it has become harder to agree on common Nordic positions and strike balanced compromises between the Nordic camp and the others. Against this backdrop, it may be pertinent to discuss whether more differentiated, flexible Nordic approaches to coalition-building in influencing EU social policy making and social dialogue might be commendable.

At any rate, future debates about strategies to strengthen the Nordic models will have to take into account how such strategies can take advantage of EU policies and be framed in an EU/EEA-proof manner, coupled with effective approaches to ensure that EU initiatives provide leeway for Nordic CB practices and traditions. Here the European Commission's new initiative to strengthen the role of EU social dialogue may represent a welcome opportunity.

### **Better interplay between CB and labour law requires revitalized tripartite dialogue**

A central message in this paper has been that successful strategies to renew the Nordic working life models are dependent on trust, commitment, and coordination between the organized actors and the state. Social dialogue or tripartite consultation have always been important in the Nordic models, but has varied in form, institution-ization, and content – especially as regards pay and CB related issues. The state has played a central role in incomes policies, facilitating wage coordination, and wage floor regulation in Finland, Iceland and Norway. Although state interference in such areas has been taboo in Sweden and Denmark, tripartite dialogue and settlements have been commonplace in areas such as training, skill formation, social protection, and labour market policies, especially in Denmark.

When deliberating ways to close the gaps opening in labour market regulation and strengthening the interplay between CB and labour law, it may in some instances prove necessary to rethink the division of labour and interrelations between statutory and negotiated regulation, hence also the respective actors' responsibility for enforcement. In recent years, this has been accentuated by the increase in casual work and low-cost competition across the borders, raising pressure for developing more effective ways to secure proper wage floors and enforcement. This has been most salient in branches with much non-standard work and low pay, organization rates, and CB-coverage, where also the Nordic countries have had difficulties in halting the rise in inequality, social dumping and work-life criminality. The extent to which the organized actors have means and capacity to counter such breaches with the Nordic legacy varies across the countries and sectors. In all instances, however, the organized actors seem dependent on stronger state support to secure "ordning och reda" and turn the trend.

### **.... and a state third-party with clear, autonomous agendas**

The widespread praise of the Nordic tradition for tripartite cooperation sometimes overshadows that social dialogue between labour, capital, and the state is often less marked by consensus than by competing or conflicting interests. As in bilateral collective bargaining, the tripartite relations between the state and its interlocutors can

be viewed as an ongoing exercise of conflict partnership and compromise building. For the state, as advocate of the common good and representative of interests and groups that are not always present in social dialogue fora, it is therefore important to develop clear, autonomous agendas suited to build trust and prod the actors towards compromises that also take into account the interests of the state and the broader public.

Carrying special responsibility for the workers falling outside the systems of collective bargaining and social protection, the state must from time to time also be prepared to use its prerogatives to conclude differently from its interlocutors regarding what is the most suitable, legitimate mode of regulation and enforcement. Although the praise of the Nordic model sometimes can remind of religious rituals, it is hard to renew with too many Holy Cows or veto-points. How the state can best reconcile trust building and compromise with protection of its own integrity and interests in tripartite policy-making can thus be a pertinent issue for Nordic experience exchange. In this vein, further Nordic research cooperation regarding developments in the coverage of collective bargaining, social dialogue, and experiences with new policy measures or combinations of regulatory tools in promoting CB and wage floor setting might be helpful.



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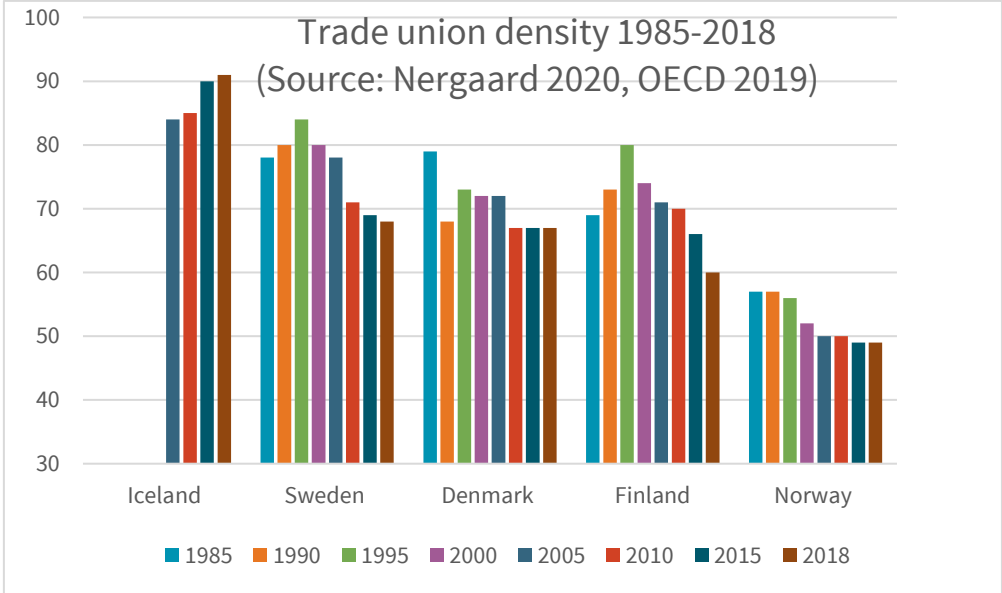
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# Appendix/Figures

A-Figure 3.1 Trade Union density 1985-2018



A-Table 3.1 Trade union density Nordic countries (Source: Nergaard 2022)

Tabell 5.1 Organisasjonsgraden på arbeidstakersiden i Norden 1985–2018.

	Finland	Danmark	Danmark unntatt alternative *	Norge	Sverige	Island
1985	69	70	69	57	78	
1990	73 (71,9 per 1989)	68	67	57	80	
1995	80 (78,5 per 1994)	73	71	56	84	
2000	74	72	69	52	80	
2005	71 (69 per 2004)	72	68	51	78	84
2008	70	68	49	50	62	85
2010	70 (67,4 per 2009)	67	60	51	71	85
2014	68 (64,5 per 2013)	67	58	50	70	90
2015	66	67	55	50	69	92
2016	65	66	53	50	69	90
2017	62 (59,4 per 2017)	66	53	50	69	91
2018	60	67	53	50	68	91
2019	59	67	52	50	68	91
2020	-	-	53	51	69	92
2021	-	-	-	50	-	-
1985–1995	11	3	2	-6	6	
1995–2005	-9	-1	-6	-6	-5	
2005–2010	-1	-4	-7	0	-1	1
2010–2019/2020	-11	-1	-7	0	-2	7
1995–2019/2020	-21	-6	-18	-5	-15	
Kilder	OECD Tall i parentes er fra Ahtaiainen / det finske arbeidsdepartementet	OECD fra 2008 og framover, Faos før det	Faos. Beregnet av Kjellberg 1985–2019	Fafo	Kjellberg	OECD

\*Alternative fagforbund er fagforbund som ikke har tariffavtaler eller tillitsvalgte på arbeidsplassen. Kjellberg benytter et annet mål for antall ansatte enn det som ligger til grunn for OECDs tall for Danmark. Forskjellene mellom samlet organisasjonsgrad og organisasjonsgrad eksklusive alternative organisasjoner ville vært 3-4 prosentpoeng mindre hvis samme mål for antall arbeidstakere hadde vært lagt til grunn.

A-table 3.2 Employer organization rates Nordic countries 2018-19

Tabell 5.2 Organisasjonsgraden på arbeidsgiversiden i Norden per 2018. 2019 for Sverige. Prosent

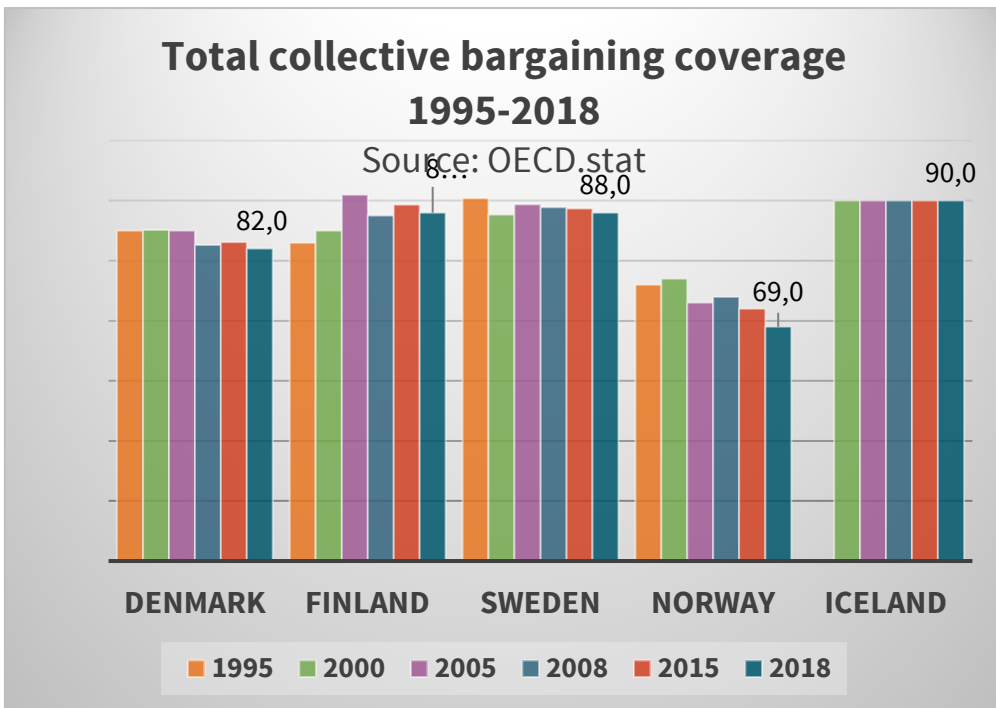
	Norge	Finland	Sverige	Danmark	Island
OECD/AIAS privat sektor	73	59	82	52	70
OECD alle	80	69	88	68	78

Kilde: OECD/AIAS ICTWSS database.

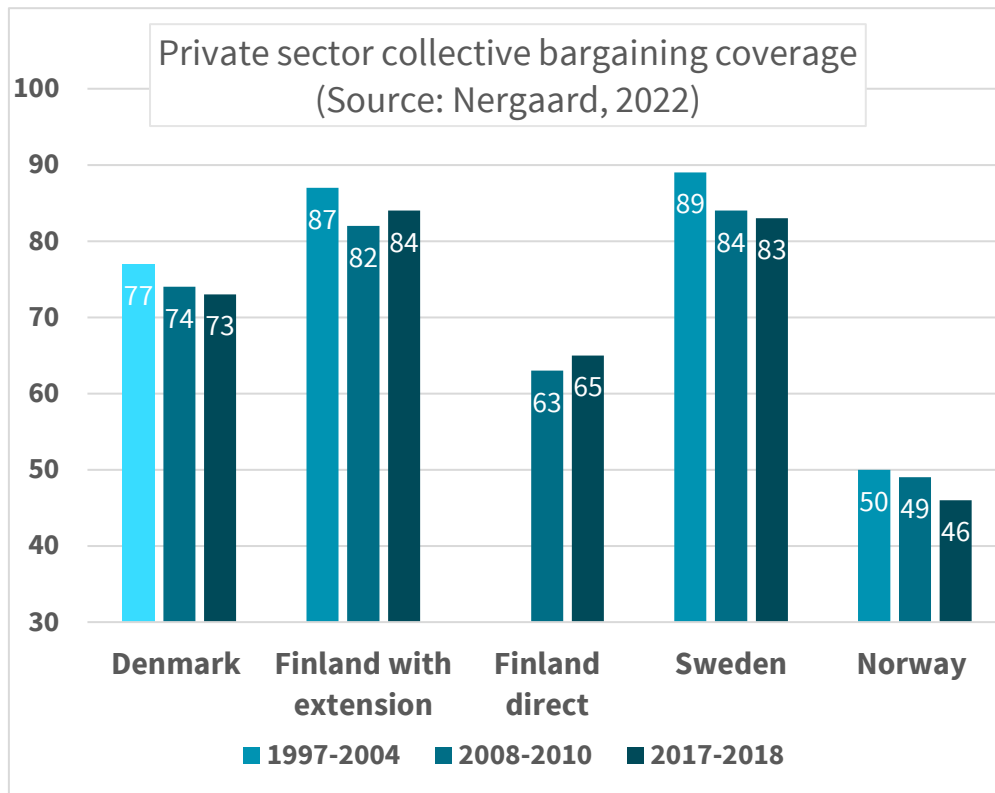
A-Figure 3.2 Employer organization rates Nordic countries 2018 (Sweden 2019)



A-Figure 4.1 Total collective bargaining coverage, Nordic countries



A-Figure 4.2 Private sector collective bargaining coverage, Nordic countries Source: Nergaard, 2022





A-table 4.1 Private and public sector collective bargaining coverage. Source: Nergaard, 2022

Tabell 5.3 Tariffavtaledekningen i Norden.

Danmark*			Finland		
	Privat sektor	I alt		Privat sektor	I alt
1997	76	85			
2003	77	85	2004/05	87	91
2007	73	83	2008	62,7/82,0**	87,5
2012	74	84			
2015	74	83	2014	66,2/88,1**	91,9
2018	73	82	2017	65,2/83,8**	88,8
Kilde: Dansk Arbejdsgiverforening			Kilde: Ahtainen, 2016, 2019		
Norge			Sverige		
	Privat sektor	I alt	I alt	Privat sektor	I alt
1998	63	77	1995	90	94
2005	59	73	2005	89	93
2008	59	74	2010	84	89
2014	57	72	2014	85	90
2017	52	69	2017	83	89
			2020	85	90
Andel arbeidstakere i virksomhet med tariffavtale			Kilde: Kjellberg 2022		
2001	50	66			
2007	49	64			
2013	47	64			
2018	46	64			
2021	47	65			
Kilde: Fafo					

For kilder, se også boks side 28.

\*Beregninger fra Faos (se figur 5.1 for kilde) anslår tariffavtaledekningen i privat sektor til å ligge noe lavere enn anslagene fra Dansk Arbejdsgiverforening.

\*\*Uten/med allmenngjorte tariffavtaler

# Strengthening the Nordic working life model

Focusing on collective bargaining coverage and the varieties of labour market regulation in the Nordic countries, this paper about ways to strengthen the Nordic working life models is written to serve as basis for discussion on a Nordic labour minister meeting in Oslo, November 2022. Building on an earlier seminar with Nordic scholars, the project was initiated by the Norwegian Ministry of Labour and Inclusion, with support from the Nordic Council of Ministers.



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